

# **ENGAGING WITH CIVIL SOCIETY IN THE HEALTH SECTOR IN INDONESIA**

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# Acknowledgment

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# Abbreviations

AIDS	Acquired Immune Deficiency Syndrome
APBN	<i>Anggaran Pendapatan dan Belanja Nasional</i> (State or Central Government Budget)
ATM	AIDS, TB, Malaria
Bappenas	<i>Badan Perencanaan Pembangunan Nasional</i> (National Development Planning Agency)
BPJS	<i>Badan Penyelenggara Jaminan Sosial</i> (Social Security Management Agency)
CCM	Country Coordinating Mechanism
CSOs	Civil society organizations
DIPA	<i>Daftar Isian Pelaksanaan Anggaran</i> (Issuance of spending authority)
GF	Global Fund
Gol	Government of Indonesia
HIV	Human Immunodeficiency Virus
JKN	<i>Jaminan Kesehatan Nasional</i> ( <i>National Health Insurance</i> )
LFA	Local Fund Agent
LKPP	<i>Lembaga Kebijakan Pengadaan Barang Jasa Pemerintah</i> (National Public Procurement Agency)
MoF	Ministry of Finance
MOH	Ministry of Health
MoHA	Ministry of Home Affairs
Musrenbang	<i>Musyawarah Perencanaan Pembangunan</i> (National Planning Consultative Meeting)
NGO	Non-Governmental Organization
NPWP	<i>Nomor Pokok Wajib Pajak</i> (Tax file number)
OECD	Organization for Economic Co-operation and Development
PKK	<i>Pemberdayaan dan Kesejahteraan Keluarga</i> (Women's Support Group for Family Planning and Welfare)
PPP	Public Private Partnership
Puskesmas	<i>Pusat Kesehatan Masyarakat</i> (Community Health Center)
SKPD	<i>Satuan Kerja Perangkat Daerah</i> (spending units at sub-national level)
STD	Sexually Transmitted Diseases
TB	Tuberculosis

# Introduction

Non-state providers<sup>1</sup> play an important role in the delivery of health services in Indonesia.

First, like in many low and middle-income countries the private sector is often the preferred choice of provider – even among the poor – because of perceived higher quality and availability of medicines. Nearly two-thirds of outpatient utilization and two-fifths of inpatient utilization of health care services takes place in the private sector in Indonesia. As a result, there is growing interest in leveraging the potential of the private sector.

Second, civil society organizations (CSOs) – including non-governmental organizations and non-profit organizations – are an integral part of Indonesia’s national response to the human immunodeficiency virus (HIV), tuberculosis (TB), and malaria.

However, a significant portion of health programs implemented by CSOs are reliant on resources provided by development partners.

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<sup>1</sup> Non-state providers are non-government service providers which may include private sector.

Indonesia is losing access to donor aid threatening the financial and programmatic sustainability of traditionally donor-funded programs. While the country remains eligible at least until 2022 to access support from the Global Fund to Fight AIDS, TB, Malaria (GF ATM) – Indonesia’s most significant donor in the health sector – there is a strong push to use domestic resources from the government. Average annual disbursements from official development aid over the period 2010-2015 for ATM programs amounted to just US\$98.2 million (compared to the \$180 million spent by the Ministry of Health (MOH) on Disease Control or the \$3.2 billion spent on health overall over the same period) predominantly from the GF, Australia, and the US (OECD, 2017) (Table 1). Though external financing represents a small share of overall health spending, it accounts for a significant share (40-50%) of resources for HIV, TB, and malaria – meaning that there will likely be significant gaps in service delivery if activities supported by donors are not picked up by the government (Magnani, et al., 2018).

Table 1. External financing for ATMI programs (in US\$ millions)

Programs	Official Development Aid (gross disbursements, 2015)	Average annual disbursements over 2010-2015 period*	Main donors
TB control	28.4	30.6	Predominantly GF, US
STD control including HIV/AIDS	40.2	47.4	Predominantly GF, Australia, US
Malaria control	12.9	20.2	Predominantly GF

Source: OECD (2017). Creditor Reporting System

While the types of activities traditionally funded by donors can be delivered by either the public or private sector, the nature of these services mean that they are generally under-provided by the private sector. In Indonesia, donor resources are primarily used for the delivery of HIV services to key affected populations (particularly harm reduction programs, sensitization and educational campaigns), TB services through community outreach, and the distribution of bed nets in high prevalence malaria areas. While in principle such activities fall under the mandate of *puskesmas* – the entry into the public health system – few carry out such work either for lack of funding, human resources, or stigma and discrimination. At the same time, these types of services are labor-intensive and have low-profit margins making them less attractive to the private sector. Interventions to treat communicable diseases are also generally considered merit goods as they have positive externalities that extend beyond the select group who can afford to pay for them (i.e. the likelihood of further transmission diminishes in the population as a whole if those affected are treated). As a result, these services end up being funded by donors and implemented by CSOs (ibid).

