

REFORMING INFRASTRUCTURE CONSTRUCTION PROCUREMENT SYSTEM (Case Study: Indonesia and Scotland)

THESIS

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Summary

This research is aimed to analyze and draw lesson learned from Scottish procurement reform to enhance Indonesia procurement reform. It relied on secondary data. Infrastructure is important for urban city planning. It could direct and color city development. In other hand, infrastructure provision should experience procurement phase. Infrastructure procurement could be done through traditional process or PPP (Public Partnership Participant). Even though PPP scheme tends to increase recently, traditional procurement is still important element in infrastructure provision. Due to global financial recession, government is pressured to do more with less. In order to deliver better infrastructure to taxpayers, it is needed to increase (traditional) infrastructure procurement capacity. It is done through public procurement system reform. For those reasons, Indonesia conducts procurement system reform. Even though there are improvements, there are still shortcomings of procurement system reform in Indonesia.

In other hand, many countries, developed or developing countries, conduct procurement system reform as well. Scotland, as one of developed country, also conducts it. In both Indonesia and Scotland, procurement reform is done through 4 key elements which are law and regulation, organization, procurement workforce and process and procedure. In fact, procurement reform is also influenced by international agreement. There should be policy transfer in procurement policy. This kind of policy transfer has different effect on implementation. Based on comparison between Indonesia and Scottish procurement system reform, it could draw conclusion and lesson learned from Scottish procurement reform which could be adopted by Indonesia to improve its procurement system. The recommendation should be taken by Indonesia are :

- i. strengthen the procurement law and regulation
- ii. establish procurement reform board to guide its process
- iii. issue best practice indicator to measure progress of reform and its mechanism
- iv. establish National Public Procurement office (NPPO) in local or regional
- v. reflect and be more critical in doing policy transfer in procurement policy
- vi. state or declare procurement reform clearly

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Acknowledgement

Infrastructure construction procurement reform in Indonesia has not succeeded yet. There are still many shortcomings in process and its result. There should be efforts to overcome those problems because it uses a lot of fund from taxpayers. Improvement in procurement system is expected to spend that fund better and can deliver better infrastructure to citizens/taxpayers. This reseearch was inspired by my experience working and dealing with procurement activities. I have experience as a consultant and also as civil servant. From problem I always encounter in procurement activities and from both positions I have ever been, make me curious to understand and explore more about infrastructure procurement reform. One of the ways to improve infrastructure procurement reform is doing lesson learned from other countries. The study has been supported and guided throughout by Mr. Sander Lenferink, Dr. Taede Tillema and also Dr. Miming Miharja whom I would like to thank in the first place. Their enthusiasm and passion and patience in helping me inspired me to accomplish this thesis, while I was facing difficulties in finding articles and also in writing the idea of this thesis. Furthermore, I appreciate to *Bappenas*, Government of Kabupaten Cianjur and NESO which has fostered me financially, my office, Dinas Binamarga Kabupaten Cianjur which has given me permission to conduct this study. I would also like to thank all of my colleagues (DD ITB-RUG) for sharing great experience in last 2 years. Special thanks also to Ahmad Sardana, Mangara Silalahi and M. Rivai Abbas who supported me. Last but not least, Eventually, I dedicate this research to my prince and princesses; Atikah Himawati, Jasmine Salma Himmar Fatiha, Omar Obama Himmar Nismara, Inas Inaya Himmar Tabriz and also my parents, who trigger my motivation and provide me with unconditional support throughout my studies. Hopefully this research could give contribution for my office, my country and procurement itself.

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Wisnu Ardianto

Chapter I

Introduction

1.1 Background

Infrastructure is an important part of urban planning and management. It can drive urban pattern and development. There are a lot of discussion about infrastructure and urban planning. If we look further in how government provide infrastructure, later on, we know such processes like planning, financing, design, construction, operation and maintenance. All of those process are started by procurement process. Procurement is effort to gain goods or services. In order to build infrastructure, government conducts infrastructure procurement. Procurement which is aimed to gain and provide infrastucture, then, is called as infrastructure procurement. It stands for a bridge between urban planning and implementation of infrastructure construction. It will convey planning messages into tangible action. This is a critical path to define what will we do for the infrastructure provision, because after procurement is conducted, we start to commit on providing infrastructure. By improving procurement, it could deliver better infrastructure.

There are two schemes of infrastructure provision which are traditional procurement and PPP (Public Private Partnership) or PFI (Private Finance Initiative) (Alshawi, 2009, and also Darrin Gremsey, 2007). Traditional procurement or conventional procurement is government activity to buy or provide infrastructure through third party and funded by national or local budget (Presidential decree no. 80/2003). Based on World Bank, PPP (Public Private Partnership) are projects that are for services traditionally provided by the public sector, combine investment and service provision, see significant risks being borne by the private sector, and also see a major role for the public sector in either purchasing services or bearing substantial risks under the project (Yong, 2009).

Although PPP (Public Private Partnership) or PFI (Private Finance Initiative) has trend to increase, public procurement or traditional procurement still needs serious attention of government because it uses public tax fund. A lot of public fund are spent each year. In Indonesian, there is almost US\$ 10 billion spent through procurement (World Bank, 2001), while in Europe, there is about 16% of GNP (Gross National Product) (Khi V Thai, 2009). In order to spend public fund effectively, it needs proper regulation. Government of Indonesia realizes that procurement is significant element not only in infrastructure planning, but also in delivering better services and being responsible to the people. Several efforts already have been taken by government to develop procurement system in Indonesia. Through The National Planning Board (Bappenas), government of Indonesia initiated to reform procurement systems in Indonesia. By improving well procurement, it would foster government to achieve good governance.

Besides that, increasing and spreading out of investment over the world has relationship with procurement. The more investment increase the more procurement will be conducted. Then procurement becomes promising business market. As an international market, procurement may access foreign market. As a result, there is need of tools to regulate international procurement practices. Conducive procurement system could be appealing factor for investment. Many countries, including Indonesia, try to improve procurement system better. Nevertheless commitment between CGI (Consultative Group on Indonesia) and government of Indonesia to conduct procurement reform actually also becomes triggering factor (Asian Development Bank, 2007). CGI (Consultative Group on Indonesia) is group of countries and organization which arrange development aid for Indonesia.

Government of Indonesia has implemented procurement system reform. Nevertheless it does not work well. It is resulted from possibilities which are that, procurement reform was done through issuing Presidential Decree no. 18/2000 on goods and service procurement was not in line with international practice of procurement so that it need to be revised. Then it was reformulated to be presidential decree no 80/2003 as result of procurement regulation reform was funded by Asian Development Bank (ADB). It is

aimed to reform all of procurement gaining good governance through principles such as transparency, fairness, and accountability. There are many deregulation and new regulations postulated in these decrees which is adopted from world bank document, asian development bank document, and other resources.

In addition, there are still confusion how to implement the procurement procedures. It is probably caused by multiinterpretation of those regulations. The issuance of presidential decrees are aimed to reform procurement system. In respect to infrastructure provision procurement, it was seemed that government of Indonesia obtruded finishing presidential decree of procurement reform rather than considered aspects of prevailed procurement systems in that time. Presidential decree has lower position and less power of law than act (People's consultative assembly decision number 3/2000). The lower regulation could not be expected to influence the higher regulation (Construction Act 18/2000). The pressure to accomplish procurement reform as commitment of CGI was looked dominant so that government of Indonesia prefer to establish revised presidential decree instead of revising construction act. Revising act needs relatively longer time than establishing new presidential decree.

Other problems of procurement reform are the lack of institutional capacity and availability and the lack of qualified staff on procurement. Procurement reform and its new regulation require several institutions and qualified human resources. Preparing well institutions and qualified human resources need enough time meanwhile infrastructure procurement process could not be stopped because development must go on.

Procurement reform also happens in many countries both in developing countries and developed countries. Procurement reform conducted in developing countries mostly were helped by supranational organizations such as OECD (Organization for Economic Cooperation and Development), European Union (EU), World Bank, Asian Development Bank, African Development Bank, etc. One example of developed country which conducts procurement reform is Scotland. Even though they just started in 2006, there are several advanced result achieved. Drawing lesson from other countries could help Indonesia to restore its procurement reform.

I.2 Research Problem/Problem Statement:

Government of Indonesia conducts infrastructure construction procurement system reform. Nevertheless it does not work well. This reform applies to all of procurement in each level of government and also in sectors. Many infrastructure procurement regulations have been established. Nevertheless there are still many problems that occur due to implementation of those regulations. Failure of procurement and other shortcomings are still happening.

I.3 Research Objectives:

This research would like to understand factor influencing infrastructure construction procurement system reform. It also tried to find lesson learned from Scottish infrastructure construction procurement system reform to enhance procurement reform in Indonesia. In doing so, this research also will consider influence of policy transfer in infrastructure procurement system.

I.4 Research Question:

In order to define research objective which is to define how we establish infrastructure construction procurement system reform in Indonesia, by dividing it into several questions :

1. What are important elements in infrastructure procurement system reform?
2. What is infrastructure procurement system reform in Indonesia?
3. What is infrastructure procurement system reform in Scotland?
4. What is influence of policy transfer in procurement system reform?
5. How to improve infrastructure procurement reform in Indonesia?

I.5 Research Methodology:

This research will be conducted by using literature review both as theoretical framework and case study analysis. Case study analysis is used because author would like to find how to enhance effectiveness of infrastructure construction procurement reform. Case study is fit with research question *how* and *why* (Yin, 1994). This research must conduct broadly and define the contextual problem (Yin, 1994). Its advantages of this method are: It can describe phenomenon beyond quantitative method. It also can be used to solve contextual problem because the case study can explain specific cases (Yin, 1994). The

disadvantages of the method are: this method is least develop and difficult to conduct. It is also weak to make generalization of conclusion (Yin, 1994). This research is not able to draw cause and effect relationships or test hypotheses.

This research uses secondary data which are some study literature, available procurement report, information or data from internet sources, literature of books, journal articles, seminar proceedings, working paper and official documents.

This research will use strategy in which research activities is conducted step by step as mentioned below:

1. Brainstorming and reviewing theoretical background

This step tries to describe the concept and what infrastructure construction procurement policy reform is. In here, infrastructure construction procurement is part of public procurement which already planned in government budget. It is done by reading, understanding and brainstorming idea and knowledge about infrastructure construction procurement policy reform. It also tries to explore key elements in infrastructure procurement policy reform.

2. Describing and analysing infrastructure construction procurement system reform in Indonesia

It is done by depicting current and its development of infrastructure construction procurement in Indonesia not only based on theoretical framework but also from practice view. The information is gained from report, articles, and other sources.

3. Describing and analysing infrastructure construction procurement system reform in Scotland

It consists of information which explains infrastructure construction procurement policy reform in Scotland. Study, background, implementation program, and result of this policy will be described as well. As information why author chose Scotland is based several reasons which are: Firstly, both of countries have been doing procurement system reform. With this same condition, there will be lesson could be

drawn. Secondly, international procurement agreement inevitably affects infrastructure procurement policy reform in both of Scotland and Indonesia. Since the procurement reform conducted, the national assessment of procurement performances are also done by both of countries. It needs in case study in which both of objects are similar (Yin R.K, 2009). European Union (EU) is important organization who influences Scottish procurement reform meanwhile Indonesia is influenced by donor organization such as CGI (Consultative Group in Indonesia), ADB (Asian Development Bank) and World Bank. Thirdly, there are no reports proving the procurement reform in developing countries conducted successfully (Simon J. Evenet, 2005). Then alternative to learn from developed countries account into consideration. Scotland is part of United Kingdom members which is one of developed countries. Fourthly, author would like to understand and compare if the procurement reform is done in respect to international influence. Is there any difference if procurement was done in different kind of influence as international policy transfer? Fifthly, the available document of Scottish procurement reform in English also becomes practical reason.

4. Analysing and synthesising difference, lesson learned and other findings on both of cases.

It is conducted by comparing factual condition and theoretical framework. It is also done in both of countries. The difference, weakness, strength will be provided here. It also analyzes influence of policy transfer in procurement reform system.

5. Drawing conclusion and formulating recommendation for better infrastructure procurement system reform in Indonesia.

From the difference, weakness and strength of each procurement system, this research tried to draw conclusion and lesson learned from Scottish procurement reform. From conclusion and lesson learned, it tried to provide recommendation for further improvement and reform of Indonesia procurement system. It also tried to reflect public procurement theory and international procurement practise.

I.6 Structure of Thesis:

This thesis will be delivered in 6 chapters (including this chapter) which are:

2. Theoretical Framework

This chapter provide information about basic theories used about infrastructure, procurement, (infrastructure) construction public procurement, and policy transfer and also theoretical framework to analyse research.

3. Infrastructure Construction Procurement system reform in Indonesia (and its impetus)

This chapter will deliver information not only about current situation of infrastructure procurement in Indonesia regarding institution, human resources and law/regulation but also infrastructure construction procurement system reform in Indonesia and its impetus.

4. Infrastructure Construction Procurement system reform in Scotland (and its impetus)

This chapter will deliver information about infrastructure construction procurement system reform in Scotland and its impetus.

5. Comparision, Findings / results

This chapter contain comparation infrastructure procurement system reform between Indonesia and Scotland. This chapter will contain information about the finding, similarities and differences of two cases.

6. Conclusions and Recommendation

This chapter consist of further analysis of finding. This chapter provide lesson learned, positive point which is to be base for recommendation on infrastructure procurement system reform for Indonesia.

I.7 Research Framework:

The framework of this research is described in figure 1 below:

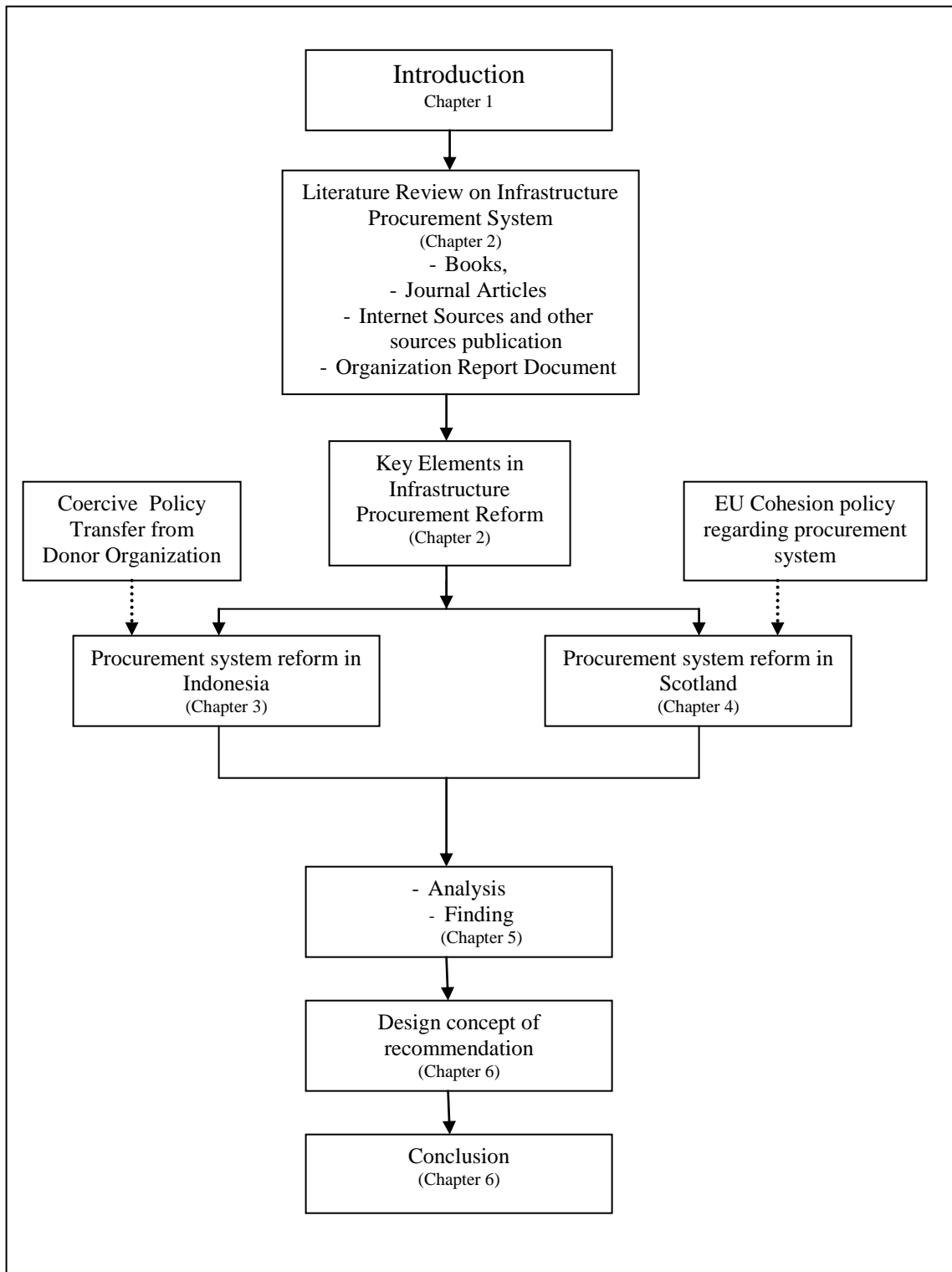


Figure 1 Research Framework

Chapter II

Theoretical Framework

This chapter will scrutinise main theoretical backgrounds used to explain main elements to reform infrastructure procurement system. It will explore not only procurement theory but also practice on infrastructure procurement policy. It also pays attention on procurement reform as part international policy transfer.

II.1 Infrastructure Construction Public Procurement

II.1.1 Introduction

Infrastructure provided by government is mostly started by procurement process. Cost, specification, maintenance, public involvement, labor, etc are defined in procurement process. With many things defined, it shows us how important the procurement is. It could color and direct the performance of infrastructure. Infrastructure is key element in development. It also becomes determinant factors influencing regional development. Good infrastructure are always be required by investment. Another significant of infrastructure is giving better live and services for people. According Parkin and Sharma (1999), **infrastructure** is those elements of the social fabric of most concern to engineers. It may be deemed to include facilities and processes in the following areas:

- a. Public utilities like power, telecommunications, pipe water supply, sanitation and sewerage, solid waste collection and disposal and pipe gas
- b. Public works like roads and major dam and canal works for irrigation and drainage
- c. Other transport sectors like urban and interurban railways, urban transports, ports, waterways and airports

In order to deliver infrastructures to citizens or taxpayers, there will be series of decisions taken by government including procurement process. It is not only kind of giving opportunities for enterprises/companies to involve in infrastructure

provision, but also making responsibility respond of government using public money.

There are several definitions of procurement which are:

- a. According Indonesian presidential decree number 80/2003, **procurement** is process gaining goods and services which is funded by national or local budget of government.
- b. Australian Procurement and Construction Council (APCC, 2006) define that Procurement means the whole-of-life cycle process of acquisition from third parties including goods, services and construction products, from initial concept through to the end of a services contract or the useful life of an asset, including disposal.
- c. Based on (European Commission, 2004), procurement stands for the activities of authorities, both public, semi public or private sector, to buy or provide goods, services or works with a view to fulfilling their activities.

Later on, we can conclude that procurement is organization activities to invite other parties to sell goods or provide the service. If the organization is government and fund used is public fund, then it is called as public procurement or government procurement.