The main objective of this policy note is to better understand the key challenges to engaging with CSOs. As external sources phase out, more sustainable domestic mechanisms will be needed. Although there are several mechanisms available within the State Budget (*Anggaran Pendapatan dan Belanja Nasional/ APBN*) which allows public funds to be disbursed to CSOs and other entities, they are not well known. This policy note focuses on State budget mechanisms for channeling funds to CSOs. Section II briefly reviews what is known about the use of CSOs in Indonesia. Section III describes the main public channeling mechanisms including their regulatory and institutional arrangements. Section IV highlights challenges to channeling public funds to CSOs on the both the government and CSO side. Finally, section V summarizes key messages and areas of future work. The note is based on a comprehensive review of relevant legislation (Annex 1) and interviews with key informants (Annex 2) at the national and sub-national level.

A separate policy note will address engagement with the private sector. Indonesia already engages with the private sector through *Badan Penyelenggara Jaminan Sosial (BPJS)* – the administrating agency of the national health insurance scheme *Jaminan Kesehatan Nasional (JKN)*. Per law no 24/2011 on the Social Security Administrative Agency, BPJS has the authority to determine its own contracting arrangements with both the public and private sector. Therefore, BPJS does not use State Budget mechanisms and procurement laws for channeling funds. However, much more can be done to strengthen private sector engagement in health to improve and increase the supply of better quality, affordable and equitable healthcare – especially for goods and services that fall under the merit good category. This complementary work will also look at public-private partnership arrangements to explore opportunities to expand access for these under-provided services.

# Civil Society Organizations in Indonesia

Globally, the role of CSOs has been recognized as crucial in many activities relevant to development such as i) advocacy and community mobilization especially among marginalized peoples; ii) monitoring and accountability of government entities and other non-state actors; and iii) service delivery to meet education, health, and food security needs. According to the Organization for Economic Co-operation and Development (OECD), approximately \$20 billion (in constant 2015 USD) was channeled to and through CSOs in 2016. The top five sectors of intervention were for emergency response, government, population policies, health and education activities (OECD, 2018).

Civil society organizations are common in many sectors in Indonesia; however, their exact number is unknown. There is no comprehensive database that captures CSOs' organizational profile, scope of work, activities, and track record. This is partly because responsibility for registration is spread out across various institutions – the Ministry of Law and Human Rights for those with legal status and the Ministry of Home Affairs (at the various spending units of sub-national governments) for those without. According to the Ministry of Internal Affairs, in August 2017, there were 344,039 CSOs (MoHA, Republic of Indonesia, 2017) working in various sectors<sup>2</sup> – predominantly in environment, women's rights, education, democratic governance, agriculture and

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<sup>2</sup> For example, in environment, public funds are used to support traditional community groups monitoring locally established marine protected areas (Onako) in South Sulawesi. In health, public primary healthcare providers (*puskemas*) work together with a government established CSO – Women's Support Group for Family Planning and Welfare (*Pemberdayaan dan Kesejahteraan Keluarga/ PKK*) – to provide integrated health and nutrition activities for pregnant women and children.

health. While the exact number of CSOs involved in the health sector is unknown, the SMERU Research Institute, an independent institution for research and public policy, that manages Indonesia's most complete online database (SMERU Research Institute, n.d.) (2,161 NGOs contact information is listed) lists 105 that are involved in health<sup>3</sup>. The Global Fund also keeps a record of CSOs working on HIV/AIDS, TB, and malaria activities<sup>4</sup>.

The requirements for legal and non-legal status are relatively straightforward. Registering a CSO without legal entity status requires having: a minimum of three committee members, a physical address, a tax file number (*Nomor Pokok Wajib Pajak* or NPWP), and bylaws. A notary formalizes the organization at the District government level. For legal status, CSOs can register as Foundations (*Yayasan*) for non-membership based CSOs or Associations (*Perkumpulan*) for membership-based organizations. To register either as a Foundation or Association, a notary must submit a letter to the Ministry of Law and Human Rights confirming the Deed of Establishment, provide a tax file number, and submit a letter confirming the CSO's address signed by the organization's committee with affirmation from the Head of Village or Head of Urban Wards. While Associations are required to submit information about funding sources and workplan, there is no accreditation or certification system to provide information on outcomes and impact. In fact, few CSOs are required to submit audited reports unless requested by donors. CSOs do not receive any tax or other benefits.

While CSOs have opportunity to engage in government planning and budgeting processes, some regions may be more inclusive than others. Indonesia combines top-down and bottom-up approaches in its planning and budgeting cycle. Directives from various development planning documents (e.g. budget rules, circulars, and budget ceilings) inform the top-down budget formulation process. In parallel, the participatory bottom-up planning process – where non-elected citizens from the community, public and government institutions are invited to join consensus building meetings on how public funds are allocated – happens at the National Planning Consultative Meeting (*Musyawarah Perencanaan Pembangunan* or *Musrenbang*). Formally, the *Musrenbang* process begins at the village level and decisions move up

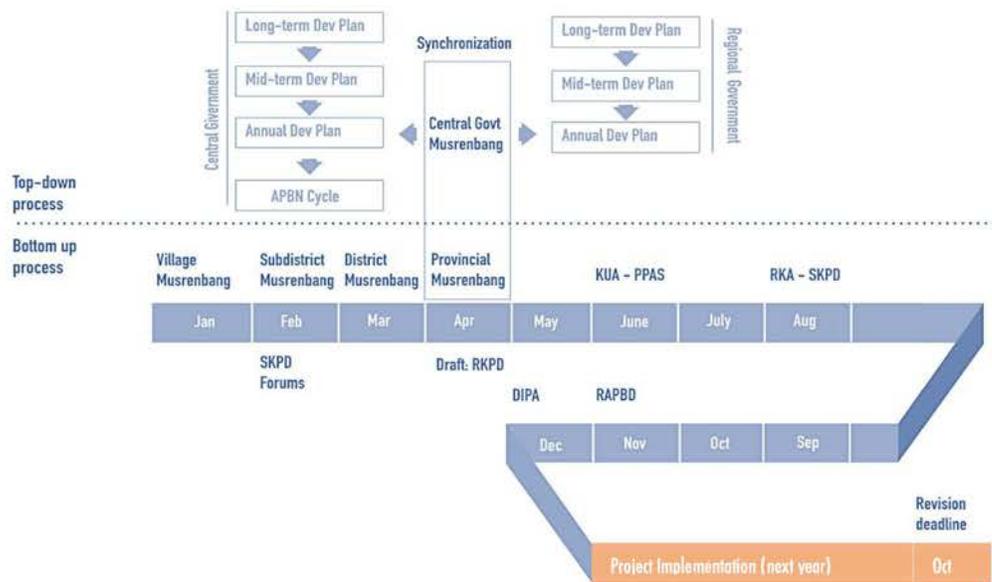
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<sup>3</sup> Prior to the 1990s, CSO involvement in health was limited in Indonesia. If not provided directly by the State, family and social networks provided care. However, with the proliferation of development partner activity in the 1990s, demand for more traditional Western CSO engagement grew.

<sup>4</sup> GF listed 5 CSOs (Central Board of *Aisyiah*, Indonesia Planned Parenthood Association, *Nahdlatul Ulama*, *Perdhaki*, *Yayasan Spiritia*) and one higher education institution (Faculty of Public Health, University of Indonesia) as their partner from the community sector (The Global Fund, 2019)

until they reach the Central government level (Agustina, 2018). While this mechanism offers an opportunity for CSOs to engage in the budget and planning process, rules for representation differ from one region to another with some being more inclusive than others<sup>5</sup>. In addition, not all proposals agreed in lower level *Musrenbangs* receive final budget approval with the level of transparency varying across regions. Overall, the process from budget drafting to project implementation can take up to two years.

Figure 1. Budgeting and planning process



Source: Law no 25/ 2004 on National Development Planning System, and Law no 17/2003 on State Finance

<sup>5</sup> Several sub national governments have created additional layers of *Musrenbangs* not mandated in Law 25/2004 to promote more inclusion (e.g. a neighborhood level *Musrenbang* in Solo city; a Women & Children only *Musrenbang* in Pare-pare city).

# Mechanisms for channeling public funds to CSOs

There are two major mechanisms available within the State budget (APBN) to channel public funds directly to CSOs and other entities.

The first channel is through the procurement mechanism (*belanja pengadaan barang dan jasa*), which can further be divided into procurement using:

- a competitive bidding process for products and services the government needs that are widely available in the market (i.e. CSOs act as vendors/contractors via a tender mechanism), or
- the self-management or *swakelola* process for goods and services the government needs but which cannot be provided by the private sector<sup>6</sup>. The *swakelola* mechanism empowers the government institution responsible for the budget by giving them more flexibility in implementing government programs. In *swakelola* projects, the government budget holder may design and plan activities, but execution can be done by its own employees, employees from other government offices and communities or CSOs. When CSOs are engaged, they will act as implementing partners via direct appointment or contest if more than one CSO is eligible.

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<sup>6</sup> Other than unavailability in the private sector, *Swakelola* regulation, i.e. LKPP regulation no 8/2018, also listed the following as other reasons for its use: optimizing & improving in-house capacity, encouraging public participation, improving effectivity and efficiency, procurement of classified materials/services.