There are several definitions of public procurement:

- a. **Public procurement** refers to purchasing goods and services by the authorities from the market places from another legal entity, generally by contractual agreement (Sue Arrowsmith, 1996).
- b. Based on APCC (Australian Procurement and Construction Council), Government Procurement is a structured series of activities necessary to satisfy a requirement for goods, assets, facilities or services, including disposal, while optimising value received for public expenditure.
- c. **Government procurement**, also called **public tendering** or **public procurement**, is the procurement of goods and services on behalf of a public authority, such as a government agency. Government procurement accounts for a substantial part of the global economy.

Commonly, there are two kinds of procurement which are procurement of goods and procurement of services. In some countries, service procurement is divided further in to work and service. In this research, author will discuss about the service or work. It deals with infrastructure construction services. Then **Infrastructure public procurement** means that government efforts or activities to gain infrastructure construction services using several regulation.

This research also discuss about infrastructure procurement as a policy. Policy (Bussiness Dictionary, 2010) is basic principles by which a government is guided. In here, infrastructure procurement policy is basic principles which direct the process and activity to provide infrastructure.

Infrastructure procurement is conducted to provide planned infrastructure to the people. It must be done effectively, efficiently, accountably, transparently, etc. It could generate not only better infrastructure but also good governance.

Good procurement is essential to the success of the government ' s programmes, it provides the link between policy and delivery ... getting procurement right is a greater priority now for government than it has been in the past (Andrew Smith, then Chief Secretary to the Treasury)

Basically, there are two parties involving in infrastructure procurement project. The first is infrastructure construction servicer and the latter is the procurer, government or authority. In addition, there are other actors playing role in this activity such as: bank, insurance company, registration institution, finance institution, tax agency, servicer organization, NGO's, etc. They play their own role to make conducive environment for goals of procurement.

In general procurement, there are several principles of procurement based on several sources:

- a. Based on Indonesia's presidential decree number 80/2003:
 - Efficient, meaning that procurement must be conducted using limited fund and available resource to achieve goal in time and to be responsible

- Effective, meaning that procurement must be conducted based on need and give optimal benefits.
 - Open and competitive, meaning that procurement is open for all and done with fair competition.
 - Transparent, meaning that rules, information and process of procurement must be open and can be accessed by all actors
 - Fair, meaning that actors who involve in procurement must be treated equally.
 - Accountable, meaning that procurement could achieve the goal.
- b. Based on European Union Directive (Scottish Government, 2008):
- *“Equal treatment – giving everyone the same chance to win the contract irrespective of their nationality or whether you know them or not (Scottish Government, 2008).*
 - *“Transparency – stating requirements upfront and sticking to them” (Scottish Government, 2008).*
 - *“Proportionality – setting requirements with reference to the needs of the contract in question” (Scottish Government, 2008).*
 - *“Mutual Recognition – giving equal validity to qualifications and standards from all Member States, where appropriate” (Scottish Government, 2008).*
 - *“Confidentiality – respecting the confidentiality of any information received regarding tenders and tenderers” (Scottish Government, 2008).*
- c. Based on UNDP (United Nation, 2006):
- Best Value for Money
 - “Best value for money means selecting offers which present the optimum combination of factors such as appropriate quality, life-cycle costs and other parameters which can include social, environmental or other strategic objectives which meet the end-user needs. Best value does not necessarily mean the lowest initial price option, but rather represents the best return on the investment, taking into consideration the evaluation criteria in the specified solicitation documents” (United Nation, 2006)*

- **Fairness, Integrity, Transparency, through competition**

“Competition conducted in a fair and transparent manner is the heart of procurement in the UN. In order for competition to work best, it must guard against collusion and be conducted on the basis of clear and appropriate regulations, rules and procedures that are applied consistently to all potential suppliers. The procurement process should be carried out in a manner that gives all interested parties, both inside and outside the organization the assurance that the process is fair..

A transparent system has clear rules and mechanisms to ensure compliance with those rules (unbiased specifications, objective evaluation criteria, standard solicitation documents, equal information to all parties, confidentiality of offers, etc). Records are open, as appropriate, to inspection by auditors; unsuccessful suppliers can be briefed on the strengths and weaknesses of their own offers. Transparency ensures that any deviations from fair and equal treatment are detected very early, and makes such deviations less likely to occur. It thus protects the integrity of the process and the interest of the organization” (United Nation, 2006).

- **Economy and Effective**

“Economy and effectiveness means providing an appropriate solution to the organization’s need with regards to quantity, quality and timeliness at the right price. It also means ensuring that the overall cost to the organization in conducting the procurement process is minimized in the interests of the overall budget of the organization. Economy protects the interest of the budget owner, while effectiveness ensures the interest of the end-user is met” (United Nation, 2006).

- **The Interest of UNDP**

“Maintain the highest image and reputation of the organization through execution of the procurement process in full conformity with the Financial Regulations and Rules; and promote the public good as specified in the mandate of the organization” (United Nation, 2006).

d. Based on OECD (OECD, 2009):

- Transparency
 - *“Provide an adequate degree of transparency in the entire procurement cycle in order to promote fair and equitable treatment for potential suppliers”* (OECD, 2009).
 - *“Maximise transparency in competitive tendering and take precautionary measures to enhance integrity, in particular for exceptions to competitive tendering”* (OECD, 2009).
- Good management
 - *“Ensure that public funds are used in procurement according to the purposes intended”* (OECD, 2009).
 - *“Ensure that procurement officials meet high professional standards of knowledge, skills and integrity”* (OECD, 2009).
- Prevention of misconduct, compliance and monitoring
 - *“Put mechanisms in place to prevent risks to integrity in public procurement”* (OECD, 2009).
 - *“Encourage close co-operation between government and the private sector to maintain high standards of integrity, particularly in contract management”* (OECD, 2009).
 - *“Provide specific mechanisms to monitor public procurement as well as detect misconduct and apply sanctions accordingly”* (OECD, 2009).
- Accountability and control
 - *“Establish a clear chain of responsibility together with effective control mechanisms”* (OECD, 2009).
 - *“Handle complaints from potential suppliers in a fair and timely manner”* (OECD, 2009).
 - *“Empower civil society organisations, media and the wider public to scrutinise public procurement”* (OECD, 2009).

Even though principles of procurement differ from each other, they have same goal to conduct procurement well and deliver better goods and services to taxpayers. These principles usually embody in rules of procurement process. The

reform of procurement is establishing those principles or new ones in certain country procurement system.

II.1.2 Circumstances affecting Infrastructure Procurement System

Because of its complexity, procurement is also influenced by environment surround which are:

1. Governmental System

Infrastructure procurement system is part of government function so that it should follow government regulation and policy. In other words, infrastructure procurement regulation will attach in national constitution or in government regulation. The system of government itself also affect the procurement system. Thai (2009) said that “organizationally, public procurement is dictated by the government system. In general, there are two major government systems: unitary and federal”. In a unitary system, the central government regulates all of procurement in each government tier. In federal system, there is autonomy in each government tiers to make their own regulations.

Governmental system also affects the place in which procurement is conducted. It could be centralized or decentralized. This significant role of central government has advantages and disadvantages. The advantages are:

- policy taken will be homogeneous and uniform
- there is enough power of central government to affect lower government

The disadvantages are:

- Lack of understanding local procurement condition
- Lack of local government capability to adopt the regulations.

2. Economic Environment or Market Condition

Economic environment or market condition here is condition which affect competition in procurement. Thai (2009) said “Economic or market conditions have a great influence over the public procurement system’s effort to maximize competition”. This condition then will be determined by amount of buyers and sellers, homogeneity of product sold in market, and equally

spread of information in market. The market itself is influenced by segmentation of procurement division. It could be divided into work, goods and services procurement. Each division will be followed by enterprises which has expertise in those divisions.

This environment also relate with economic growth. The developed countries which have better economic growth are better place for procurement market.

3. Legal Environment

Legal environment here is broader situation and availability of law and regulation in country which support procurement system. Procurement system has a lot of aspects so that it requires law and regulation in related aspects such as tax law, labour law, health law, etc. Thai (2009) said that “different from public procurement regulations and rules, the legal environment refers to a broad legal framework that governs all business activities, including research and development”.

4. Political Environment

It is environment in which all of stakeholders in infrastructure procurement system actively involve. From government party to non government party, from individual to groups, from buyers to sellers, from professional to company has contribution in procurement system. This environment is arena in which different interest, need, principle are negotiated and lobbied. In procurement process, political consideration is used in decision making, indeed in developing countries perfect competition is hardly exist (Thai, 2009).

5. Social Environment

Procurement is part of good governance targets. Procurement transparency, fairness and efficiency could support good governance achievement. In order to achieve good governance in procurement, public participation play important role (Thai, 2009).

II.1.3 Key Elements in Infrastructure Procurement System

Public procurement involves a lot of aspects, dimensions and actors. Public procurement is a complex system. Even though procurement process is important element (Harink, 1999 in Thai 2009), the sound public procurement system requires more aspects to involve. It should consider laws and regulations, institutional and organization, human resources and leadership, knowledge and also the management and basic principles. There are several framework which are developed. For instance, The World Bank, Organization of Economic Countries Development (OECD) and Government Accountability Office (USA) have their own framework. Nevertheless based on Thai (2009), Public procurement system is a system consists of:

a. **Procurement Laws and Regulations**

Procurement laws and regulations are play rules or rules of procurement. It is a base of regulatory of procurement. It has to guarantee procurement system conducted well. Based on Thai (2009), laws and regulations must have characteristic which are: firstly, it has to be **clear**. It means that all regulations must be stated and defined without any ambiguous. In order to assess clarity of procurement laws and regulations could be done by checking wether the rules are stated in regulations. If they are not stated, then it is called not clear, and vice versa. Secondly, regulation must be **consistent**. It means all of regulation in different level is saying same about something. The hierarchy of source is clear and there is no overlapping regulation (Thai, 2009). It means the further the regulation, the more detail the regulations. If there is missing thing or contradictive among regulations so that it is called not consistent, and vice versa. The third characteristic is **comprehensive** meaning that all procurement activities are covered and there is no space to abuse. If there is aspect of procurement which is not yet included, then it is called not comprehensive, and vice versa. The last characteristic is that, procurement law and regulation must be **flexible**. It is intended it could be operated in all of government level, in different condition and different kind of procurement. It also gives procurement professional to update the regulation. In order to

assess flexibility of regulation, it is done through seeking freedom to develop the rules. If there is no chance then it is called not flexible, and vice versa.

Reforming procurement system in this element is effort to strengthen and empower procurement laws and regulations to guarantee procurement system conducted well. It could be done by make it clear, consistent, comprehensive, and flexible.

This effort would not be easy activity because to change the law or regulation requires many stakeholder and takes time.

b. Procurement Organization

It deals with procurement organizational structure (central procurement agencies, procurement offices in user departments or tender committee). Public procurement organization is part of government organization so that it is usually attached in government organization. It is important because it is a place in which procurement happen. In other words, it is about who will conduct procurement. It could be centralized or decentralized, in central government or in local government, in department or in certain institution. Although procurement professionals can be imported from other departments, the organization of procurement is attached with its department or institution. In this element, procurement reform could be done by changing the procurement organization be more centralized or decentralized. It depend on need and context of certain country. Procurement can be called as centralized if it is conducted only by central government. It is called decentralized if it is also conducted by regional or local government.

c. Procurement Workforce

Procurement workforce is amount of people who have qualification as procurement staff. Based on OECD-DAC, 2006 in Thai, 2009, a sound procurement system has to have a competent professional workforce equipped with defined skills and knowledge for specified procurement jobs. Procurement staff, in quality, quantity and integrity, is needed in order to

conduct good procurement (Thai, 2009). **Quality** means procurement staff should have knowledge and skills in procurement. If they do not have, then procurement staff is called lack of quality, and vice versa. **Quantity** means balanced amount of qualified staff and amount of procurement. If the amount procurement staff is fewer than it is needed, then it is called lack of quantity. **Integrity** means that procurement staff has commitment to conduct procurement well. If there is still fraud, corruption and collusion, then it is called that procurement staff is still in lack of integrity and vice versa.

In respect to integrity issue, Thai (2009) says that procurement is fertile place in which corruption and collusion happen. It is contra productive with the goal of procurement which must be effective and efficient. Definition about corrupt, coercive, collusive and fraudulent practice is already stated by almost all of international organizations, including world bank. Its definition is (Thai, 2009):

1. *Corrupt practice is the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party.*
2. *Fraudulent practice is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation.*
3. *Coercive practice is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party.*
4. *Collusive practice is an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party*
5. *Obstructive practice,” which it defined as “deliberately destroying, falsifying, altering or concealing evidence material to an investigation*

In fighting corruption in procurement, Thai (2009) suggest to use approaches which are:

- *Institutional Approach*. This approach use organization and governance as a base for fighting the corruption. It is fit with public procurement system because it is part of government framework
- *Corruption Assessing or Measurement Approach*. This is kind of tools to describe corruption condition with score. It is good for corruption reducing indicators .
- *Public Expenditure Tracking Surveys (PETS)*. This approach is done by track the flow of fund from allocating until implementing. This approach can trace the fund and its leakage
- *Sectoral Approach*. This approach is part of good governance program but was done in certain sector.

In here, approach which is suitable for enhancing procurement integrity and fighting corruption is institutional approach while other approaches is depending on other program and department.

The interesting need to overcome in procurement workforce as well is a problem in how to provide certain amount of qualified procurement staff. There is fewer schools which offer public procurement program so that most of procurement staff is graduated from training/course or from law schools (Thai, 2009).

Procurement reform in procurement workforce could be an effort to supply amount of procurement staff in quality, quantity and integrity. It could be fulfill by organizing procurement training or course to create government staff become qualified procurement staff.

d. **Procurement Process and Procedures**

Procurement process deals with procurement methods (invitation to bid or request for bids, request for proposals, request for quotations, etc.) and procurement techniques (life-cycle costing, evaluation, negotiations, etc.). Procurement procedure deals with stages from budget allocation, budget legislation, procurement planning, implementation of procurement until contract signing. In order to measure whether the procurement reform is

already included reform of procurement process and procedure is through checking the change of them compliance with international best practise. If it is not compliance, then it is called not compliance and vice versa.

Previously, infrastructure procurement process was seen as part budgetary process. Recently, it is paid attention as important step because many things important could be arranged in this step. Beside basic principles, environmental issues, social aspects, economic aspects become part of procurement process which affects the procurement process and procedures.

Reforming procurement system in this elements is to adopt procurement process or procedure from international or best practise. It is intended to secure procurement and procedure can achieve the goal of procurement.

II.2 Procurement System Reform Framework

Procurement reform based on OECD (Organization Economic Countries Development) is a part of capacity development, in which, there is effort to change and strengthen procurement system. Compliance with international standard usually becomes major issue. It will take certain time, because reform is process which must go on. In other hand, in order to reform procurement system in developing countries, usually there is aid from other parties.

Infrastructure procurement policy reform could be concluded as capacity development, in which process or activity to make infrastructure procurement system more efficient, more effective, more transparent, and better. Reforming is process making better of procurement system in which the system still can adapt additional principles or new ones. Procurement is a system. It contains several elements. In order to reform procurement system, all elements of procurement must be included. According to Thai (2009), in order to make procurement better, we should improve in procurement system framework which embraces 4 elements: procurement organization, procurement laws and regulations, procurement workforce, and procurement process and procedures.

Another important thing in procurement reform is how the country procurement system can adopt remove, add or change basic principles in procurement to its system. These principles should be adjusted to best practise of procurement. Flexibility of its system will ensure capability of system to adopt further and possible principles in the future.

These principles actually contain norm and standard will affect the whole of procurement system better.

II.2.1 Procurement Reform Procedure

In doing procurement reform, there should be study on existing procurement system in advance. The world bank create method which is started by conducting review or study of procurement capacity in such country (Thai, 2009). This study is called “Country Procurement Assessment Report (CPAR)”. The OECD (Organisation Economic Countries Developmet) also make standard reviewing procurement system to reform. It is called Methodology of Assesment of National Procurement System. Both of guidelines is a tool to understand the performace of procurement system in such country. It reviews current condition of procurement in such country, diagnoses the problem, and then gives solution with some recommendation.

Later on, based on current picture, those reports also recommend some actions to be done by such country. The recommendation is intended and directed in line with foundations of procurements system framework.

In order to supervise and guard the procurement reform process, those study need to conduct. It could be used to evaluate and monitor if the procurement reform is success or not.

This research use Thai framework, because it derives from and considers other framework. It also covers all of aspects in other frameworks. To measure procurement system and its reform could be described as table 1 below:

Table 1 Procurement Reform Analysis Indicators

No.	Key element	Indicator	Indonesia	Scotland
1	Procurement law and regulations	Clear		
		Consistent		
		Comprehensive		
		Flexible		
2	Procurement organization	Centralized/ Decentralized		
3	Procurement workforce	Quality		
		Quantity		
		Integrity		
4	Procurement process and procedures	Compliance with principles		
		Compliance with international best practise		

Source: Thai (2009)

II.3 Procurement Reform as part of Policy Transfer

II.3.1 International Policy Transfer

Globalization in all aspects triggers all of life makes everything seen as world issues. In addition, procurement is seen as one of important elements in world development and trade. The procurement globalization is also pushed by regional and international trade agreement. Countries who would like to play role in international relationship inevitably should sign the international treaty and agreement. There should be commitments and goals in those agreements so that many regulations and standard was created to achieve.

Another consequence is country related with agreement should adopt new regulation and standard from international organization. If it occurs, actually the policy transfer is being done. This transfer also happens in infrastructure procurement policy in some countries around the world.

In other hand, infrastructure procurement is mostly conducted in every country. They differ from standard, context, situation and its quality. By doing well procurement, we could expect more not only to deliver better infrastructure to citizens or taxpayers, but also to achieve good governance. The situation and

condition of procurement among countries varies in respect to quantity and quality. In developed countries, infrastructure procurement relatively has been conducted well. In other hand, developing countries still struggle to conduct it. In doing so, such country could adopt or learn from other countries or supra organizations. It is kind of policy transfer as postulated by Aristotles (Evans, 2004); **policy transfer** was known since we learn the positive and negative from others.

According to David Dolowitz, et al, (1996), policy transfer can be defined as the process by which the policies and/or practices of one political system is fed into and utilized in the policymaking arena of another political system.

Policy transfer analysis is a theory of policy development that seeks to make sense of a process or set of processes in which knowledge about institutions, policies or delivery systems at one sector or level of governance is used in the development of institutions, policies or delivery systems at another sector or level of governance (Mark Evans, 2009).

Procurement policy transfer has been doing everywhere. It results in procurement reform in country which is drawing lesson from others. These lessons are done by country, supranational organizations, or policy experts (Dolowitz, et al, (1996)).

II.3.2 Actors of Policy Transfer

Based on Dolowitz (1996); there are six categories of actors involved in policy transfer. They are elected official, political parties, bureaucrat/civil servants, pressure groups, policy entrepreneurs/experts, supranational organizations. Relationship and power relation among them will result in certain policy transfer.