The second channel is via the grant mechanism which can also be divided into programmatic central (*bantuan pemerintah*) and regional government or regional social assistance/emergency response grants (*hibah pemerintah daerah* and *bansos pmda*). Grants are allocated by direct appointment based on the technical implementation guidelines decided by the budget holder. Grants are allocated directly usually because there is no vendor in the commercial market and beneficiaries for National Programs or and Regional Development Plans are already identified.

The main differences between the above-mentioned fund channeling mechanisms lie in the degree of flexibility assigned to CSOs in use of resources, eligibility criteria for receiving public funds, and accountability mechanisms. As seen in Table 2, the National Public Procurement Agency (*Lembaga Kebijakan Pengadaan Barang Jasa Pemerintah/ LKPP*), the Ministry of Finance (MOF), or the Ministry of Home Affairs (MOHA) all act as a regulatory agency depending on the mechanism being pursued. As a result, each mechanism has different eligibility criteria to receive public funds, flexibility on allowable expenditures, and requirements for reporting. For example, programmatic grants may be more flexible than procurement methods as they allow recipients to organize resources across expenditure categories (e.g. salaries and wages, goods, non-operational expenses, etc.) as they best see fit to deliver on program objectives; they may also allow funding for multi-year planning and activities such as infrastructure development or capacity building investments that may take several years to achieve. However, the variability in eligibility and accountability requirements is greater as each ministry can define its own specifications. Program performance is also delegated to CSOs rather than the Ministries. Therefore, the potential for weaker accountability is also higher (Figure 2).

Figure 2. Schematic of flexibility-accountability tradeoff of different fund channeling mechanisms



Table 2. Existing mechanisms within State budget to support CSOs

Type of Mechanism		Regulatory agency/relevant regulations	Eligibility to receive public funds	Accountability
Procurement	Competitive bidding	<p>National Public Procurement Agency (LKPP) regulates the implementation of procurement mechanism except payment portion, which is regulated by MoF:</p> <ul style="list-style-type: none"> <li>• Presidential Regulation no 16/2018;</li> <li>• Head of LKPP Reg no 9/2018 for public procurement via vendors</li> <li>• Head of LKPP Reg no 8/2018 for public procurement via <i>Swakelola</i></li> </ul> <p>Ministry of Finance regulates the payment procedures:</p> <ul style="list-style-type: none"> <li>• MoF Regulation no 190/PMK.05/2012 as revised by MoF Regulation no 178/PMK.05/2018 on 'State Budget Payment Mechanism'<sup>7</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Have a legal entity status as a business enterprise<sup>8</sup></li> <li>• Have a business permit in relevant sector</li> <li>• Have a registered company status</li> <li>• Have a registered tax ID</li> <li>• Have a permanent address</li> <li>• Has carried out or provided similar services in the same sector in the last 1 year</li> <li>• Has successfully completed a task to client with similar characteristic in the last 3 years</li> <li>• Be sound financially/have sufficient cash flow and capital</li> </ul>	<ul style="list-style-type: none"> <li>• Sub-contracting is not allowed</li> <li>• Program performance and audit is the responsibility of Ministries</li> </ul>
	<i>Swakelola</i>		<ul style="list-style-type: none"> <li>• Have a legal entity status</li> <li>• Have a registered tax ID</li> <li>• Have a permanent address</li> <li>• Have an organization structure, bylaws, articles of association</li> <li>• Have the necessary managerial and technical skills to provide services and has provided similar services in the last 3 years, either on its own or in partnership</li> <li>• Have audited financial statements for the last 3 years<sup>9</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Sub-contracting is allowed</li> <li>• Program performance and audit is the responsibility of Ministries</li> </ul>
Programmatic grant	Central government grant	<p>Ministry of Finance (principles):</p> <ul style="list-style-type: none"> <li>• MoF reg no 168/PMK.05/2016 as</li> </ul>	<ul style="list-style-type: none"> <li>• Requirements for CSO eligibility defined by Ministries' own technical implementation guidelines</li> </ul>	<ul style="list-style-type: none"> <li>• Sub-contracting is not allowed</li> </ul>

<sup>7</sup> Some stakeholders believe that specific regulation from Directorate General of Budget is still needed to guide payment mechanism to CSOs. At the time of writing, there is no specific regulation regarding payment mechanism for the recently revised *Swakelola* channel for CSOs.

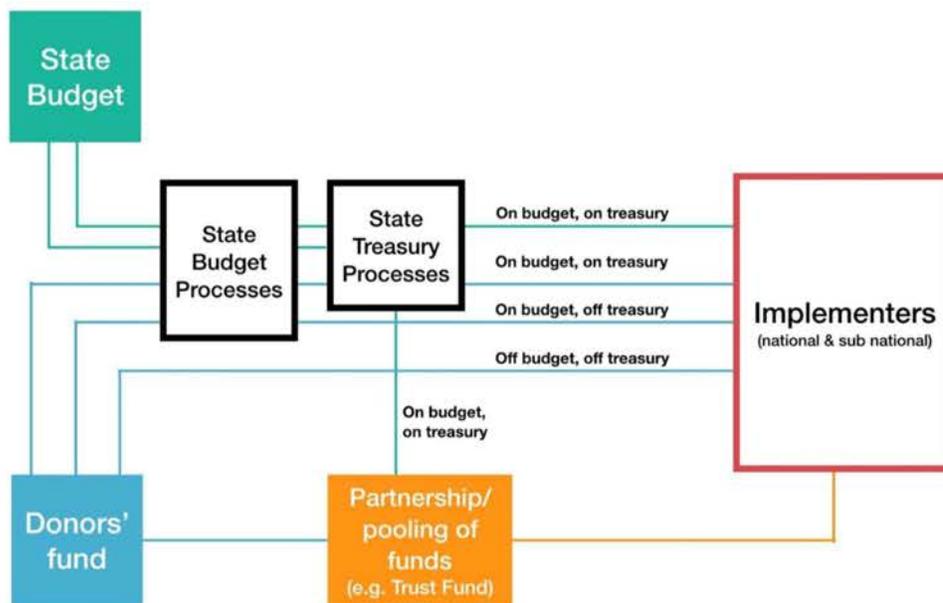
<sup>8</sup> Getting enterprise status has additional requirements such as i) deed of establishment (which include among other list of directors, commissioners and shareholders, all of whom should have individual tax ID) as a company, formalized by Ministry of Law and Human Rights ; ii) evidence of paid up capital, the amount of which is at least IDR 50 million for small enterprise, 500 million for medium enterprise and 10 billion for big enterprise and iii) Single Business Identification number (*Nomor Induk Berusaha*) obtained from oss.go.id which further require business licenses, investment plan, labour plan, and taxation/excise facility plan. CSOs themselves, being a foundation or association, cannot directly obtain enterprise status, but they may have direct association or shares in a subsidiary who has enterprise status. Very few CSOs have the capacity and resources to have an enterprise who can compete in competitive bidding mechanism.

<sup>9</sup> This requirement is limiting for CSOs as they do not typically conduct audits. However, they may still be able to access the *swakelola* mechanism if they partner with bigger or more established CSOs.

Type of Mechanism	Regulatory agency/relevant regulations	Eligibility to receive public funds	Accountability
Regional government or social assistance grant	<ul style="list-style-type: none"> <li>revised by 173/PMK.05/2016</li> <li>• Central Government Agencies' Guidelines (technical)</li> </ul> <hr/> Ministry of Home Affairs (principles): <ul style="list-style-type: none"> <li>• MoHA reg no 32/2011 as revised by 14/2016</li> <li>• Regional Government Regulation (technical)</li> </ul>	as per MoF regulation no 173/PMK.05/2016 article 1	<ul style="list-style-type: none"> <li>• Program performance and audit is part is responsibility of the CSO</li> </ul>

In addition to mechanisms that directly channel public funds to CSOs, indirect funding through partnerships is also possible. The government may choose to channel funds to CSOs through a partnership platform which pools funds from different contributors and take on the responsibility for accountability arrangements when CSOs don't fully meet certain standards<sup>10</sup>. Another reason for using the partnership mechanism is to leverage or increase public sector resources with other sources of funding. As depicted in Figure 3, funds from state budget will always be recorded in the state-budget document (or DIPA) and follow state treasury processes (on budget, on treasury). On the other hand, funds from donor can be channeled to implementers (including CSOs) via three routes: i) similar to how state budget is being channeled (on budget, on treasury); ii) on budget but not recorded and paid using state treasury processes (on budget, off treasury); iii) or directly to implementers without integration to either the state budget or treasury processes (off budget, off treasury). Most donor resources flow either on-budget, off-treasury as in the case of the Global Fund or completely off-budget as in the case of USAID and DFAT.

Figure 3. Flow of Government and Donor funds to CSOs



Source: Author based on WB (2018). Sustainability of Externally-Funded Health Programs in Indonesia: Issues and Priorities.

<sup>10</sup> An example of this partnership is Indonesia Climate Change Trust Fund (ICCTF), which combines funds from the government and donors before channelling them to CSOs selected from a call for proposal contest.

# Challenges to channeling public funds to CSOs

While mechanisms exist to accommodate nearly every type of CSO activity, several challenges exist to their more widespread use. Common barriers cited by stakeholders can be grouped around three main themes: i) lack of information, ii) limited capacity, and iii) incomplete trust.