II.3.3 Kind of Transfer

Its reform could be pure need of certain countries to improve the quality of procurement. It could be triggered by external factor as well such as commitment with donor organization or other supranational organizations. Theoretically, Dolowitz, et al, (1996) said that there are 3 kinds of transfer:

- *Voluntary Transfer*

- It happens when such organization would like to learn or draw lesson from others. It is usually triggered by failure or dissatisfaction of current condition or willingness to improve their organization.
- *Direct Coercive Transfer*
 - This transfer happens when certain organization/government impose another country to implement or copy policy which they do. It is usually done by supra or community organizations such as World Bank, EU (European Union), ASEAN (Association of South East Asia Nations), etc.
- *Indirect Coercive Transfer*
 - This transfer could occur when there are external pressures to make such country or government aware to change their policies. David Dolowitz, et al, (1996) said “*The world economy constrains individual governments and economic pressures can lead to transfer*”. Other factors like awareness to prepare competition, international consensus also lead this transfer.

II.3.4 Content of Transfer

Another important thing in infrastructure procurement policy is what transfer is. Based on Dolowitz (1996), there are *seven objects of transfer* which are: *policy goals; structure and content; policy instruments or administrative techniques; institutions; ideology; ideas, attitudes and concepts; and negative lesson*.

Most public policy borrowing appears to involve administrative rather than a change of policy direction (Robertson and Waltman in Dolowitz, 1996). Few cases involve policy instrument while there is considerable policy transfer between nations (Majone in Dolowitz, 1996).

II.3.5 Degree of Transfer

In policy transfer, we also understand degree of transfer. Based on Rose in Dolowitz, 1996 (Lesson drawing in Public Policy) identifies five options on how to incorporate lessons into political system:

1. **Copying**: occurs when a country adopts a program in use elsewhere without any changes

2. **Emulation**: happens when a country rejects copying in every detail, but accepts that a particular program elsewhere provides the best standard for designing legislation at home
3. **Hybridization**: involve combining elements of programs found in two or more countries to develop a policy best-suited to the emulator
4. **Synthesis**: same with Hybridization
5. **Inspiration**: studying familiar problems in an unfamiliar setting can expand ideas and inspire fresh thinking about what is possible at home.

Lesson can be adopted from wherever, whenever and whoever. It also influences the result of transfer.

II.3.6 Constraint of Transfer

The successful transfer policy are also influenced by constrain factor. Rose (in Dolowitz, 1996) suggests **six hypothesizes** (but attention also needs to be paid to the way complexity interacts with the other factors such as what is transferred and in what form):

1. *Programs with single goal are more transferable than programs with multiple goals*
2. *The simpler the problem the more likely transfer will occur*
3. *The more direct the relationship between the problem and the solution is perceived to be the more likely it is to be transferred*
4. *The fewer the perceived side-effects of a policy the greater the possibility of transfer*
5. *The more information agents have about how program operates in another location the easier it is to transfer*
6. *The more easily outcomes can be predicted the simpler a program is to be transferred*

Another important in making policy transfer success is *Ideological similarities*. This research will look only at first factor which is kind of program conducted. It is single goal or multiple goals. Kind of goal is seen from how many program conducted. If it is single or only one program so that it is less constraint in policy transfer. In other hand, if it has multiple program so that it has more constraint.

As the conclusion, in order to analyse procurement reform as a policy transfer could be described in table 2 below:

Table 2 Policy Transfer Analysis Indicators:

No.	Policy Transfer Indicator	Indonesia	Scotland
1	Actors of Policy Transfer		
2	Kind of transfer		
3	Content of Transfer		
4	Way of reform (Degree of transfer)		
5	Constraint of Transfer (Type of program reform)		

Source: Dolowitz (1996)

II.4 Concluding Remarks:

From theoretical review discussed, there are 3 significant factors used in infrastructure procurement reform. The procurement reform will only success if it is considered 3 factors. Those factors are: Firstly, the key elements of procurement systems are foundations in which the procurement reform could be achieved. The foundation are Law and Regulation, Organization, Workforce, Process and Procedure. Secondly, governmental system and economic, social and political environment surrounding procurement system.

Thirdly, international policy transfer in the procurement reform. It usually deals with adoption of basic principle of procurement of procurement which will affect all of procurement dimension. Principle usually is norm or value which would be reached. The theory of policy transfer can be used for analyzing another factor influencing procurement reform. It can be described how the international procurement standard is adopted into such country context. The kind of procurement policy transfer or reform affects the implementation and result of procurement reform in such country.

Directly or indirectly, this environment will influence the procurement reform conducted. In addition, in order to reform infrastructure procurement system, there must be review or study to assess procurement performance in country. It is used as benchmark, reform tools and also evaluation tools.

Finally, based on theoretical review discussed, theoretical framework is described in figure 2 below:

Theoretical Framework:

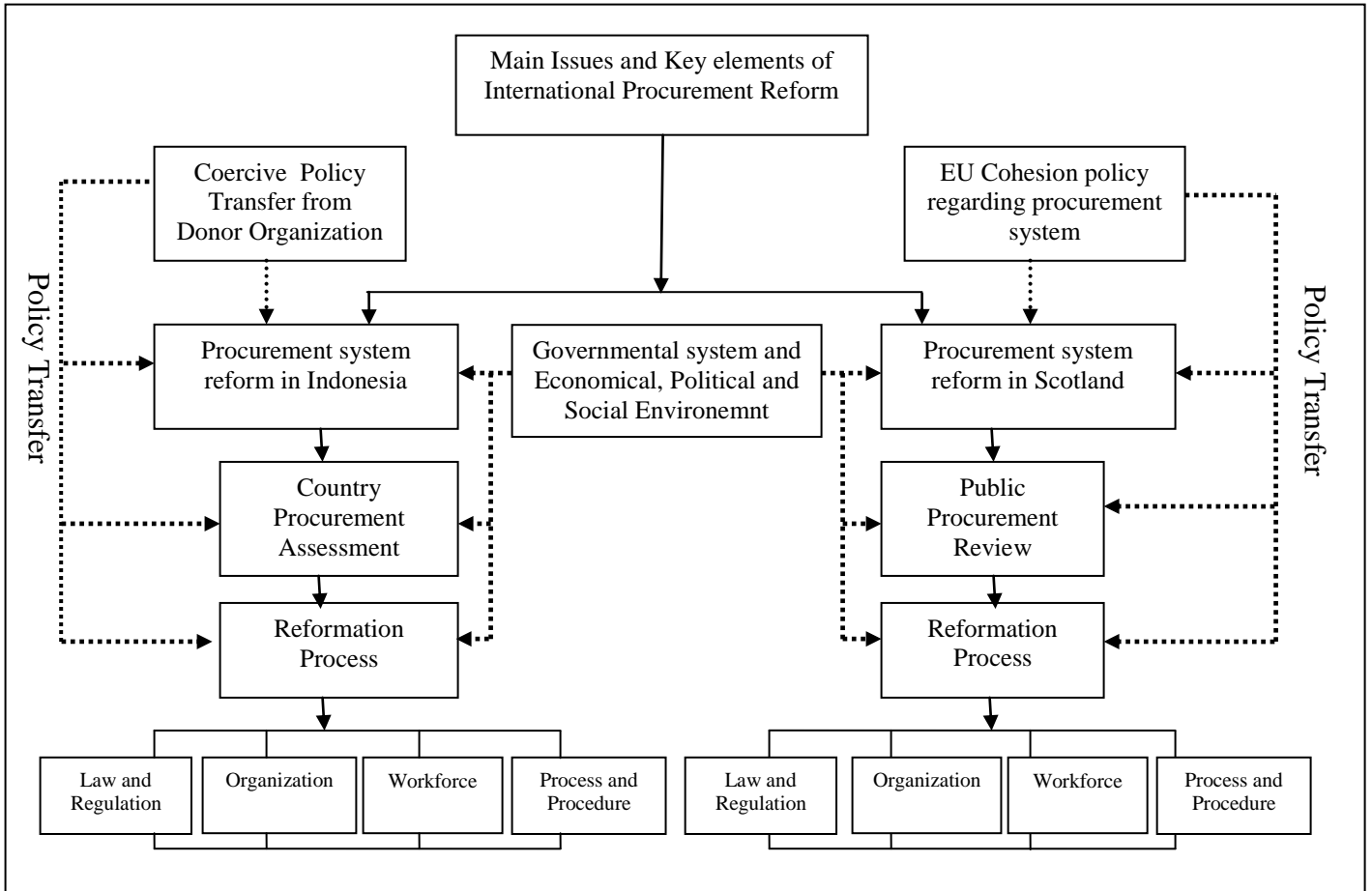


Figure 2 Theoretical Framework

Chapter 3

Infrastructure Construction Procurement Reform in Indonesia

This chapter will describe infrastructure procurement system reform in Indonesia. It comprises history, current condition and its development.

III.1 Infrastructure Construction Procurement in Indonesia and Problem

Like other procurements, infrastructure procurement in Indonesia was done as part of budgetary process. The budget regulation was a base regulation for infrastructure procurement. Complexity and challenge to improve infrastructure construction and provision, in 1999, government of Indonesia issued act no. 18/1999 on construction service. This act regulates all of activities regarding infrastructure constructions. One of activities is infrastructure construction service procurement. Based on this act, there was government regulation issued as further and detail regulation. This regulation is Government 29/2000. Then there were presidential decree no. 18/2000 and no. 80/2003 containing goods and service procurement regulations. Although they were not declared as procurement system reform, actually both of them were intended as a part of procurement reform in Indonesia. Government of Indonesia committed to continue restoring procurement system (ADB, 2007).

Another interesting issue in procurement is decentralization of authority from central government to local government. There are about one third of central government expenditure was transferred to regional/local government (Bappenas, 2007). There are many projects then has to local government responsibility in planning, implementation, supervision and evaluation. It means there are more infrastructure construction procurement activities should be handled by local government. Even though some of procurement activities are included as local government responsibility, the regulation on procurement are still in central government supervision. Local governments are allowed to make their own arrangements for public procurement (CPAR, 2001), nevertheless these regulations must be compliance with national regulations.

Overall, based on CPAR 2001 (World Bank 2001), the public procurement system in Indonesia, including infrastructure construction procurement, has not been done well. There is still limitation of market, has been prone to misuse and abuse, and reduces value for money for public funds. It is resulted from such condition. Firstly, there are overlapping regulation which makes confusion in implementation. Secondly, basic principles and policies in procurement are not placed in sufficient law so that it can be done well. Thirdly, there is no body of agency which has adequate position to formulate, supervise and enforce procurement policy. Forthly, the existing procurement rules and procedures are not compliance with international best practice. Fiftly, the capacity of procurement staff and approving authority is not sufficient. Sixthly, regarding to third parties capability, the certification system of contractors and consultants are not done well. Seventhly, in implementation of procurement process, there are still unfair influence of contractor or consultant associations. Another important issue in procurement is corruption and collusive practices. Indonesia still face problem in this case. Negative procurement practise such as uneconomic packaging of contracts caused by lobbying and interest pressure from such group was also still found. Regarding transparency, there are still enough annoucement and advertisement of procurement activities to pubic. There is also problem in channeling complaint of procurement process. Another important thing is that, problem regarding regeneration of project managers and procurement staff. It results in lack of procurement workforce in Indonesia.

Those conditions mentioned above are background why procurement system in Indonesia doesn't work well. Another important reason is that, Indonesia faced financial crisis in 1998. It pressured national budget meanwhile the need of infrastructure increase. In spite running other programs, it is needed to use budget efficiently. Procurement system improvement will ensure government could deliver better service to citizens.

In order to understand how the infrastructure procurement system in Indonesia is, author tried to describe its current condition in respect to not only governmental framework and environment but also in key elements in procurement system and its reform as below:

III.1.1 Governmental framework and environment

a. Government System (Planning System)

Indonesia is a unitary state. Indonesia has 3 levels of government which are central government, provincial government and local government. In Indonesia, procurement activities are done by each level of government whether in central government, regional/provincial government or in local government. Even though each of them conduct their own procurement, all of laws and regulations come from central government. There are provincial or local government regulations, Nevertheless they are merely emphasizing regulations of central government regulations. Procurement activities in local and provincial increase since government decentralization was established by issuance of law no. 22/1999. There are more infrastructure which should be procured by local and provincial government.

b. Economic Environment or Market Condition

Recently, Indonesian economic growth and market condition getting better, after faced financial crisis in 1997. The infrastructure construction industry sector, generally experienced a tight construction in that time, is expected to grow (Suraji, 2009). Procurement market segmentation in Indonesia generally are divided into 2 types. The first is goods procurement which deals with selling or purchasing goods, tools or product. The second is service procurement market which deals with providing service, consultation, construction services. Procurement market in Indonesia was confined by regulation which divides segment in enterprise size and area to compete. Not all of enterprise can join procurement competition or tender bid in other places and certain amount of contract price. It hampered effort to maximize competition.

c. Legal Environment

Based on People's consultative assembly decision number 3/2000 on source and order of law, Indonesian law is arranged orderly. The higher law is a source for lower law. The law order in Indonesia from the highest level are:

1. Constitution 1945;
2. People's consultative assembly decision;
3. Act;

4. Government Regulation as replacement of act;
5. Government Regulation;
6. Presidential Decree;
7. Regional Regulation

The highest regulation on infrastructure construction procurement in Indonesia is Act no. 18/1999. In doing procurement activity, there several acts which support and must be considered as source of regulation. Then infrastructure construction procurement is regulated further in Government regulation no. 29/2000. The further regulation is Presidential Decree no. 18/2000 and then revised with no. 80/2003. This regulation not only regulate infrastructure construction procurement but also good and other service procurement. Infrastructure construction procurement is regulated further by minister regulation level, meanwhile goods and service procurement has no further detailed regulation (depicted as zero box in figure 3 below). Indonesian procurement regulation order could be seen in figure 3 below:

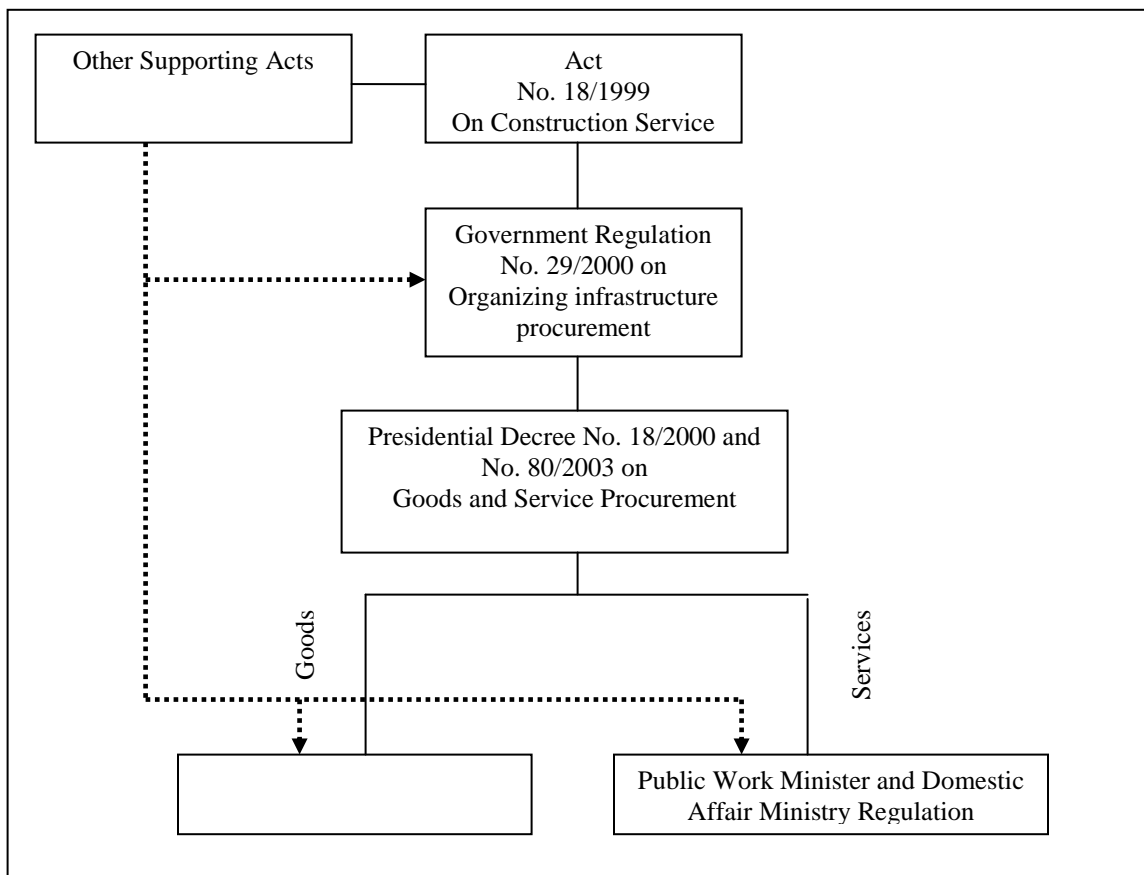


Figure 3 Infrastructure procurement law order in Indonesia

Legal environment in Indonesia is relatively good. All aspects related to procurement issues are already regulated (see appendix 1).

d. Political Environment

Since reformation era, Indonesia became more democratic country. *Indonesia* is now the world's third-largest *democratic* country (CIA, 2010). It makes conducive political environment triggering democratization in procurement as well. All of stakeholders in procurement actively involves in procurement system. Their differences, interests, aspirations should be accomodated in procurement system. The procurement performance is also depend on capability of stakeholders and relationship among them. As new democratic country, stakeholders in Indonesia procurement system still need time to be mature.

e. Social Environment

Indonesian social environment to support procurement system is getting better. Since reformation era, social awareness of civil society are arised because their right is guaranted by law. Press and media also face new era with freedom of express, something that could not get previously. Public participation in infrastructure procurement is also guaranted by regulation. Government regulation no. 30/2000 arranges public participation on infrastructure construction service procurement. Transparency is also supported by government regulation. Act no. 40/1999 gives more freedom for press to inform and report public information. Act no. 14/2008 guarantees the transparency of public information. Those regulations give chance for society to participate in supervising procurement activity. For instance, there is Indonesian Procurement Watch (IPW) which is non-governmental organization that deals with procurement watch (www.iprocwatch.org).

III.1.2 Procurement Reform in Indonesia

Recently, procurement reform is important element on governance. Even it becomes main media for government reform as a whole. Procurement reform is

efforts taken to improve and strengthen procurement system be better, more efficient, more effective and more transparent. It was done also because government of Indonesia encountered financial pressure since financial crisis in 1998 (Bappenas, 2007). There is a need to do more with less. It means infrastructure should be provided increase while the budget is relatively decreased. Another issue is, public procurement system in Indonesia, including infrastructure construction procurement, has not been done well. There is still limitation of market, has been prone to misuse and abuse, and reduces value for money for public funds. In addition, the procurement practise in Indonesia wasn't compliance with international procurement practise. The procurement reform was also pressured by commitment between Indonesia and CGI (Consultative Group on Indonesia).

CGI (Consultative Group on Indonesia) was a significant organization in procurement reform in Indonesia. CGI is a board which coordinates, arranges and organizes loan for Indonesia. The fund came from many countries or supranational organizations such as World Bank, International Monetary Fund (IMF) and Asian Development Bank (www.indonesiamatters.com) so that Indonesia had to adopt their regulation on national regulation. Reforming of procurement system not only enhance good governance but also to harmonize donor aid in Indonesia (OECD, 2005).