# 1

## Lack of information

Despite the most recent Presidential Regulation clarifying that CSOs are eligible to receive government funding, there is insufficient awareness about existing mechanisms on both the Government and CSO side. There is also no platform to easily connect Government budget holders with non-state providers. On the government side, budget holders are unaware of the pool of CSOs available, their scope of work, and track record for program implementation. This information, if collected, is carried out by multiple entities at the national and subnational level with no one responsible for overall coordination. Similarly, CSOs lack access to information on opportunities to work with selected subnational governments as there is no call for proposals initiated by the budget holder. In cases where multiple CSOs are working on the same issues, weak coordination often makes it harder for them to access funding and scale their impact.

# 2

## Limited capacity

On the one hand, not all government agencies (in particular subnational regions) have the capacity to contract and manage engagement with CSOs as many do not have an established mechanism to review, assess, and synergize different CSO's proposals. Also, CSOs often do not provide sufficient documentation of proposed activities and resource requirements for national and subnational governments to be able to allocate budget. On the other hand, CSOs have limited resources and capacity to fully engage in the Government's lengthy

planning cycle. And despite the relatively straightforward process for registering as a CSO and obtaining legal entity status, most CSOs fail to meet the additional requirements needed to access public funds such as providing tax identification numbers and tax and financial reports. Important accountability elements such as reporting, monitoring and evaluation are also not always properly managed.

# 3

## Incomplete trust

Despite widespread agreement on the importance of CSOs in service delivery, government institutions are reluctant to channel public resources to CSOs as they are seen as risky and administratively cumbersome to deal with. Government's familiarity with CSOs are also mainly through donor-CSO engagement where donor priorities often end up driving the type of activity rather than national or Government priorities<sup>11</sup>. However, this tendency to adopt donor priorities might also reflect capacity constraints (on both the Government and CSO side) in terms of identifying local needs and designing a targeted and complementary response. From the CSO perspective, lack of transparency in planning and budgeting processes serves as a disincentive to actively engage in a lengthy and burdensome *musrenbang* process.

In contrast, the main donor in the health sector – the Global Fund – offers a more structured process to support and engage with civil society. Table 3 compares the GF versus the Government fund channeling mechanism to CSOs. Compared with the Government mechanism, the GF planning process is much shorter, the project cycle longer, and coordination and support greater. This makes the process less burdensome and offers greater flexibility for multi-year projects. It also provides a platform and resources to review the technical soundness of proposals and identify necessary capacity building activities in areas that implementers might be lacking in (e.g. financial management, procurement, and monitoring and evaluation). However, it focuses mainly on HIV, TB, and malaria rather than the service delivery needs of the broader health sector. Still, a similar or complementary arrangement may be needed to help facilitate public sector engagement with CSOs. Australia provides another example on how it deals with CSO (Box 1).

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<sup>11</sup> Findings from a series of multi-stakeholder meetings held in: Jakarta (Dec 18, 2017 - as part of IAC's National Workshop on Funding Mechanism for CSOs); World Bank Office (Nov 20, 2017); Bali (Nov 13, 2017 -as part of IAC's National Conference of Communities); Bappenas office, Jakarta (Nov 8, 2017); and Surabaya (Sep 14-15, 2017)

## Box 1: CSO Regulatory Environment in Australia

Australia established the Australian Charities and Not-for-Profits Commission (ACNC) as the national regulator of charities. The ACNC's has two main objectives: 1) to support charities with information, advice, and guidance, and 2) to maintain and disseminate information about the not-for-profit sector through a free searchable database of charities.

While registration is not mandatory, only registered charities can apply for the various tax concessions and benefits offered by the government. For example, incentives that allow donors to claim gifts and donations to charity as tax deductions are only available to registered charities. The public may raise concern about a charity to the ACNC as it has the power to: i) give warnings, ii) provide direction, iii) enforce corrective actions, and iv) revoke registration status. Beyond requirements from the ACNC, public agencies who are working with charities and not-for-profits commonly require mandatory cost-sharing from charities' own funds in the amount of 20% of the total project value.

The ACNC registers organisations as charities and works with the tax office as well other public agencies who regulate the services provided by charities. Its 'Charity Passport' initiative allows different government agencies to remotely access information such as responsible persons, beneficiaries, size, financial reports, governing rules and operating locations. The Charity Passport initiative is part of the ACNC's drive to reduce red tape by using the *report once, use often* paradigm.