In doing so, based on world bank procedure, there should be study on procurement in such country. This study then is called as Country Procurement Assessment Report (CPAR). The studies are a major tool to identify and help prioritise needs (OECD, 2005).

Indonesia was helped by World Bank staff in close collaboration with staff of the Asian Development Bank and a Government of Indonesia Working Group to make Indonesian Country Procurement Assessment Report (CPAR). This aid is a part of economic aid from World Bank in Indonesia. World Bank mainstreams the procurement reforms on 4 important elements called 4 pillars of procurement system reform.

Since Indonesian country procurement assessment report was issued, Government of Indonesia has already taken tangible efforts to reform its procurement system. Even though it was not declared as procurement reform, Indonesia tried to implement all of recommendation of CPAR to make better procurement system better.

After more than five years, the procurement system reform hasn't finished yet. In Indonesia, the result of procurement reform (Bappenas, 2007) is 25% on progress. It means in order to achieve ideal procurement reform there are much to be done. The procurement system and its reform in each foundation is described as below.

a. Procurement Law and Regulation

Infrastructure procurement in Indonesia generally was regulated by act namely act no. 18/1999. It contains infrastructure construction arrangement. It is comprehensive because this act regulates all of aspects regarding infrastructure constructions. Based on this act, there was government regulation issued as further and detail regulation. This regulation is Government 29/2000. It covers organizing of construction services including infrastructure/construction procurement. Nevertheless it is not clear and consistent. Based on this regulation, there should be further regulation on detail infrastructure/construction procurement which is regulated in Presidential Decree. Eventually, this presidential decree as required by government regulation no. 29/2000 has never been issued.

From infrastructure procurement view, there was overlapping regulation which is prevailed. It is one of overlapping examples as World Bank said in Indonesian Country Procurement Assessment Report, 2001, that Indonesia's public procurement system is guided by a number of overlapping legislation, presidential decrees and implementation regulations.

In addition, there are a number of detailed implementation regulations by way of ministerial regulations, letters of information from the ministers, and other decrees and instructions by the Governors, Bupatis or Mayors which govern or influence public procurement.

Infrastructure procurement is one of aspects which was decentralized. In implementation, local and provincial government should face not only procurement regulation itself but also other regulation connected with local government. This situation leads local government make misinterpretation on establishing procurement regulation.

In order to reform procurement system in respect for strengthening the legal, regulatory and institutional framework for Indonesia's public procurement system, Indonesia takes several actions which are:

- **Ensuring Uniformity in Procurement Standards at All Levels of Government**

It is intended to avert complicated regulation in all of government tiers. It was done by issuing presidential decree no. 18/2000 on goods and service procurement guidelines. It must be followed by all level of governments and sectors.

All of rules are already regulated comprehensively. It is also flexible because it can adopt change in international procurement practice. The problem is in the consistency. Procurement law needs hierarchy of source which is the lower the regulation, the more detailed the regulation. Meanwhile presidential decree 80/2003 becomes broader. It also regulates goods procurement. It also becomes unclear because it not only focuses on infrastructure construction procurement, but also goods and other service procurement. It makes confusion and misinterpretation among types of procurement regulation.

- **Enacting a Public Procurement Law**

It is needed to establish adequate and powerful regulation in procurement which is procurement law. Nevertheless until now, this law has not been issued yet.

b. Procurement Organization

In Indonesia, even though central government play role dominantly in creating regulations, the implementation of procurement is also conducted by sector or

local government. This procurement is **decentralized** because it is not merely conducted by central government.

Untill 2007 Indonesia actually has no agency which is responsible in procurement policy. In respect to infrastructure construction procurement, Indonesia has board called LPJK (Construction Industry Service Board). This agency has responsibility on supporting and fostering research and development of construction service, implementing training and course of construction service, registrating construction workforce and construction enterprises and also doing arbitrace and mediation on construction conflict. Even though LPJK has right to arrange standard document of tender, it has no right to issue procurement regulations. The main elements affecting procurement organization reform is capability of procurement authority or tender committee to conduct procurement implementation. Its capability faces problems which are (CPAR, 2001): Firstly, the status of this organization is temporary. It only exists from procurement planning to contract signing. Secondly, there are lack of budget averting tender committee or procurement agency to implement all of process and procedure recommended by regulations. The last problem is that, integrity and independence of member and tender committee itself. It is resulted from condition of procurement workforce in respect to integrity. If the procurement workforce is lack of integrity, it is difficult to expect committee has integrity and independency. The weak position of tender committee in organization also has effect on it (CPAR, 2001). It could result in pressure from organization to influence the tender process.

In order to strengthen procurement system regarding to procurement organization, Indonesia conducts procurement reform through: firstly, by improving requirement of tender committee recruitment so that it can improve their quality, quantity and integrity, secondly, creating regulation which requires enough budget for tender committee activities, thirdly, establishing agency which has authority in procurement policy namely NPPO (National Public Procurement Office). This office is needed to supervise procurement system in Indonesia as independent

actor. It should also provide regulations and additional interpretation of understanding. It is also needed to lay down uniform and consistent policy, rules and procedures in public procurement, and ensure clear and enforceable sanctions and enforcement mechanisms. (CPAR World Bank, 2001).

In 2007, finally this NPPO (National Public Procurement Office) was established. It was late but it is positive to strengthen procurement reform in Indonesia.

c. Procurement Workforce

Procurement system regarding to the procurement workforce situation could be described as below:

There are lack of procurement staff regarding to quality, quantity and integrity (CPAR, 2001). There are a lot of government staffs which could be involved in infrastructure procurement but only few of them who have skill and knowledge of procurement. It occurs because there is no good regeneration. Other reasons are: the absence of procurement schools in Indonesia so that there are no procurement workforce which are resulted. There is only training or course of procurement which are done by certain department (i.e. Public Work Department). It does not cater the amount required by work amount. The absence of career steam in procurement job is a cause as well. It makes the staff has no willingness to become procurement staff.

This issue becomes broader since the decentralization started. The more projects should be done, the more procurement workforce is needed. Mostly local government and provincial government face this problem. They are not ready to prepare increasing need of procurement workforce.

In order to reform procurement system in respect to procurement workforce, Indonesia conducts actions which are: Firstly, conducting training and course to create new procurement staff (tender committee member) in sufficient amount, adequate quality and good integrity. It is caused by condition that procurement workforce in Indonesia is lack in quality, quantity and integrity (Indonesia's CPAR, 2001). Secondly, changing in civil service regulations to ensure a career

and professionalism in procurement and also increase salary for civil servants getting involved in procurement. This effort has not succeeded yet.

In respect to enhancing integrity and fighting corruption, Indonesia requires mandatory for whoever involved in infrastructure procurement to sign integrity pact (Presidential Decree no. 8/2003). This is a good step, but its influence not very significant yet.

d. Procurement Process and Procedures

The main issues in process and procedure could be described and divided into 3 topics (CPAR, 2001). Firstly, the problem regarding to procedure are: there were insufficient time in certain procurement phase for bidders (Contractors and Consultant) to prepare qualification or bid document. Another problem is, there are standard bidding document so that document are used vary in each place and make it change several times. Secondly, regarding certification system, document related with certification was unreliable and need to check. Otherwise, checking system of certification is also weak. In addition, the problem is not only in certificate reliability but also institution issuing certificate is complicated. In infrastructure procurement, there is one more certificate required. Thirdly, regarding procurement practices, the main issues are coming from buyers, sellers, and market condition such as: there is pressure from business associations of contractors, suppliers, consultants and higher authorities in the procurement process; there is bad packaging of works to distribute work to many enterprises; information spreading or announcement about project procurement is not sufficient so that it limit the competition; using technical specification to disqualify bid even that specification is not significant; the tender regulation is not regulated clearly in tender document; disqualification of bidders on minor administrative aspect; the lack of integrity which potentially affect procurement decisions; lack of complaints mechanism and response; breach of direct selection procedures in urgency cases.

In order to strengthen procurement system regarding procurement process and procedure, Indonesia conducts efforts as below:

Firstly, in procurement procedures issue, government of Indonesia provide clearer guidelines for non competitive procurement methods, removes regulation which limit participation, requires automatic retendering when the number of bids is less than three or the lowest bid price exceeds the budget ceiling should be eliminated, makes standard of bidding documents which must be used in Indonesia, regulates time allocation consideration in procurement process so that the bidders can compete fairly, removes the prequalification for simple work to post qualification.

Secondly, in certification issue, government encourages Construction Services Industry Board (LPJK) in doing certification of contractor or consultant.

Thirdly, in procurement practice issue, Indonesia conducts: Requiring all of actors involved in project procurement should commit to integrity and ethics in procurement process. It must be made public and support by ethic enforcement and punishment; pushing NPPO (National Public Procurement Office) should implement anti corruption program; increasing procurement audit in respect to quality and quantity of audit; giving increasing role of press and civil society organizations to supervise and watch the procurement process; empowering bidders, suppliers, contractors and consultants report wrongdoing by government officials in procurement, without any risk being punished by the government; improvement in regulations to maximize competition among tender bidders.

As conclusion, most of procedures and process of international practice were already accommodated in procurement reform.

From explanation mentioned above, the performance of procurement system reform in Indonesia can be depicted briefly in table 3 below:

Table 3 Indonesia Procurement Reform Analysis Indicators

No.	Key element	Indicator	Indonesia
1	Procurement law and regulations	Clear	Not Clear
		Consistent	Not Consistent
		Comprehensive	Comprehensive
		Flexible	Flexible
2	Procurement Organization	Centralized/ Decentralized	Decentralized
3	Procurement workforce	Quality	Lack
		Quantity	Lack
		Integrity	Lack
4	Procurement process and procedures	Compliance with principles	Compliance
		Compliance with international best practise	Compliance

(Source : CPAR, 2001 and author interpretation)

As we can see in table 3, procurement reform on law and regulation is comprehensive and flexible. Nevertheless it is not clear and consistent. Comprehensive means that all of activity already accommodated and regulated. Flexible means that regulation issued could adapt the changing and dynamic of procurement best practice. Law and regulation is not clear means that procurement activity is not obviously explained. Procurement regulation in Indonesia is not consistent because the regulations are not in line with others. In procurement organization reform, the organization decentralized. It means procurement is also conducted by sector or local government. In respect to procurement workforce, Indonesia encounters lack of procurement staff. The quality is under requirement. The amount of procurement workforce is also fewer than workload should be handled. Indonesia also face lack of integrity from procurement workforce. There are still fraud and failure of procurement because of lack of integrity (CPAR, 2001). Regarding process and procedure, Indonesia already adopted principle, process and procedure with international best practice.

III.2. Infrastructure Procurement Reform as Policy Transfer

Beside in order to improve infrastructure sector performance, procurement system reform was done by government of Indonesia as part of bigger program implementation. Since facing the economic crisis, Indonesia tried to improve its condition helped by CGI (Consultative Group on Indonesia). One of commitment between Indonesia and CGI is to reform procurement system reform as effort achieving good governance. This reform is also intended to harmonize implementation and use of fund aid (OECD, 2005). Facing financial crisis, Indonesia decided to work together with donor organization. Indonesia needs help and loan, in other hand donor organization required Indonesia to conduct several improvement program. One of them is to reform its procurement system. In doing so Indonesia should adopt international best practice from donor organization. In here, there were actors involved in policy transfer. They were responsible to discuss, negotiate and decide how the transfer will be done. They are elected official, civil servants and supranational organizations (ADB, 2007). In addition, this transfer is a mandatory as donor requirement. This kind of transfer is included as coercive transfer.

In order to conduct procurement reform, Country Procurement Assessment Report (CPAR) was conducted in Indonesia. CPAR is methodology issued by World Bank to assess current condition and reform procurement system in such country. Inevitably, principles, policy and regulation from World Bank become sources of Indonesia procurement system reform. This reform is conducted by changing, adding or reducing existing procurement regulation or even establishing new regulation. One of reform activities is the issuance of presidential decree on procurement regulation. Many basic principles and procedures were already adopted in Indonesia procurement regulation through presidential decree. Government of Indonesia stated in that procurement regulation that procurement must be conducted in 6 principles which are: efficient, effective, open and competitive, transparent, fair, and accountable. Those principles are not exactly same in term and in amount with other basic principles issued by other countries or organizations. Although they are different from others, essentially all of principles are already covered by this presidential decree. This transfer could be categorized as Hybridization or Synthesis. Because it is a combination from several sources (Dolowitz, 1996). It was major step of Indonesia procurement system because previously procurement was regulated by budget regulation. In order to achieve

procurement goals, Indonesia adopted almost all of elements in World Bank procurement system. From basic principles, organization, process, procedure and also general policy are adopted and combined with local context.

As consideration, the procurement reform is not only one program which helped by CGI. There were other programs such as Financial Management Reform, Monetary, good governance program, etc. Rose (In Dolowitz, 1996) said the more goal the policy transfer, the more difficult the policy transfer conducted. There will be more constraint of policy transfer in procurement policy.

Procurement reform is seen as policy transfer is described briefly in table 4 below:

Table 4 Indonesia Policy Transfer Analysis Indicators:

No.	Policy Transfer Indicator	Indonesia
1	Actors of Policy Transfer	Elected official, civil servants and supranational organizations
2	Kind of transfer	coercive transfer
3	Content of Transfer	principles and procedures
4	Way of reform (Degree of transfer)	Hybridization or Synthesis
5	Constraint of Transfer (Type of program reform)	more constraint

(Source: Author interpretation)

As we can see in table above, the actors involved in policy transfer are elected official, civil servants and supranational organizations. Their power relation and negotiation will result in how policy will run. Policy transfer occurred in procurement in Indonesia is included as coercive transfer. It is resulted from the mandatory for Indonesia to implement or adopt the international best practice in procurement system. The content of transfer were adopted by Indonesia are principle and procedure. In adopting international best practice, Indonesia did not only copy, but combine the content of transfer so that it is included as Hybridization or Synthesis (Dolowitz, 1996). In addition, the procurement reform is one of programs conducted together with donor organization. These programs were expected to achieve several goals. This situation result in more constraint for procurement reform to transfer the policy.

III.3 Concluding Remarks

After more than five years, the procurement system reform hasn't succeeded yet. In Indonesia, the result of procurement reform (Bappenas, 2007) is 25% on progress. It means in order to achieve ideal procurement reform there are still much to be done. There is several advanced result in certain aspects. In other hand, there are also aspects needed to improve further. The procurement reform improvements were already done, for instance: basic principle, process and procedure of international procurement are already adopted in Indonesian procurement regulation. The decentralization of procurement is also positive improvement. In other side, the shortcomings are represented by unpreparedness of Indonesia to implement procurement reform. For instance, regulation is not clear and consistent. Then it results in confusion in misinterpretation in procurement implementation. Later on, the rule of participation only covers domestic aspect. There is still limitation for foreign company to join the competition. Next problem is standard document. There is no standard bidding document as source of procurement which supported by law. It results in various documents in each department or other government agencies. Another problem is NPPO (National Public Procurement Officer)/LPKPP which was recommended in presidential decree just established late for 2 years. If it is compared to date of this presidential decree issued, it has 4 year difference. We cannot expect more on procurement reform because the body expected to arrange and control lately established. In addition, procurement reform requires procurement staff which has quality and integrity. In fact, procurement workforce which has integrity and quality is lack. We can imagine the result, if people who directly execute procurement are less knowledge and lack of amount. It will be difficult to achieve the procurement reform goals.

Overall, there are 2 most critical factors needed to be improved which are: the first is law and regulation. There are still consistency and clarity problem in establishing regulation on infrastructure construction procurement reform. It results in confusion in implementation so that the result of procurement is not like expected. The second is procurement workforce. Due to procurement reform, it is needed amount of procurement staff which has not only quality and integrity but also available amount compared to procurement activity load. In fact, it is not adequate. Indonesia also encounters further

problem of procurement staff which is regeneration and career development. Procurement task is still seen as second or more duty. There are fewer officers who are willing to involve because it has no interesting career development and also better salary.

In addition, the procurement reform in Indonesia was also affected by international policy transfer. Requirements to get loan became triggering factor for Indonesia to conduct infrastructure procurement system reform. Indonesia has to increase its good governance including procurement system side. This loan also requires its donor organization procurement regulation is applied. In fact, this kind of policy transfer influences the implementation of procurement system reform. The time and substance of reform will be an issue here. Indonesia inevitably must accomplish this program based on time decided by donor organization. In other hand, certain substance in procurement should be accommodated in national procurement regulation.

Chapter 4

Infrastructure Construction Procurement Reform in Scotland

This chapter will describe infrastructure procurement system reform in Scotland. It comprises background, current condition and its development.

IV.1 Infrastructure Construction Procurement in Scotland

Procurement of infrastructure construction services in Scotland is regulated as part of procurement regulation as a whole. Previously, Scotland applied the UK procurement regulations. Nevertheless since 2006, Scotland had their own procurement regulation which is called Public Contracts (Scotland) Regulations and the Utilities Contracts (Scotland) Regulations. Further, in order to implement procurement, Scottish executive issues the Scottish procurement policy note (SPPN). It is also regulated further by SPAN (Scottish procurement action note), until it is regulated by procurement toolkit. In order to understand infrastructure procurement reform in Scotland should look at procurement reform as a whole including current situation and environment which affects procurement system.

IV.1.1 Circumstance/Environment affecting procurement system

a. Government System

Infrastructure procurement policy is arranged by government so that governmental system will affects this policy. Scotland is part of United Kingdom so that Scotland's head of state is the monarch of the United Kingdom. Scotland has partial self-government within the United Kingdom as well as representation in the UK Parliament. Executive and legislative powers have been devolved to, respectively, the Scottish Government and the Scottish Parliament at Holyrood in Edinburgh.

Government of Scotland Kingdom is led by first minister and The Queen appoints one Member of the Scottish Parliament, (MSP), on the nomination of the Parliament, to be First Minister. Scottish Government has duties in NHS

Scotland, education, justice and home affairs, rural affairs, economic development and transport. Other affairs such as international relationship, tax, defence, etc are included in UK government responsibility. (www.scotland.gov.uk)

Scotland has 4 tiers of government which are British government, Scottish government, regional government and districts as we can see below:

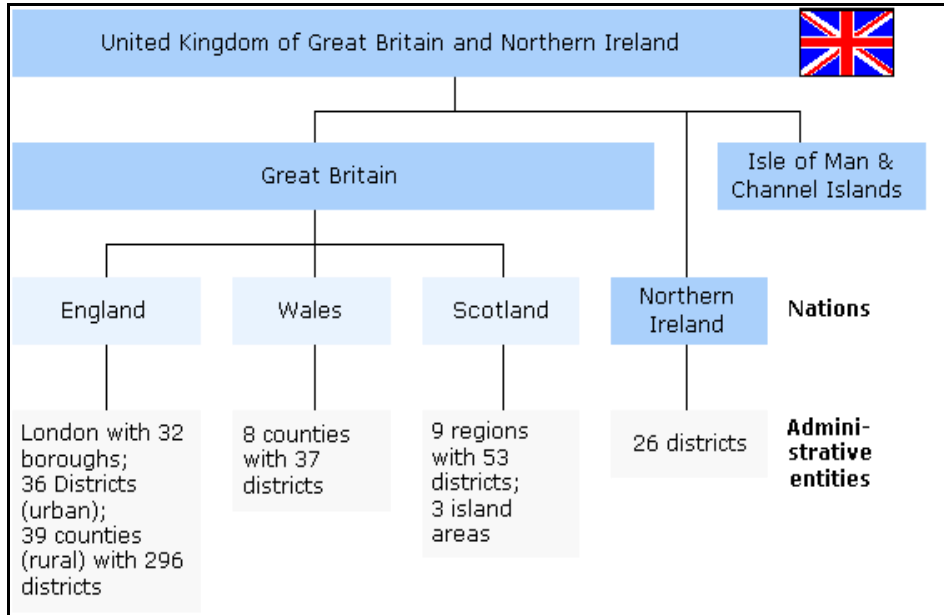


Figure 4 Government Tiering in Scotland

(Source: <http://www.dadalos.org/int/parteien/Grundkurs4/gb/regierungssystem.html>)

In Scotland, procurement affairs is arranged by Ministry of Finance and Sustainable Growth because procurement is a part of economic development which is Scottish government responsibility.