Source: [www.acnc.gov.au](http://www.acnc.gov.au)

Table 3. Comparison between Global Fund and Government Fund Channeling mechanism

No	Factor	GF	Government
1	Time needed for planning	6 months	1 year
2	Project Cycle	3 years	1 year
3	Coordination mechanism for funder	Conducted through CCM, both for national and sub-national level	Conducted by multiple entities at different levels. National: MOH, MOF, Bappenas, MOHA, etc. Sub-national: <i>Musrenbang</i> , SKPD Forums, etc.
4	Coordination mechanism for recipient	Conducted through CCM, both for national and sub-national level	Various platforms, depending on CSO initiatives, not available at all regions
5	Focus	AIDS, TB, Malaria	Multiple, all proposals for APBN funding will go to similar route, putting pressures to some entities in aggregation role (Provincial Govt, Central Govt, Parliament etc.)
6	Technical recommendation for funder	Provided by technical review panel within GF	Budget Users mostly rely on internal units with relevant mandates who may or may not have sufficient resource to provide necessary recommendation
7	Technical recommendation for CSOs	CCM may invite partners with technical capacity to sit on CCM	Not directly provided
8	Capacity Development	Capacity assessed by LFA using Capacity Assessment tools, then if necessary, developed through proposed programs in coordination with PRs	Not all agencies have mechanism to assess & develop CSO capacity
9	Administrative burden for reporting	For smaller CSOs, the reporting will be assisted/mediated by SR or PR	Almost all reporting & other administrative burden will
10	How CSOs are identified	Competitively via Call for proposals, CCM recommendation	Dependent on budget user initiative
11	Monitoring & Evaluation	Conducted by LFA. Evaluation is integrated into performance-based disbursement for next round	Conducted by budget user, who may or may not have the necessary resource & capacity. Follow up to evaluation result is not always tied to future disbursement.

Source: Global Fund. Global Fund Funding Model. <https://www.theglobalfund.org/en/funding-model/> las accessed-on May 8, 2019.

Notes: Funder refers to Government budget holder. Recipient refers to CSOs. CCM=Country Coordinating Mechanism; LFA=Local Fund Agent; SKPD= *Satuan Kerja Perangkat Daerah* (spending units at sub-national level); PRs= Primary Recipients; SR= sub-recipients

# Key messages

This policy note describes the main mechanisms and challenges to engaging with CSOs in Indonesia and proposes areas for future engagement. While APBN-to-CSO fund channeling mechanisms do exist, they are not well known or used by budget holders. In reality, the most feasible mechanisms for CSOs to engage with are the programmatic grants. CSOs will not likely be able to compete with the private sector under the competitive bidding mechanism; they are also unlikely to be able to fulfill the 3-year audit requirement under the *swakelola* mechanism. There are also significant reservations among implementing units to use the new *swakelola* mechanism as it places the burden on developing guidelines for bidding and selection of CSOs on them<sup>12</sup>. While CSOs could partner with a more established entity that has a history and culture of financial audits, this would require them to be able to first identify and coordinate with suitable partners; this is not a given.

To facilitate engagement between the GOI and non-state providers an enabling environment is needed. This should include i) addressing information gaps between Government budget holders and CSOs on all available opportunities; ii) strengthening current budget and planning processes including capacity building support to funders and recipients to prepare, submit, review and assess proposals; and iii) improving transparency and accountability for health sector performance. The strengths, weaknesses, opportunities, and threats to CSO engagement that have been identified in this report are summarized in Annex 3 for easy reference.

## Addressing information gaps

- At the Central level, consolidate information on the number of CSOs, their organizational profile, scope of work, budget, main activities, and performance record. Clarify and gain consensus on whether the Ministry of Law and Human Rights or the Ministry of Home Affairs is best suited to host and maintain this database. Determine access rights for Provincial and District budget holders to use this database to inform future engagement with CSOs.
- At the Central level, while the MOH has now included a clause in its Planning Guideline for fiscal year 2020<sup>13</sup>, technical implementation guidelines formalized

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<sup>12</sup> In the interest of creating greater flexibility and use of the *swakelola* mechanism LKPP has allowed implementing units to develop their own guidelines for selecting CSOs.

<sup>13</sup> On May 28, 2019, the World Bank supported an internal meeting convened by the Planning Bureau of the Ministry of Health, inviting all relevant units within MoH. The minutes from the meeting has been shared with the

by Echelon 1 are still needed. In addition, programs need to develop communication materials to raise awareness of existing public fund channeling mechanisms especially at Provincial and District Health Offices that make a strong case justifying engagement with CSOs.

- A review of past and existing CSO arrangements in the health sector to assess their performance should also be done to synthesize evidence of what works, what doesn't, and why. These lessons learned could also be shared with Provincial and District Health Offices.

### Strengthening budget and planning processes

- At the Central level, as part of the MOH's implementation guidelines, direction should be given to CSOs to develop proposals in a standardized format so that government budget holders can assess the technical and financial quality of proposals in a more comparable way. It would also help create greater transparency around the requirements, timeline, and selection criteria especially in regions with a less inclusive *musrenbang* process.
- At the national level, the Ministry of Budget and Planning has already launched an internet-mediated platform for *musrenbangs* which has been taken up by some sub-national governments. This could be expanded to enable a centralized platform where budget holders can list their call for proposals to facilitate CSOs' access to potential opportunities.
- Capacity also needs to be developed for government budget holders to identify, appraise, and evaluate whether engagement with non-state providers provides added value compared to existing public sector options and/or the private sector. This may require tailoring the GOI's existing public-private-partnership framework to the health sector and exposing Bappenas and the MOF to a broader menu of PPP options (e.g. service delivery, hospital infrastructure, facility management, transport and distribution of medicines). This may also require coordination with BPJS-K who contract with both public and private sector providers to deliver services (see related policy note on private sector).