As it is part of devolved government, procurement in Scottish context is also devolved issue. Previously, procurement in Scotland was conducted based on UK's procurement regulation. Later on, Scottish government must arrange the procurement issues themselves.

In Scotland, procurement activities are conducted by central government, regional, local government and also sectoral department. Procurement category A is conducted by National/Central Government, category B by Specific Sectors, Category C1 by Regional Government and Category C by Local Government as described in figure 5 below:

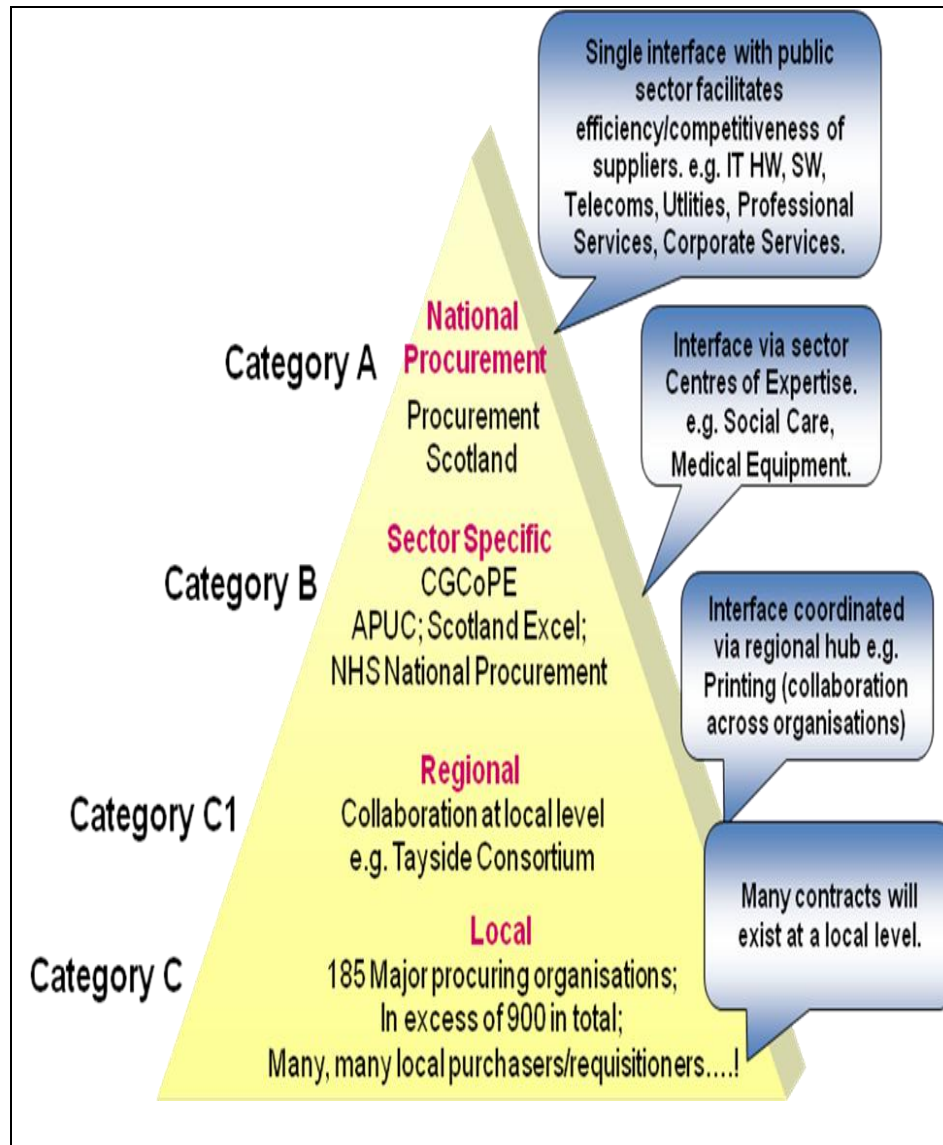


Figure 5 Procurement Tiering
(Source: Gary Robinson Presentation)

b. Economic Environment or Market Condition

Procurement market in Scotland consists of three dimensions which are work, supply and services. The procurement in Scotland are divided into 3 definitions of Supplies, Works and Services. **Supplies** contracts are essentially those for the supply (and installation where appropriate) or hire of products. **Works** is defined as "the outcome of building or civil engineering, works taken as a whole that is sufficient of itself to fulfil an economic and technical function". **Services** includes, for example, services such as maintenance of equipment, transportation, consultancy, technical services etc.

This division inevitably affect procurement market. The market also becomes three types, because enterprises will compete in each division.

Economic or condition also deals with amount of supplier compared to contracts offered. In order to maximize competition, there should be enterprises in quality and quantity.

Another important environment is that, Scotland experiences the decreasing budget (Audit Scotland, 2009). In other hand, the need of infrastructure is increasing. It creates pressure to do more with less. But at least, Scotland uses approximately £8 billion each year on goods, works and services. That is interesting amount for procurement market.

c. Legal Environment

As an EU member, Scotland (UK) has consequence regarding implementation of EU Regulations. Scotland should anticipate and prepare all of consequence from EU. When European Union issued procurement directive in 2004 to support European single market concept, Scotland then adopted these regulation into its national procurement regulation. Scotland issued amendment of procurement regulations on 31 January 2006 under the Public Contracts (Scotland) Regulations and the Utilities Contracts (Scotland) Regulations. These regulations not only try to make compliance with European Union directives but also provide a general framework for procurement regulations similar to the rest of the UK.

Implementation of EU directive is a Scottish need to prepare competition with other EU members. In order to implement the Public Contracts (Scotland) Regulations and the Utilities Contracts (Scotland) Regulations, Scottish Procurement Directorate issues the Scottish Public Procurement Policy Note (SPPN). Further and detailed regulations are Scottish Procurement Action Notes (SPAN) and the Procurement Toolkit. SPPNs and Toolkit outline policy and procedures that are mandatory for Scottish Government procurement staff, and they provide guidance on best practice (Scottish Procurement Directorate, 2010). SPPN provides up-to-date advice and guidance on policy and procedural issues relating to works and non-works procurement. Scottish Procurement Action Notes

cover non-policy issues and offer information and guidance on procurement related matters.

Infrastructure construction procurement is also regulated by those regulations. The Procurement Toolkit explains the procurement process for the purchase of goods and services. Designed as an online source of information, it offers guidance on procedures and processes, together with templates, and recommends further guidance with appropriate links. The procurement of consultancy services also follows the process outlined in the Toolkit.

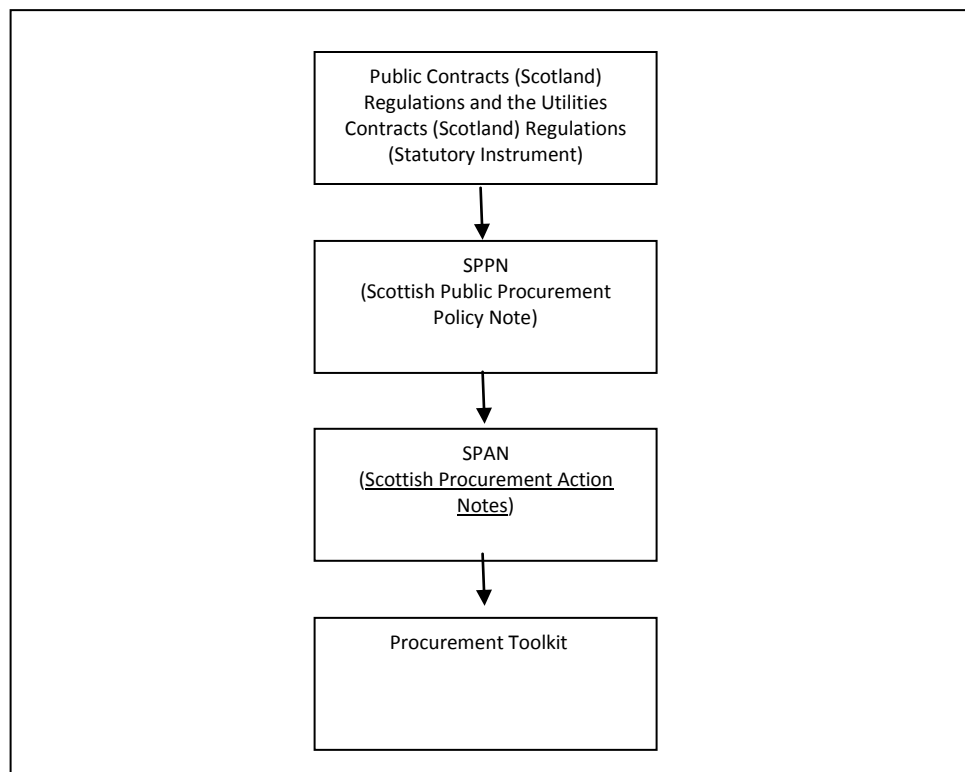


Figure 6 Scottish procurement regulation order

(Source: Author interpretation on SPD's Construction Procurement Manual)

d. Political Environment

As a developed and democratic country, Scotland has long time tradition to give equal rights of all stakeholders to participate in every aspect. They channel aspiration of people so that stakeholders can actively engage in procurement system. Another important thing in political environment is that, there is much more attention on procurement. It is placed in significant role to improve good

governance. The new government, as 2007's election result, commit to continue procurement reform (Audit Scotland,2009).

e. Social Environment

There are critic media and watchdog organization in Scotland which will supervise and criticize the government policy in procurement system. This environment is supported by Act 2002 (**FOISA**) The Freedom of Information (Scotland). It guarantees that the right to access information provides a general right of access to information including in relation to public contracts and procurements by public bodies.

IV.1.2 Scottish Procurement Reform Performance

By describing key elements in procurement system, we can understand the current situation of procurement system and its reform. In order to get deeply understanding about infrastructure procurement in Scotland, this research tries to depict Scottish procurement system and its reform into 4 key elements.

The procurement system in Scotland was influenced by economic situation. As a result of reduction in UK budget in (Audit Scotland, 2009), Scotland also experiences same thing. In other hand, government is expected to conduct more to its citizens. The pressure on public finances which is to do more with less (John Swinney in McClelland, 2006), is reason for Scottish government to improve their purchasing efficiency. In other hand, there were still fraud and inefficiency in procurement system in Scotland (Audit Scotland, 2008).

Scotland is a part of UK (United Kingdom) is European Union members. Even though the international relationship is handled by UK (United Kingdom), the consequence should be conducted by Scotland. As we know, EU policy to make single market in Europe also embraces public procurement policy. There are several EU regulations on procurement such as freedom of goods movement, best practice of procurement and so on. It is intended supporting Europe as single market. In order to have competitiveness, each EU member has to conduct EU

directive on procurement. This is also one of reasons for Scotland to conduct procurement system reform.

In addition, one of actions to make efficiency of purchasing is done through procurement reform. Procurement reform in Scotland actually was started by mission to build Scotland better Scotland. The Program is designed to support improvements in structures, capability and processes to provide continuous improvement in procurement across the Scottish Public Sector in order to deliver Value for Money improvements and support increased efficiency (Scottish Government, 2006). In doing so, Scottish government try to increase public service and improve infrastructure as it was arranged and documented in “Building a Better Scotland” in November 2004. This document provides strategy to improve infrastructure by improve investment condition. One of message form this document is to a need to increase infrastructure procurement both of conventional/traditional and PPP (Public Private Partnership) scheme. Procurement as a part of government activities then is received more attention. Procurement is expected to be more efficient and effective so that it will help.

In order to make procurement system efficient and effective, in 2005, Scotland hired John F McClelland, CBE to conduct review on current procurement system. This review also contains many recommendations to improve procurement system in Scotland. The result of this study was published in 15 March 2006. Then this review become base of procurement reform in Scotland. In order to implement procurement system reform based on McClelland review; Scottish government then issued “Scottish Procurement Policy Handbook”. By issuance of this handbook, actually Scotland launched and declared public procurement system reform. They also prepared guidance to evaluate procurement reform using best indicator practice. Even though, this report has not been issued, after 4 years implementing procurement reform, Scotland saved £30m from approximately £8 billion total expenditure of procurement (Howie, 2009).

a. procurement laws and regulations,

Since adopt EU directive on procurement, Scotland uses Public Contract and Utility's amendment for Scotland (2006). It was triggered by a current practice of developing and issuing policy guidance and the area of tendering practices in the context of EU legislation. Most rules are already accommodated in all of level regulations. Regulation already obviously described procurement rules. They also could accomodate the dynamic rules of procurement. In response to Thai theory, the regulations were already clear, comprehensive and flexible. In practice, effort taken or regulations issued to apply procurement policy is not fully appreciated and compliance appears to be inconsistent. This document is prone to be neglected (McClelland, 2006).

In order to reform procurement laws and regulations, Scotland issues Procurement Policy Handbook which covers all of sectors and provide standard which can be used by all of sectors. Its contents have to be mandatory in every step of procurement, from procurement planning until audit or review. This document should be conducted by Scottish Executive's Procurement Directorate. This handbook obviously describes almost all of aspects in procurement. It is clear and comprehensive. The content is also in line with other regulations (consistent). It is also easily update, and make it flexible.

b. Procurement Organization,

Scotland actually has agency which have responsibility in directing, arranging and supervising procurement activity. It is called Scottish Procurement Directorate (SPD). In infrastructure construction service, Scotland also have agency which is called Construction Advice and Policy Division (CAPD). CAPD guide construction procurement policy and procedures, and programme and Project management and delivery more generally (www.scotland.gov.uk).

The Scottish Executive Procurement Directorate has authority only in some department. Other departments beyond its authority face dispersal of procurement skills and in some cases the absence of a critical mass of procurement activity at the individual department or unit level. Another problem is that, in the broader organization, there are shortfalls in accountability and governance regarding to conformance to governance principles, priority given to procurement, organisation structure and reporting lines, authority to procure goods and services, business conduct guidelines and audit of procurement. The procurement organizations are placed in which they have limited power, authorities and budget. As one of consequences, they could not conduct procurement well and independently. Another issue in procurement organization in Scotland is, there is no single code of conduct for the wider public sector even there are other guidelines for civil servants. There is not a specific and standard program for the internal audit of procurement in the public sector in Scotland. It will lead to condition in which lack of information for evaluating and improving.

In doing procurement reform, procurement organizations are also improved by strengthening old organization or establishing new organization. Based on John McClelland completed a review of Public Procurement in Scotland in the spring of 2006, Scotland conducts reform on procurement organization which are:

Establish Centres of Procurement Expertise, both in national, sector or regional level. This organization is attached in Scottish Government Procurement Directorate for national level, which will be responsible for procuring all cross-public sector National Contracts. At the sectoral level, Scotland Excel is responsible for procuring collaborative contracts on behalf of the vast majority of the 32 Local Authorities. At the local level, the local Corporate Procurement Teams will be founded. Works contracts

continue to be procured by Technical Services and Roads & Transportation for Building and Highway related construction projects. It shows that procurement is also conducted by sector and local government. It is included as decentralized procurement.

In order to nurture the procurement reform, several organizations were established such as working groups. It works for specific areas within the overall program, such as a people and skills working group, and tried to ensure that they included appropriate representation from across the public sector. A Public Procurement Reform Board (PPRB) was also founded (Audit Scotland, 2009). This board has duty to provide strategic direction, support for and monitoring of the Programme. Some of members come from The Cabinet Secretary for Sustainable Growth which shows that government pays attention more in procurement reform.

Others come from across the public sector, including central government, local government, the NHS and further and higher education. PPRB has no formal power to order other bodies, but its members were expected to influence their sectors to be improved.

The next body was established is The Public Procurement Advisory Group. It was established in 2006, supporting the PPRB to enable discussion between the Scottish Government and bodies representing suppliers' interests. Some of members come from The Minister for Enterprise, Energy and Tourism. Then in 2008, the Public Procurement Delivery Group was established. This group has to deal with co-operation within the Programme, monitor, manage and coordinate risks and issues, and report progress to the PPRB (Audit Scotland, 2009).

In addition, there are basic elements will deal with procurement reform in practise which are:

- Scotland Excel (for local government)
- National Procurement (for the NHS)

- the Central Government Centre of Procurement Expertise (CGCoPE)
- Advanced Procurement for Universities and Colleges (APUC)
- Procurement Scotland (the national centre)

Organizations for procurement reform in Scotland is described in figure 7 as below:

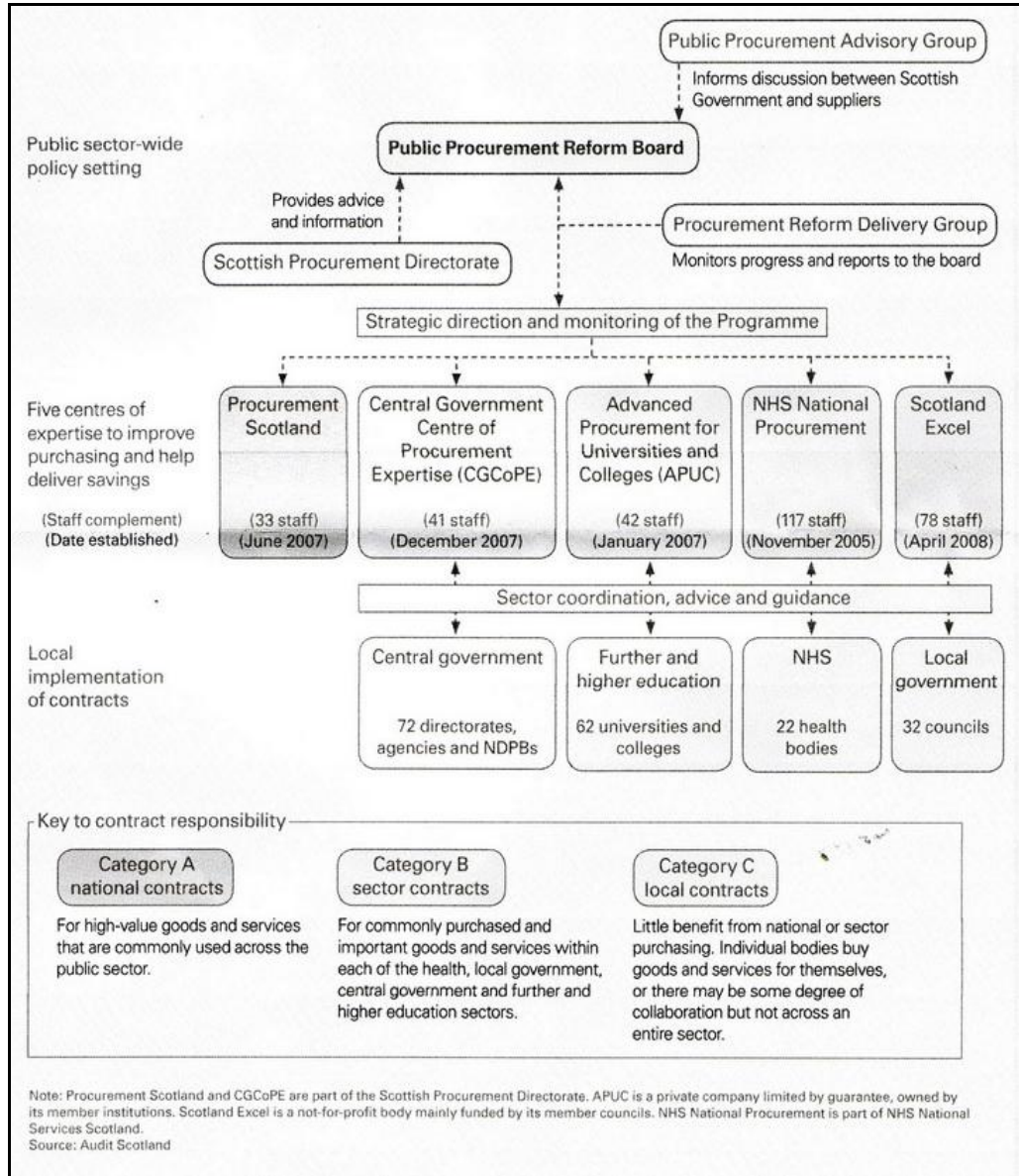


Figure 7 Procurement reform board organizations
(Source: Audit Scotland, 2009)

All of organizations dealing with public sector should achieve the minimum governance and accountability requirements and be required to

provide personal certification by a senior executive of that conformance by 30 June 2006.

In order to achieve reform goal (McClelland, 2006), there should be a program which gives attention and priority to procurement and enhances understanding principles and best practice in procurement. This attention has to be done through placing the procurement function in sufficient position of organization which is one step below chief executive. It will help procurement function to have authority and own budget. It is expected to increase its performance. The improvement is also required the head of procurement to have the procurement department under his responsibility. Another reform program due to organization is that, each organization should create a central procurement department. As consequence, they have to provide staff, budget and also regulation. It is expected that department can conduct procurement itself independently. In small organization, separation of procurement function may be difficult. At least, independency is absolute requirement. Another improvement needed is that, each organization should have procurement officers which have authority to signing the contract on behalf of organizations. They also should have a chief procurement officer. A chief of procurement has duty on daily responsibility and the individual accountable for all other procurement functions including leadership of the procurement team throughout the undertaking.

In order to keep confidentiality, organizations are prohibited to communicate with supplier or contractor during procurement. In evaluation step, all organizations must conduct review of their procurement activity. They also must prepare staff and job descriptions of this evaluation duty. As the last screen, all organizations should conduct procurement audit containing: Minimum accountability and governance conformance, appropriate structure, organization and staffing including authorized procurement officer structure. It also includes existence of

adequate systems and performance reports, conduct of basic practices and processes including compliance with EU legislation and compliance with “Procurement Policy Handbook”. The leadership question should be resolved by formally assigning the overall procurement leadership role within the public sector in Scotland to the Scottish Procurement Directorate. With this the establishment and deployment of mandatory procurement policy for the whole public sector should be the unique responsibility of the SPD.

c. Procurement workforce, and

Generally, public sector organizations lack of procurement staff in quality and also in quantity (McClelland, 2006). There is few excellent procurement staff, but the amount is not sufficient to handle procurement activities. It is difficult for organization to achieve goal of procurement.

In order to reform regarding procurement workforce, Scotland conducts efforts and requires: asking each organization review and provide qualified procurement staff in their procurement activities. This problem could be overcome by improving information systems and by more extensive collaborative procurement. They also conduct procurement training/course as a solution.

The career development in procurement is also kind of triggering factor for staff to join in this job. Another thing could be done is by giving job grading and salary scales to confirm whether these aspects are properly positioned to recognize the quality and experience required in public-sector procurement. In term of enhancing integrity and fighting corruption, the report does not mention about corruption in Scottish procurement system. Probably it is not an issue in Scotland. The only problem is misunderstanding of procurement procedure which is prone to be fraud and make the procurement costly. In order to overcome the problem,

Scotland tries to restore the procurement process and procedures and enhance procurement staff in quality.

d. Procurement Process and Procedures

Due to procurement process and procedure, Scotland still encounters some problems. There are weaknesses from user department which could not make standard document meeting with requirement. It is difficult to achieve the goal of procurement. Another problem is the absence of standard in procurement reporting activities among the department. It results in lack of evaluation and reflection from procurement already done. In addition, not all of department in Scotland have procurement efficiency program, meanwhile they are agency which spends the budget. If efficiency does not occur in department, it is difficult to make national efficiency. The important problem is also dealing with spending budget in emergency. Simplifying procedure for specific need such as emergency case and the purchase of low-value items is slowly proceed. It can be expected to service better and faster to citizens.

Eventually, overall procurement policy and procedures are not done well. It happens probably because not all of organizations have already had goals and a structured plan to achieve well goal of procurement.

Even, Scotland also encounters difficulty to apply such concept like corporate and social considerations or sustainability in tendering process. If they want to prepare competitiveness and increase awareness of environment, they have to apply such regulations.

In order to strengthen its procurement regarding process and procedure, Scotland requires public sector in Scotland must conduct minimum requirement process and procedure in procurement activities. These minimum procedural needs should be the practices within procurement essential to satisfy legislation, codes of conduct and financial guidelines applying to Accountable Officers and all others in executive and non-

executive positions with responsibility for public funds and in particular procurement expenditure. These minimum requirements should also be a review item within internal audit program and other corporate level infrastructure reviews and reports.

Upgrading and adjustment of them is done by Scottish Procurement Directorate.

The improved procedure is supervising, because there are procurement supervisors both internally or externally. Every public-sector organization should review and update their internal reporting on procurement. Also, the Scottish Procurement Directorate develop, agree and publish the minimum reporting requirements that not only is utilized effectively within organizations but also is provided to SPD regularly so that they can assist the Scottish Executive to understand status and monitor progress towards already established financial targets within the Efficient Government program.

All organizations have to report procurement cost savings achieved. There should be sharing of information among the stakeholders. A National Benchmarking and Best Practices Forum is established and coordinated within the public sector. Its coordination should be undertaken by the Scottish Procurement Directorate and it should meet at least quarterly. In order to fulfill compliance with EU legislation, procurement staff should join the work shop and new regulation must be adopted. Procurement audit must check conformance with EU legislation.

Each organization should prepare program to achieve advanced procurement. Basic principles including corporate social responsibility is translated in process and procedure. Another interesting thing of procurement system reform in Scotland is that, besides launched and implement procurement reform steps, Scotland also prepared guidance to assess its progress. They released best practice indicator to judge how its procurement reform was done. The indicators could be measured and all

of organizations are expected to conduct their assessment and report it to the Public Procurement Reform Board (PPRB). Fortunately, the report of best indicator practice has not been issued unless report about efficiency. (Audit Scotland, 2009)

From the explanation mentioned above, the performance of the procurement system reform in Scotland can be depicted briefly in table 5 below:

Table 5 Scottish Procurement Reform Analysis Indicators

No.	Key element	Indicator	Scotland
1	Procurement law and regulations	Clear	Clear
		Consistent	Consistent
		Comprehensive	Comprehensive
		Flexible	Flexible
2	Procurement Organization	Centralized/Decentralized	Decentralized
3	Procurement workforce	Quality	Lack of quality
		Quantity	Lack of quantity
		Integrity	No data
4	Procurement process and procedures	Compliance with principles	Compliance
		Compliance with international best practice	Compliance

Source: Author interpretation

As we can see in the table above, procurement law and regulation in Scotland are clear, consistent, comprehensive and flexible. They describe obviously, are in line with other regulations, embrace all of aspects and also can adopt and could be changed with international best practice regulations. Procurement organization is decentralized because procurement is also conducted by sector and local governments. In respect to procurement workforce, there is still lack of procurement staff. Skill and knowledge is under requirement (quality) and the amount of procurement workforce is not sufficient compared to procurement work load (quantity). Meanwhile integrity is not an issue in Scotland. Regarding procurement process and procedure, Scotland already adopted international best practice into its national procurement regulation. It is already compliance.

IV.2. Infrastructure Procurement Reform as Policy Transfer

Becoming a member of European Union is reason why Scotland should adopt EU procurement directives. In this case, EU require all of its member to implement its directives. Adoption of EU directive could be done by changing, adding or reducing existing procurement regulation or even establishing new regulation. Beside there was mandatory agreement, actually EU members, including Scotland, realize that they should consider more essential issues in procurement which is their readiness to face single market. They should prepare condition supporting this concept so that they could increase competitiveness among EU members. In doing so, Scotland does not only involve actors such as elected official, civil servants, supranational organizations but also policy expert. Scotland hired consultant to review procurement reform as a part of policy transfer as well. In addition, this transfer is included as indirect coercive. It is plausible because Scotland not only did policy transfer from EU but also tried to achieve their program in “building a better Scotland”.

Later on, Scotland adopted the EU directives on procurement. It is done by changing the The Public Contracts and Utilities Contracts 2008 (Scotland). This adoption then is translated into Scottish Procurement Policy Handbook and Scottish Procurement Policy Notes. By adopting the EU directives, actually there was policy transfer from European Union to Scotland. In doing procurement policy transfer in Scottish context, they included not only principles but also the process and the procedure of procurement. Scotland actually adopted all of basic principles in EC Treaty. Those principles are: Equal treatment, transparency, proportionality, mutual recognition and confidentiality. This transfer can be categorized as copying transfer. Due to constraints of transfer, actually the procurement reform is single program to achieve efficiency. It is not linked with other programs. It results in single goal which efficiency in procurement. This situation leads policy transfer in procurement reform has less constraint. The procurement reform in Scotland in policy transfer view could be described briefly in table 6 below:

Table 6 Scottish Policy Transfer Analysis Indicators:

No.	Policy Transfer Indicator	Scotland
1	Actors involved in Policy Transfer	elected official, civil servants, supranational organizations, policy expert
2	Kind of transfer	Indirect coercive transfer
3	Content of Transfer	Principles and Procedures
4	Way of reform (Degree of transfer)	Copying
5	Constraint of Transfer (Type of program reform)	Less constraint

Source: Author interpretation

As we can see in table above, there were several actors involved in policy transfer. They are elected official, civil servants, supranational organizations, policy expert. Policy transfer in Scotland is conducted as indirect coercive transfer. It is resulted from not only a mandatory, but also from need of Scotland to prepare the competitiveness in European market. In doing transfer in procurement system, Scotland adopt not only principle but also procedure. Scotland fully adopted the EU best practice so that it is included as copying transfer. Procurement reform is stand for single program so that it has also single goal. The fewer the goal is, the less constraint the transfer is.

IV.3. Concluding Remarks

The interesting point in Scottish procurement reform is a speed of its process. The procurement system reform in Scotland is quite new. They started it in 2006. But in 2008, Scotland saved £30m from approximately £8 billion total expenditure of procurement (Howie, 2009).

Another interesting thing about procurement reform in Scotland is in how Scotland conducted this program. They officially declared and launched this program as Procurement System Reform. It was appealed attention to conduct program seriously. Then, they provided guidance, supervision and evaluation of it.

Generally, after 4 years, there are improvements and also shortcomings in Scottish procurement reform implementation. The first positive progress of procurement reform in Scotland is issuance of Handbook of Procurement Policy as Public Procurement Reform Program Regulation. All of procurement policy and activities must follow it. It is clear, comprehensive, consistent and flexible regulation. It contains all of clear regulation,

comprehensive and fit to other regulation. It is also flexible in adopting for instance EU directive on procurement. The second is establishment of new bodies in procurement systems. These bodies are PPRB (Public Procurement Reform Board), Advisory Group and Working Groups. In fact, they could help reform process better. They give many inputs in reform implementation. The third positive thing achieved is compliance of process and procedure in Scottish procurement with EU directive. All of principle, process and procedure of EU procurement are already accommodated in Scottish Procurement Regulation.

In other hand, there are still shortcomings of Scottish procurement reform. Several new bodies needed were lately established. The procurement workforce also faces lack of quantity and quality procurement staff. Another shortcoming is in reporting procurement reform. As required, each department or government has to conduct assessment of procurement performance. They have to fill out the national best practice indicator as guided. Nevertheless, until now, report issued is only on efficiency result (Audit Scotland, 2009).

In addition, the procurement reform in Scotland was also affected by international policy transfer. Mandatory and need to prepare competitiveness in Europe market became triggering factor for Scotland to conduct infrastructure procurement system reform. In doing so, Scotland was free to conduct procurement reform process in its way. They reviewed and assessed their national procurement capacity by itself. Scotland hired independent consultant to do this. Even though they were free to reform their national procurement system, Scotland has to follow EU procurement regulation. The freedom of Scotland to reform its national procurement system can work well.

Chapter 5

Analaysis on Infrastructure Construction Procurement Reform in Indonesia and Scotland

This chapter analyse infrastructure procurement system reform in both Indonesia and Scotland. It will describe the similarity and difference, the strength and the weakness, advantage and disadvantage, the success and the failure in between two cases. It will result in finding and other important things in reforming infrastructure procurement system. Based on that analysis it is expected that there will positive things that can be drawn as lesson learned from Scottish context to Indonesian context. Beside that, it also try to reflect practical issue with theory used.

V.1 Comparison Infrastructure Construction Procurement in Indonesia and Scotland

Scotland procurement consists of works, supply and service procurement. Procurement of infrastructure construction services in Scotland is regulated together with those other regulation. Actually, Scotland conducts reforming the procurement system as a whole which means reforming in infrastructure construction service procurement as well. In Indonesia, procurement is divided into goods and service procurement. One of service procurement is construction procurement. Different with other procurement types, infrastructure construction service has had own act and government regulation. When Indonesia started procurement system reform, it was done through presidential decree. It is a lower regulation than construction act (see figure 3, Chapter 3). The lower regulation is expected to be clearer and more detailed, but it regulates not only construction service but also other types of procurement (goods and other services). It contains more aspects rather than specifically discuss construction procurement. In fact, there are confusion in understanding and interpreting of that regulation.

V.1.1 Circumstance/Environment affecting procurement system a. Government System

In response to Thai (2009), both Indonesia and Scotland relatively have same governmental system in respect to public procurement, because they use unitary governmental system. Central government has power and dominantly plays role in arranging infrastructure procurement policy. Regulation, principle, process and procedure in procurement are decided by central government. Local government and sectoral department just receive and conduct them. This centralized system has positive impact on procurement system. The policy and regulation will be homogenous and uniform. Another interesting thing is that those policies could be implemented by all government in same time. If it is necessary to change procurement system, for instance, to adopt international best practice, it can be done faster by centralized system. In other hand, if local government is allowed to create regulation, it will result in various regulations among local government. In national view, procurement should be conducted without border and constraint for enterprises from anywhere in country to participate. It is important to maximize competition among them. The variation of policy or regulation among local governments could create uncertainty and hamper maximizing competition. In addition, variation of policy/regulation also creates difficulties for national report and evaluation standard. It happens because different policy and standard will result in different target and factor to be reported and evaluated. So, centralized procurement system is needed to overcome this problem.

In respect to procurement reform, there is difference between Indonesia and Scotland. Scotland involves almost all of stakeholders to improve their procurement system from planning, implementation until evaluation. It has procurement reform board to manage this issue. Meanwhile Indonesia has no such board. The influence of central government is quite strong in deciding procurement reform so that the other actor role is less significant. Involving all of actors in all of steps probably is not effective, but it is

important to involve actor which relates with certain case. For instance, discussing about the readiness of local government to implement procurement reform, should listen to local government aspiration and condition. Discussing about enterprise competency, central government should grasp the business association. It will provide precise data and could help procurement reform better.

Another aspect in governmental environment is that, even though central government dominantly produces the regulations, procurement activities were conducted in all of government level and sector department in both of countries. As consequence, there is necessity for sector or local government to increase their procurement capacity. They have to provide staff, budget, regulation and organization to implement procurement. If they cannot do so, there will be problem in procurement implementation. It means that the national procurement performance is also influenced by local government capacity.

b. Economic Environment or Market Condition

In general, both Scotland and Indonesia have same economic situation problem. Scotland experience the financial pressure because there is budget reduction (Audit Scotland, 2009), meanwhile they also encounters increasing need of infrastructure. In other hand, Indonesia also faces financial pressure since financial crisis in 1998 (Steer, Delvoie, 2004). The economic is getting better. Nevertheless there is still limitation of budget in infrastructure procurement. That shows that there is pressure in financial aspect to do more with less. This situation requires government to spend budget efficiently.

In procurement market segmentation, Scotland actually divides procurement segmentation into 3 elements which are works, supply and services. Work is intended as infrastructure construction procurement. In Indonesia, procurement market segmentation is divided in 2 elements

which are goods and services procurement. But then, service procurement is divided again and one of service procurement elements is infrastructure construction procurement.

This division is important because it can encourage enterprise to have its expertise. As consequence of this division not only leads to create different regulation but also differentiates interest of enterprises. Each division will have own regulation. Each division will also have group of interested enterprises. The competition in procurement is based on their interest expertise. This group of enterprises is important to ensure the amount of seller or provider in procurement. The balance between buyer and seller in procurement is important to ensure the maximizing competition in procurement. By dividing in 3 types, Scotland has more specific division compared to Indonesia which divides it in 2 types. More specific division happened in Scotland will result in not only increasing expertise of enterprises but also increasing segmentation of market, meanwhile in same time the amount of enterprises will probably decrease in certain segmentation. In Indonesia, division is more general so that it leads to maintain the amount of enterprise in certain segment, Nevertheless the expertise probably less improved.

c. Legal Environment

Procurement system in Scotland is supported by regulation namely, The Public Contracts Regulations 2006, Handbook of Procurement Reform Policy, SPPN (Scottish Procurement Policy Note) and also SPAN (Scottish Procurement Action Note). Scottish procurement is also supported by broader legal framework includes: Firstly, EU and other international obligations, as implemented in domestic legislation or by virtue of direct effect; Secondly, specific domestic legislation, for example, on corrupt gifts or unfair contract terms; Thirdly, contract and commercial law in general; and Fourthly, domestic and European Court of Justice case law.

In Indonesia, procurement system is also supported by many regulations in respect to taxation, labor, insurance, etc (see appendix.1). In both of countries, all of aspects related to procurement activities are already regulated so that it ensures all procurement activities. From the planning, implementation until evaluation of procurement is based on regulation. It will result in trust of actors involving in procurement activity to rely on procurement regulation. All of activities, from competition until the result are expected to be fair.

d. Political Environment

Procurement system embraces many stakeholders that have different interest, need and aspiration. There should be negotiation and lobbying to accommodate all of interest. In other hand, the actors have to participate actively. Scotland is democratic country. It has long time tradition to give equal rights of all stakeholders to participate in every aspect. Although it is rather new, Indonesia is also democratic country, even it is the third biggest democratic country (CIA, 2010). Indonesia also give equal right for all of stakeholders to participate actively. In response to procurement system, democratic system which ensures all of stakeholders could equally participate is good, nevertheless the implementation and result is depended on capacity of stakeholders and relationship among them. It is probably effective in Scotland case, nevertheless in Indonesia the result might be different. It is caused by variation of stakeholder capacity. Even in Indonesia political intervention is quite strong, because the perfect competition is hardly exist.

e. Social Environment

In order to make good social environment as democratic country, both of countries were already supported by regulation which guarantees the freedom of information and speech. In Scotland, we know about Act 2002 (FOISA), The Freedom of Information (Scotland), whereas in Indonesia, we know Act no. 40/1999 on more freedom for press to inform and report

public information and act no. 14/2008 on the transparency of public information. It leads to media, press and also society can access and supervise procurement activities. *“Transparent procurement procedures can contribute to a more efficient allocation of resources through increased competition, higher quality procurement and budgetary savings for governments and thus for taxpayers”* (OECD, 2003 in Evenet, 2005). It will increase control mechanism in procurement by outside party. Indonesia has social control on procurement. There is non-governmental organization in Indonesia which watches the procurement activities namely Indonesian Procurement Watch (IPW). It will strengthen procurement supervision from outside beside internal one. In Scotland, Even though those kind of regulation give chance for media, press and society to supervise the procurement, the result is depended on capacity of stakeholders involved and also relationship among them. To achieve social environment like in Scotland, Indonesia still need time. Indonesia should learn more and enhance quality of human resource involved in social environment of procurement system.

V.1.2 Procurement Reform Performance

The interesting difference between procurement reform in Scotland and Indonesia is in how they conduct this reform. Scotland announced this program with literally reform of procurement system, whereas Indonesia started this procurement reform implicitly. As consequence, Scotland also prepared measurements to assess the progress of reform. They released best practice indicators as tool for assess capacity and procurement reform. Unlike Scotland, Indonesia conducted procurement reform by introducing new regulation on procurement system. There are improvement target but it is not seen as reforming process. In the end, there is no tool to assess the progress of this reform. Organizations which deal with procurement process has no mandatory to make and report assessment of procurement reform progress.

In order to make understand how Scotland and Indonesia conduct procurement reform, the explanation will be divided as below:

a. Procurement Laws and Regulations,

Before 2006, Scotland used UK procurement regulation. Since adopt EU directive on procurement, Scotland uses Public Contract and Utility's amendment for Scotland (2006). This statutory instrument is regulated further in Scottish Procurement Policy Note (SPPN). Most rules are already accommodated in all of level regulations. Regulation already obviously described procurement rules. They also could accomodate the dynamic rules of procurement. In response to Thai theory, the regulations were already clear, comprehensive and flexible. The problem is consistency. There was tendency that the regulations were ignored (McClelland, 2006).

In Indonesia, infrastructure construction regulations were not clear and consistent. After issuance construction act 18/1999 and government regulation 29/2000, there was need of presidential decree as further regulation. Those kinds of condition resulted in confusion in procurement implementation. It might be one of procurement failure reasons.

In order to reform procurement laws and regulations, Scotland issued Procurement Policy Handbook which covers all of sectors and provide standard which can be used by all of sectors. Its contents have to be mandatory in every step of procurement, from procurement planning until audit or review. This document stands in between SPPN (Scottish Procurement Policy Note) and other supporting documents issued by the Scottish Procurement Directorate (SPD) (see figure 6, Chapter 4). It results in clarity, comprehensiveness, consistency and flexibility. It explain clearer, regulates all of aspects, consistent among the regulations. This policy is also flexible to adjust the development and change of international rules.

In order to strengthen procurement law and regulation, Indonesia conducts procurement reform by establishing presidential decree on good and

service procurement. This was good effort of Indonesia. It made procurement law and regulation became comprehensive and flexible. Unfortunately, from construction procurement view, it is not consistent and clear in certain aspect. It is not consistent because infrastructure construction procurement need further and detailed regulation, meanwhile this decree also contains another procurement regulation which is goods and other procurements. It is not clear because this decree also make confusion. For instance, there is problem about certificate of enterprise. In government regulation it is stated generally. It is expected to be stated clearer in further regulation (presidential decree). Nevertheless presidential decree does not state it clearer. It just mentions general because it also regulate certificate requirement for other types of procurement.

In order to create sound procurement system, the procurement law and regulation must be clear, comprehensive, consistent and flexible (Thai, 2009). In this case, by reforming procurement law and regulations, Scotland has fulfilled these requirements meanwhile Indonesia still has problem in clarity and consistency.

b. Procurement Organization,

In response to Thai (2009), that the procurement organization could be centralized or decentralized. Both Scotland and Indonesia, its procurement system is decentralized. The central government plays dominantly in creating regulation, nevertheless procurement implementation are conducted by sectors and local governments. In Indonesia, since decentralization era, there is almost one third of government fund was sent to and spent by local government (Bappenas, 2007). This situation requires increasing procurement capacity of sectors and local governments. If sector or local government has less public procurement capability, then the national procurement performance will be less qualified.

In central government that play role in procurement system, Scotland actually has agency which has responsibility in directing, arranging and supervising procurement activity. It is called Scottish Procurement Directorate (SPD). In respect to infrastructure construction service, Scotland also have agency which is called Construction Advice and Policy Division (CAPD). This agency has responsibility to make further policy and guidance of infrastructure construction procurement. In other hand, until 2007, Indonesia had no agency which deals with procurement policy. There was no agency which has authority to arrange and guide procurement policy. It is difficult to decide which party will lead procurement reform. In respect to infrastructure construction procurement, Indonesia also has LPJK (Construction Industry Service Board). Nevertheless it also has no authority to arrange procurement policy.

Another important issue is, both of countries have procurement organizations which are placed in insufficient position. They have limited power, authorities and budget. As one of consequences, it becomes constraint procurement activities. It also affects independency of procurement organization. Those conditions won't help to achieve procurement goal.

In order to strengthen procurement reform regarding decentralization issue, Scotland arranges strategy in which sector as well as local government is guided by center of procurement expertise. In central government, procurement performance will be guided and directed by Central government center of Procurement Expertise (CGCoPE) meanwhile local government will be assisted by Scotland Excel (see figure 7, chapter 4). It is expected to guide and strengthen each sector or local government to have standard capacity of procurement. In Indonesia, local government is still guided by central government to increase its

procurement capacity. There is no specific body like in Scotland that help local government to develop.

In other hand, regarding to organizations to support infrastructure construction procurement reform, Scotland strengthened existing organizations and established new bodies. The management, minimum governance and accountability requirements should be achieved in this program. Before started procurement reform program, Scotland already has Scottish Procurement Directorate which is responsible in procurement area. Then, after launched reform program, Scotland established several new bodies like Public Procurement Reform Board (PPRB), working groups, expertise bodies, etc. It is different with procurement reform in Indonesia. Basically, Indonesia has no agency which deals with procurement system policy. When procurement was reform, there was no body or agency which is responsible. There is an interim “Center for development of Public Procurement Policy” attached in National Planning Board (Bappenas), nevertheless it just a committee which lasts in certain time. In doing procurement reform, there is need of reform board or discussion arenas to nurture reform track along its process.

Another important thing in procurement reform is its process. Scotland already has a scheme to include all stakeholders in doing procurement reform (see figure 7, chapter 4). From planning, implementation and evaluation, many stakeholders are embraced. Input and suggestion from many actors could help the program better.

In Indonesia, procurement reform was conducted dominantly by central government. A lot of stakeholders were involved in working groups, nevertheless not all of actors like local governments were represented adequately. Due to decentralization issue, input from local government is important because a lot of projects will be handled by local government.

Their procurement capacity and other inputs could be good information for Indonesian procurement reform. In addition, it could be said that procurement reform by central only focuses on establishing regulation and less attention in supervising and evaluating its implementation. There is no forum for all of stakeholder to discuss procurement reform from planning, implementation until evaluation.

c. Procurement Workforce

Both Scotland and Indonesia actually face same problem in procurement workforce. Indonesia is lack of procurement workforce regarding its quality, quantity and integrity (World Bank, 2001). Scotland also encounters lacking procurement staff in respect to quality and quantity (McClelland, 2006). In respect to integrity, it is not an issue in Scotland meanwhile Indonesia faces it. As consequence, some of procurements are conducted by procurement staffs which are not qualified. *“The prospects of achieving efficiency and Best Value will be poor”* (McClelland, 2006). If procurement is conducted by unqualified staff, it will not achieve procurement goals optimally.

The interesting thing in procurement workforce issue in Scotland and Indonesia is that, this job has no career development. Both in Indonesia and in Scotland, the salary also becomes an issue. It is not interesting to appeal people to joint as procurement workforce. Another reason for lack of procurement workforce in both of countries is, there is no school or university. Procurement is neglected subject in education (Thai, 2009). Meanwhile government needs certain amount of procurement workforce. Eventually, they are recruited from existing staff in government and send them to training or course. Nevertheless this effort still cannot cater need of procurement workforce in respect to quality and quantity.

The similarity actions on procurement reform on procurement workforce between Scotland and Indonesia is, still trying to consider career

development and salary grading in procurement task. One of efforts taken by Scotland to overcome this lack of procurement workforce is doing collaborative procurement. One procurement agency conducts procurement for several local government. Indonesia solves this case in different way. For certain authorities which has no enough procurement staff, could invite from other authorities. For instance, member of tender committee in certain department could be person who comes from another department. Nevertheless, if there many departments/agencies lacking of procurement workforce, this plan will not work.

In respect to enhancing integrity and fighting corruption, government of Indonesia encourages all of stakeholders to implement procurement activity based on regulations. It is intended to enhance integrity and prevent corruption in procurement. Another effort is regulated in Indonesia is, there is mandatory for whoever involved in infrastructure procurement to sign integrity pact. This is a good step, but its influence not very significant yet. It still need further step such as law enforcement. In Scotland, fighting corruption is not an issue in procurement activity. Nevertheless there is effort to avert fraud by increasing understanding of procurement staff on procurement procedure beside improving regulation itself. Scotland conducts procurement course/training to fulfill the need of procurement workforce. Indonesia does either. Career development and salary prospect in procurement will attract more staff become procurement staff. Nevertheless this issue has not been realized in both countries so that procurement workforce reform is not improved optimally.

d. Procurement Process and Procedures

In term of procurement process and procedure, due to procurement process and procedure, Scotland still encounters some problems such as standard document, reporting mechanism and evaluation. Scotland actually also have problem in procurement program. There should be efficiency

program all of organizations, nevertheless not all of organizations have it. There is also problem in procurement step.

In other hand, Indonesia encountered problem regarding to procedure, standard document, and certification system and procurement practices, etc. It lies from on procurement planning program, implementation, reporting until evaluating. Generally, the situation hampers fair competition, transparency, best value and also efficiency. Some of process and procedure are still not compliance with international best practice which is issued by World Bank. It could not make procurement activities optimal.

In other hand, in order to strengthen its procurement regarding process and procedure, Scotland establish process and procedure standard, encourage auditing program, reporting mechanism, financial targets within the Efficient Government program. All organizations have to report procurement cost savings achieved. A National Benchmarking and Best Practices Forum is established and coordinated within the public sector. Its coordination should be undertaken by the Scottish Procurement Directorate and it should meet at least quarterly. In order to fulfill compliance with EU legislation, procurement staff should join the work shop and new regulation must be adopted. Procurement audit must check conformance with EU legislation.

Each organization should prepare program to achieve advanced procurement. Basic principles including corporate social responsibility is translated in process and procedure. Another interesting thing of procurement system reform in Scotland is that, besides launched and implement procurement reform steps, Scotland also prepared guidance to assess its progress. They released best practice indicator to judge how its procurement reform was done. The indicators could be measured and all of organizations are expected conduct their assessment and report it to Public Procurement Reform Board (PPRB). Fortunately, the report of best

indicator practice has not been issued unless report about efficiency (Audit Scotland, 2009).

In order to strengthen procurement system regarding procurement process and procedure, Indonesia conducts efforts through providing clearer guidelines for non competitive procurement methods, removes regulation which limit participation, requires automatic retendering when the number of bids is less than three or the lowest bid price exceeds the budget ceiling should be eliminated, makes standard of bidding documents which must be used in Indonesia, regulates time allocation consideration in procurement process so that the bidders can compete fairly, removes the prequalification for simple work to post qualification; encouraging Construction Services Industry Board (LPJK) in doing certification of contractor or consultant; requiring all of actors involved in project procurement should commit to integrity and ethics in procurement process.; pushing NPPO (National Public Procurement Office) should implement anti corruption program; increasing procurement audit in respect to quality and quantity of audit; giving increasing role of press and civil society organizations to supervise and watch the procurement process; empowering bidders, suppliers, contractors and consultants report wrongdoing by government officials in procurement, without any risk being punished by the government; improvement in regulations to maximize competition among tender bidders. As conclusion, improvement on procedures and process is conducted from procurement planning, tender activities, supervision, and evaluation until audit step. It is adopted from international practice (from World Bank) were commonly implemented.

Overall, the comparison of procurement reform between Indonesia and Scotland can be described briefly in table 7 below:

Table 7 Comparison of Indonesia and Scottish Procurement Reform Analysis Indicators

No.	Key element	Indicator	Indonesia	Scotland
1	Procurement law and regulations	Clear	Not Clear	Clear
		Consistent	Not consistent	Consistent
		Comprehensive	Comprehensive	Comprehensive
		Flexible	Flexible	Flexible
2	Procurement Organization	Centralized/Decentralized	Decentralized	Decentralized
3	Procurement workforce	Quality	Lack of quality	Lack of quality
		Quantity	Lack of quantity	Lack of quantity
		Integrity	Lack of integrity	Not mentioned
4	Procurement process and procedures	Compliance with principles	Compliance	Compliance
		Compliance with international best practise	Compliance	Compliance

(Source: Author interpretation)

As we can see in table above, procurement reform which is conducted in between Indonesia and Scotland has several characteristics. Regarding procurement law and regulation, in order to reform procurement regulation, Scotland already has issued regulation which is clear, consistent, comprehensive and flexible. All aspects of procurement are grasped and described obviously. The content of regulation is also consistent among regulations. Change and dynamic of procurement regulation could be adopted as well. Meanwhile, even though the regulation which was issued by Indonesia are comprehensive and flexible, nevertheless they are still not clear and consistent. In response to procurement organization, both of Scotland and Indonesia uses decentralization system in procurement system. It means that procurement activities are not only conducted by central government but also by sectors and local government. In procurement workforce issue, Indonesia still encounters lack of procurement staff in quality, quantity and integrity. In doing procurement workforce reform, Scotland also faces lack of human resources in respect to quality and quantity. Nevertheless the integrity is not an issue in Scotland. Procurement reform in term of process and procedure were conducted by adoption of international best practice. It is usually regulation from

supranational organizations. Scotland adopted process and procedure from European Union, meanwhile Indonesia did it from World Bank and Asian Development Bank. Procurement process and procedure in Scotland is already compliance with EU directive whereas those of Indonesia are already compliance with World Bank Regulation.

V.2. Infrastructure Procurement Reform as Policy Transfer

In policy transfer view, procurement reform both in between Indonesian and Scotland will be analyzed from two scheme. Firstly, procurement reform is a part of policy transfer from supranational organization to Indonesia or Scotland. Secondly, policy transfer probably could be drawn from Scottish procurement reform to improve Indonesia procurement reform.

In respect to Scottish procurement reform as a part of supranational organization policy transfer, there was influence of European Union on Scottish procurement reform. Scotland is EU member so that it has to implement EU procurement directive in its national procurement regulation. Then there is procurement policy transfer from EU to Scotland. Regarding policy transfer actor, there were several actors involved in policy transfer. They are elected official, civil servants, supranational organizations, policy expert.

In response to Dolowitz (1996), the procurement policy transfer involves six categories of actors. There were 4 categories in Scottish case. The interesting thing here is involvement of policy expert. Involvement of experts could support Scotland to conduct transfer independently. Experts will push policy transfer from expertise view. It will ensure independence. Meanwhile in Indonesia, policy transfer in respect to procurement system involve elected official, civil servants, supranational organizations. Compared to Scotland, Indonesia just work together with supranational organizations. Indeed, Indonesia was in financial problem and needed help to solve its economic situation. It leads to supranational organization has stronger position than Indonesia. Then they can push their aim and principle to Indonesia.

In addition, in doing policy transfer regarding kind of transfer, Scotland does not only focus on EU directive but also considers its national program in procurement. Nevertheless they started reform because of not only consequence of EU member but also their need to improve their infrastructure investment (Building a better Scotland). The implementation of EU directive is mandatory but Scotland conducts procurement reform also based on their need. It was also done independently. They also hired their consultant to assess their procurement capacity. This kind of transfer could be concluded as indirect coercive. In response to Dolowitz (1996), the transfer could occur when there are external pressures to make such country or government aware to change their policies. “*The world economy constrains individual governments and economic pressures can lead to transfer*” (Dolowitz, 1996). Other factors like awareness to prepare competition, international consensus also lead this transfer. Those factors are suitable with Scottish procurement reform so that procurement reform in Scotland is included as indirect coercive. In addition, Indonesia has to face condition to improve procurement system as part of supranational aid on Indonesia. There was commitment between CGI (Consultative Group on Indonesia) and government of Indonesia to conduct procurement reform (Asian Development Bank, 2007). Indonesia had to conduct procurement reform as a part of financial aid from supranational organization arranged by CGI (Consultative Group on Indonesia). This reform is requirement of supranational organizations. From the assessing country procurement report until its implementation, Indonesia was helped by donor organization (World Bank and Asian Development Bank). In doing so, Indonesia has to adopt and transfer donor organization regulation procurement to Indonesia procurement regulation. In response to Dolowitz (1996), this policy transfer is included as coercive transfer. This kind of transfer happens when certain organization/government impose another country to implement or copy policy which they do (Dolowitz, 1996).

Regarding content of transfer (Dolowitz, 1996), there are *seven objects of transfer* which are: *policy goals; structure and content; policy instruments or administrative techniques; institutions; ideology; ideas, attitudes and concepts; and negative lesson*. In doing policy transfer of procurement, Scotland adopt the principles, rules and also the procedure of procurement. They are could be included as content of transfer which are policy goals,

policy instrument and institution. Indonesia did either. The difference is the source of transfer. Scotland derived from EU treaty, whereas Indonesia got from world bank. In here, we could say that not all of transfer objects are adopted. Adopt all of objects will be difficult because each country already have their existing procurement system and planning culture. Pick and mix then becomes plausible effort of transfer.

In doing policy transfer regarding degree of transfer, Scotland actually adopted all of basic principles, process and procedures from EC Treaty. Scotland copies them to its national regulation. Regarding to Rose in Dolowitz (1996), transfer which occurs when a country adopts a program in use elsewhere without any changes is called copying. Scottish adoption is included as copying transfer. Scotland does not need create further regulation, because they only need to implement. Meanwhile Indonesia combined several principles, process and procedures. If those principles, process and procedures are compared to those of organization, they are not exactly the same. Based on Rose in Dolowitz (1996), transfer which combining elements of programs found in two or more countries/supranational organization to develop a policy best-suited to the emulator, it is called as hybridization or synthesis. Because of it, kind of transfer in Indonesia is included as Hybridization or synthesis (see chapter 2). This kind of transfer degree could make Indonesia not focus because they also should create further regulation. It is different if Indonesia just copy. All are available.

In respect to constraint of transfer, Rose in Dolowitz (1996) said the success of policy transfer is depended on constraint encountered. Procurement reform in Indonesia was conducted together with other programs such as Financial reform, Development Reform, Good Governance, etc (ADB, 2007). It results in more than one goal. In response to Rose in Dolowitz (1996), the multiple goals result more constraint to the success of policy transfer. Meanwhile in Scotland it was conducted to gain efficiency. It has only single goal. It creates less constraint to success. Another thing in constraint of transfer is complexity of problem. Indonesia has several problems in clarity and consistency of procurement law and regulation. It also has problem in procurement workforce and in procurement process and procedure. Meanwhile Scotland also has problem in consistency

of procurement law and regulation, lack of procurement workforce and also in procurement process and procedure. Nevertheless they have relatively less problem compared to Indonesia. In response to Rose in Dolowitz (1996), that *“The simpler the problem the more likely transfer will occur”*, Indonesia has more constraints meanwhile Scotland has less constraint. The further constraint of transfer is about relationship between the problem and the solution. There should be standard or general policy in solving procurement reform. The problem is contextual situation in each country which varies. In here, both Indonesia and Scotland have their own solution but their contexts differ.

Another constraint factor in policy transfer is about side effect. In Indonesia, procurement reform has relationship with other aspects such as financial aid, good governance, etc. In Scotland, procurement reform is conducted without significant side effect except its goal which is efficiency. Rose in Dolowitz (1996) said, *“The fewer the perceived side-effects of a policy the greater the possibility of transfer”*. It means Scotland has bigger probability to conduct procurement reform compared to Indonesia. The next constraint factor is about example from other country. Procurement reform as part of policy transfer is conducted by many countries (OECD, 2005). In response to Rose in Dolowitz (1996) both Indonesia and Scotland encounter easiness to learn from other countries. The last factor of policy transfer is how clear the outcomes of policy transfer. Indonesia started procurement reform through issuance of new regulation on procurement. Otherwise, it was stated as reform program so that the outcomes are less clear. In other hand, Scotland conducted procurement reform through clear statement. It was called as procurement reform. There is program, target and tools to measure. Then the outcome is easily understood and achieved. In response to Rose in Dolowitz (1996), who said that *“The more easily outcomes can be predicted the simpler a program is to be transferred”*, Indonesia has more constraint than Scotland. From explanation above, totally Indonesia has more constraint than Scotland. There are many factors which hamper Indonesia to conduct policy transfer than Scotland.

In respect to lesson learned from Scottish Procurement system to Indonesia in policy transfer review, we could say that the way policy transfer is conducted will generate different result. If we compare policy transfer process (table 7) and the procurement

reform indicators as a result of policy transfer (see table 8), we could say that Scotland has already conducted procurement reform better than Indonesia. After conducting procurement reform, Scotland has already improved their procurement system whereas Indonesia still encounters problem in their procurement reform.

Procurement reform from policy transfer view can be described briefly in table 8 below:

Table 8 Comparison of Indonesia and Scottish Policy Transfer Analysis Indicators:

No.	Policy Transfer Indicator	Indonesia	Scotland
1	Actors involved in policy transfer	elected official, civil servants, supranational organizations	elected official, civil servants, supranational organizations, policy expert
2	Kind of transfer	Coercive transfer	indirect coercive transfer
3	Content of Transfer	Principles and Procedures	Principles and Procedures
4	Way of reform (Degree of transfer)	Hybridization or Synthesis	Copying
5	Constraint of Transfer	More constraint	Less constraint

(Source: Author Interpretation)

As we can see in table above, in Indonesia, there were several actors involved in policy transfer. They are elected official, civil servants and supranational organizations. Meanwhile in Scotland there were elected official, civil servants, supranational organizations, policy expert. Policy transfer in Indonesia is included as coercive transfer. In Scotland, it is conducted as indirect coercive transfer. It is resulted from not only a mandatory, but also from need of Scotland to prepare the competitiveness in European market. In doing transfer in procurement system, Indonesia adopt not only principle but also procedure. Scotland does either. In addition, in respect to way of transfer, Indonesia combines several aspects of principles so that it is included as Hybridization or Synthesis. Scotland fully adopted the EU best practice so that it is included as copying transfer. Regarding successful transfer, it depends on constraint which is faced. The more constraint the more difficult attain the goals. Procurement reform in Indonesia has more constraint so that it is more difficult to gain its goals. Whereas in Scotland, procurement reform is stand for has less constraint so that it is easier than Indonesia to achieve its goals.

V.3. Concluding Remarks

By comparing procurement reform in between Indonesia and Scotland, eventually we can draw conclusion followed. Firstly, it is due to contextual problem which are governmental system, economic, legal, political and social environment. Generally, between Indonesia and Scotland have similarity context. They have more or less same governmental system, same situation of economic, sound legal framework, and similar political social environment. Probably the difference is on grade of environment. It is resulted from different condition between Scotland as developed country and Indonesia as developing country. Scottish human resources, institution and also experience is relatively better than Indonesia. Nevertheless this similarity make lesson learned easy and comparable instead of comparison in between different environment. Beside there is a similarity, there is also a less difference in economic environment, which is market division. Indonesia divides procurement segmentation into 2 kinds (goods and service); meanwhile Scotland divides it into 3 kinds (works, goods and service). Nevertheless this difference is not significant to change contextual environment. Secondly, it is due to key elements in procurement reform. From 4 keys elements in procurement system, Indonesia still face problem in procurement law and regulation and procurement workforce, meanwhile Scotland only has problem relatively in procurement workforce. Thirdly, it is due to policy transfer. Generally, influence of policy transfer in between Indonesia and Scotland is rather different. Direct coercive of transfer make Indonesia has relatively less time to conduct procurement reform. Indonesia cannot decide it without donor organization intervention. In other hand, Scotland has freedom to decide on its procurement reform. The significant factor which distinguishes Indonesia and Scotland is condition of procurement reform itself. In Indonesia, it is conducted with other programs meanwhile in Scotland, it is a single program. They don't have another program connected with it. As a consequence, Indonesia faces more constraint than Scotland.

As conclusion, policy transfer conducted by Scotland works well and result in sound procurement reform, meanwhile Indonesia policy transfer in procurement system has not succeeded yet. Another interesting thing is announcement and declaration of procurement reform in Scotland. It is better because it appeals more attention and can make all of stakeholder aware of this program. Indeed, this program is also completed with guidance on planning, implementation and evaluation. In other hand, Indonesia didn't conduct it.

The next interesting thing is speed of reform. The procurement system reform in Scotland is quite new even compared to Indonesia. They started it in 2006. Even though best practice indicator report has not been being issued yet, in 2008 Scotland saved £30m from approximately £8 billion total expenditure of procurement (Howie, 2009). It means Scotland goes in right track in procurement reform because they are successful to increase efficiency. Eventually, what can Indonesia learn from Scotland are: Firstly, Indonesia can learn from the strength or weaknesses of Scottish procurement reform. The first strength in reform in is law and regulation. Indonesia should make law and regulation clear, comprehensive, consistent and flexible. Issuance presidential decree in Indonesia and Procurement Policy Handbook in Scotland is sound step in reforming procurement system. In respect to infrastructure construction procurement, Indonesia already has act and government regulation. It is needed further and more detailed regulation which is presidential decree. Nevertheless this presidential decree must contain only infrastructure construction procurement so that confusion and misinterpretation can be avoided. The second strength is in procurement organization. The need of Procurement authority and procurement reform board is important. It can absorb more input from all of stakeholders in procurement reform and channel their aspiration. Indonesia can also learn from the weakness of procurement reform in Scotland. Due to lack of procurement workforce, beside other solutions, Scotland creates collaborative procurement. It is a combination of several local governments to conduct procurement together. Although it will not be easy implemented and need more actions, it is a good alternative for Indonesia. Secondly, learning from policy transfer process, we see that in Scottish procurement reform, the freedom in implementing program could make the result better. It could become a reflection for Indonesia not to merely consider commitment with donor organization. In addition, mandatory and need to prepare competitiveness in Europe market became triggering factor for Scotland to conduct infrastructure procurement system. Meanwhile, requirements to get loan became triggering factor for Indonesia to conduct infrastructure procurement system.

Another thing that can be lesson learned from Scotland is in how they run the procurement reform. They started it by announcing as procurement reform. It appealed

more attention and seriousness to conduct this program. Furthermore, the issuance of best practice indicator which is used to measure progress of procurement reform is also good lesson for Indonesia.

Chapter 6

Conclusion and Recommendation

This chapter contains significant elements that could be drawn from the comparison between infrastructure procurement system reform in Indonesia and Scotland. From analysis of similarity and difference, the strength and the weakness, advantage and disadvantage, the success and the failure in between in reforming infrastructure procurement system, the author tried to take lesson learned from Scottish context to Indonesian context. This chapter also tried to answer all of research question. From those answer and conclusion, recommendation will be provided as well in this chapter. Eventually, from strength and weakness, it provides suggestion for further research.

VI.1 Conclusion

Previously, this research was conducted by serial research activities embodying in its chapters. It also only relies on secondary data. Indeed, there is less data on procurement reform result either in Indonesia or Scotland. Finally, from series research step, we could draw the conclusion of this research to answer research questions mentioned in chapter 1. As the first conclusion, it answers the question *what are important elements in infrastructure procurement system reform*. There are 3 significant factors used in infrastructure procurement reform. The procurement reform will only success if it is considered those 3 factors. Firstly, the key elements of procurement systems are foundations in which the procurement reform could be achieved. The foundation are Law and Regulation, Organization, Workforce, Process and Procedure. Secondly, governmental system and economic, social and political environment surrounding procurement system. Thirdly, international policy transfer in procurement reform. It also plays role in procurement reform and has huge impact on it.

As the second conclusion, it answers the research question, *what is infrastructure procurement system reform in Indonesia*. After more than five years, the Indonesian procurement system reform hasn't succeeded yet. It means in order to achieve ideal procurement reform there are still much to be done. There is several advanced result in

certain aspects. In other hand, there are also aspects needed to improve further. Overall, there are 2 most critical factors needed to be improved which are: the first is law and regulation. There are still consistency and clarity problem in establishing regulation on infrastructure construction procurement reform. The second is procurement workforce. Due to procurement reform, it is needed amount of procurement staff which has not only quality and integrity but also available amount compared to procurement activity load. In fact, it is not adequate. In addition, the procurement reform in Indonesia was also affected by international policy transfer. Requirements to get loan became triggering factor for Indonesia to conduct infrastructure procurement system reform. As conclusion, direct coercive transfer has negative impact on Indonesia procurement reform.

As the third conclusion, it answers the question *what is infrastructure procurement system reform in Scotland*. The interesting point in Scottish procurement reform is a speed of its process. The procurement system reform in Scotland is quite new. They started it in 2006. But in 2008, Scotland saved £30m from approximately £8 billion total expenditure of procurement (Howie, 2009). Another interesting thing about procurement reform in Scotland is in how Scotland conducted this program. They officially declared and launched this program as Procurement System Reform. It was appealed attention to conduct program seriously. Then, they provided guidance, supervision and evaluation of it. Generally, after 4 years, there are improvements and also shortcomings in Scottish procurement reform implementation. The first positive progress of procurement reform in Scotland is issuance of Handbook of Procurement Policy as Public Procurement Reform Program Regulation. All of procurement policy and activities must follow it. It is clear, comprehensive, consistent and flexible regulation. The second is establishment of new bodies in procurement systems. These bodies are PPRB (Public Procurement Reform Board), Advisory Group and Working Groups. In fact, they could help reform process better. They give many inputs in reform implementation. The third positive thing achieved is compliance of process and procedure in Scottish procurement with EU directive. All of principle, process and procedure of EU procurement are already accommodated in Scottish Procurement Regulation. In other hand, there are still shortcomings of Scottish procurement reform. Several new bodies needed were lately

established. The procurement workforce also faces lack of quantity and quality procurement staff. Another shortcoming is in reporting procurement reform. As required, each department or government has to conduct assessment of procurement performance. They have to fill out the national best practice indicator as guided. Nevertheless, until now, report issued is only on efficiency result (Audit Scotland, 2009). In addition, the procurement reform in Scotland was also affected by international policy transfer. Mandatory and need to prepare competitiveness in Europe market became triggering factor for Scotland to conduct infrastructure procurement system reform. In doing so, Scotland was free to conduct procurement reform process in its way. They reviewed and assessed their national procurement capacity by itself. Scotland hired independent consultant to do this. Even though they were free to reform their national procurement system, Scotland has to follow EU procurement regulation.

As the fourth conclusion, it answers question *what is influence of policy transfer in procurement system reform*. Generally, influence of policy transfer in between Indonesia and Scotland is rather different. Direct coercive of transfer make Indonesia has relatively less time and freedom to conduct procurement reform. Indonesia cannot decide it without donor organization intervention. In other hand, Scotland has freedom to decide on its procurement reform. The significant factor which distinguishes Indonesia and Scotland is condition of procurement reform itself. In Indonesia, it is conducted with other programs meanwhile in Scotland, it is a single program. They don't have another program connected with it. As a consequence, Indonesia faces more constraint than Scotland.

As the fifth conclusion, it answers question *how to improve infrastructure procurement reform in Indonesia*. The answers could be drawn from lesson learned of Scottish procurement reform. The lessons learned are: Firstly, Indonesia can learn from the strength or weaknesses of Scottish procurement reform. The first strength in reform in is law and regulation. Indonesia should create law and regulation clear, comprehensive, consistent and flexible. The second strength is in procurement organization. The need of Procurement authority and procurement reform board is important. It can absorb more input from all of stakeholders in procurement reform and channel their aspiration. Indonesia can also learn from the weakness of procurement reform in Scotland. Due to

lack of procurement workforce, beside other solutions, Scotland creates collaborative procurement. It is a combination of several local governments to conduct procurement together. Although it will not be easy implemented and need more actions, it is a good alternative for Indonesia. Secondly, learning from policy transfer process, we see that in Scottish procurement reform, the freedom in implementing program could make the result better. It could become a reflection for Indonesia not to merely consider commitment with donor organization. Indonesia doesn't need to always follow whatever the supranational organizations say, but must be critical. Another interesting thing is announcement and declaration of procurement reform in Scotland. It is better because it appeals more attention and can make all of stakeholder aware of this program. Indeed, this program is also completed with guidance on planning, implementation and evaluation. It is better for Indonesia to conduct such program. Furthermore, the issuance of best practice indicator which is used to measure progress of procurement reform is also good lesson for Indonesia.

Generally, there are several aspects could be drawn from Scottish procurement system reform. Nevertheless in order to adopt those lessons learned, there should be prudence, criticism and contextual considerations.

VI.2 Recommendation

Conducting ideal procurement reform is difficult, indeed there is no agreement what is good procurement system is (OECD, 2005). Nevertheless, drawing lesson learned from Scottish procurement system reform is expected to improve Indonesia procurement system reform. Based on analysis and conclusion, there are several aspects could be efforts should be taken as recommendation. It is expected to improve infrastructure construction procurement system reform in Indonesia. Those recommendations are provided as below:

1. Regarding to procurement laws and regulations, Indonesia should strengthen procurement law and regulation through establishing new presidential decree specially on infrastructure construction procurement to enhance clarity, consistency, comprehensiveness and flexibility of procurement regulation.

2. Beside improving internal organization, in order to implement infrastructure construction procurement reform, it is needed to establish bodies or forum to nurture procurement reform by involving actors and channeling their aspirations.
3. It is also important to make guidance to assess procurement reform process such as best practice indicators in Scotland and oblige all sectors and government conducting and reporting it. This indicator must be followed by mechanism how and who to conduct and where this report is sent.
4. In order to overcome lack of procurement tender or procurement staff in regional or local government, Indonesia can establish body like NPPO (National Public Procurement Organization) in local government. It can help and check procurement tender or procurement staff in regional or local government whether procurement process is done well. Collaborative procurement as it is done by Scotland could be alternative solution.
5. In response to policy transfer, donor organization should not put everything on procurement system plan. In other hand, Indonesia should not to always follow whatever supranational says, but must be critical. It is important to reflect how to prepare true need of procurement reform, and not merely rely on fulfilling donor organization requirement.
6. Due to launching of program, it is better to state the program as procurement reform program literally and clearly so that there will be more attention and awareness of it.

VI.3 Reflection

Regarding theory used in this thesis on procurement reform, one of 4 key elements in procurement reform is procurement organization. Based on Thai (2009), it only considers procurement organization itself. It is decentralized or centralized. In fact, different dimension of organization also plays significant role. This organization is procurement reform board. In Scottish case, this body helps not only in procurement reform planning, but also in implementation and evaluation.

In addition this research was conducted through focusing on procurement reform on public procurement. Discussing another scheme of procurement like Public Private Partnership (PPP) will be interesting. In addition, corruption issue is also important,

unfortunately, Scotland has no issue about corruption so that research can not compare to Indonesia. Another issue in procurement reform is electronic procurement (e-proc); nevertheless this research did not discuss it.

Regarding those limitations, it will be interesting if there will be further research which elaborates more about Public Private Partnership (PPP), corruption issue and also electronic procurement.

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Appendix1. List of Laws supporting Procurement Implementation in Indonesia

1. ACT no 13 /2003 on Labor
2. ACT no 5 /2004 on Industry
3. ACT no 22 /2001 on Gas and Petroleum
4. ACT no 41/1999 on Forestry
5. ACT no 7 / 2004 on Water Resources
6. ACT no 27 /2003 on Geothermal
7. ACT no 20 /2003 on Electricity
8. ACT no 28 / 2002 on Building
9. ACT no 4 /1994 on Housing and Settlement
10. ACT no 38 /2004 on Road
11. ACT no 1 /1987 on Business chamber
12. ACT no 3/1983 on Enterprise
13. ACT no 3 /1992 on health and safety Insurance
14. ACT no 9 / 95 on Small Enterprises
15. ACT no 1 /95 on Company
16. ACT no 5 /1999 on Ban on monopoly and unfair competition
17. ACT no 10 /1998 on Bank
18. ACT no 2/1992 on Insurance
19. ACT no 19/2002 on copy right
20. ACT no 14 /2001 on Patent
21. ACT no 15 /2001 on brand
22. ACT no 30 /2000 on Trade secret
23. ACT no 31/2000 on industry design
24. ACT no 32/2000 on integrated industry
25. ACT no 16 /2000 on Taxation
26. ACT no 17 /2000 on revenue tax
27. ACT no 8/1999 on consumer guarantee
28. ACT no 28 /1999 on good governance
29. ACT no 20 /2001 on fighting corruption
30. ACT no 30 /1999 on Arbitration and dispute solving
31. ACT no 5 /1986 on Arbitration of Administration Judiciary
32. ACT no 24 /1992 on Spatial Planning
33. ACT no 23/1997 on Environment
34. ACT no 32 /2004 on Local Government
35. ACT no 33/2004 on Local and central financial balance
36. ACT no 29/2004 on National Judiciary System
37. ACT no 19/2002 on National System on Research and development of technology.
38. ACT no 29/2004 on State Finance

Source: LPJK (Construction Service Industry Board)