### Improving transparency and accountability

- All of the recommendations above would help improve the transparency and accountability of government budget holders and CSOs alike.

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participating units, as well as with Bappenas - the coordinator for transition of externally-funded health programs. At the same time, spending units' main concern had been the absence of a formal mention of collaboration with CSOs (as recently formalized under the newly revised regulation on public procurement) in the MoH's planning guidelines.

# Annex 1 – Laws and Regulations Related to Civil Societies in Indonesia

Topics	Legislation
Definition of CSO	<p>Article 1, Government Regulation in lieu of Law (Perpu) no 2/2017</p> <p>“...organization established and constructed voluntarily by communities based on similarities in aspiration, motivation, needs, interests, activities and objectives to participate in development to achieve the goals laid out by Republic of Indonesia as a country, based on principles in Pancasila and the 1945 constitution”.</p>
Types of Procurement mechanism	<p>Article 3, Presidential Regulation No 16/2018</p> <ul style="list-style-type: none"> <li>• There are two kinds of public procurement:               <ol style="list-style-type: none"> <li>1. <i>Swakelola</i> (can be loosely translated as self-manage), i.e. when projects are done by implementers who are part of government organizations, CSOs and community groups</li> <li>2. via competitive bidding by “<i>penyedia</i>” (providers of goods and services).</li> </ol> </li> <li>• There is no limitation for CSO to participate in competitive bidding as providers. If a CSO has the required skills and experiences, it may be eligible to participate in competitive bidding.</li> </ul>
Mechanism 1: Fund channeling using competitive bidding for commercial entities.	<p>Article 3.4.1 to 3.4.3 in the attachment of Head of Public Procurement Agency Regulation no 9/2018:</p> <p>To be eligible for competitive bidding, a CSO must:</p> <ul style="list-style-type: none"> <li>• Have business permits in relevant sector</li> <li>• Have a registered company status (some CSOs such as Muhammadiyah owns business units with their own license and company registration)</li> <li>• Be registered as tax entity</li> <li>• Have a permanent address</li> <li>• Have a legal status as enterprise with complete freedom to engage in a contract</li> <li>• Has carried out or provided similar services in the same sector in the last 1 year</li> <li>• Has successfully completed a task to client with similar characteristic in the last 3 years</li> <li>• Be sound financially/have sufficient cash flow and capital</li> </ul>

Topics	Legislation
<b>Mechanism 2: Fund channeling using <i>swakelola</i> mechanism</b>	<p data-bbox="467 237 1443 310">Head of Public Procurement Agency Regulation no 8/2018 on 4 types of <i>swakelola</i>:</p> <ul style="list-style-type: none"> <li data-bbox="467 321 1443 682">• Article 3 <ul style="list-style-type: none"> <li data-bbox="511 363 1443 436">I. Planned, implemented and monitored by an element within spending organization</li> <li data-bbox="511 447 1443 520">II. Planned and monitored by spending organization but implemented by other public agencies</li> <li data-bbox="511 531 1443 604">III. Planned and monitored by spending organization but implemented by CSOs</li> <li data-bbox="511 615 1443 682">IV. Planned and monitored by spending organization but implemented by Community groups</li> </ul> </li> <li data-bbox="467 730 1443 1087">• Article 1.3 in the attachment, on purposes/reasons of <i>swakelola</i> <ul style="list-style-type: none"> <li data-bbox="560 772 1443 888">○ Securing goods/services not available in commercial market. Unavailability may occur due to lack of incentive to provide or because of security reasons.</li> <li data-bbox="560 898 1443 930">○ Optimizing resources already available in the public sector</li> <li data-bbox="560 940 1443 972">○ As a capacity building tool for personnel in the public sector</li> <li data-bbox="560 982 1443 1014">○ As an avenue to increase participation from CSOs and community group</li> <li data-bbox="560 1056 1443 1087">○ Efficiency</li> </ul> </li> <li data-bbox="467 1140 1443 1904">• Article 1.5 in the attachment on types of goods and services in <i>swakelola</i> mechanism <ul style="list-style-type: none"> <li data-bbox="560 1224 1443 1255">○ Goods &amp; service not available in commercial market</li> <li data-bbox="560 1266 1443 1539">○ Research, education or training, courses, seminars, workshops, and outreach. (Note: for research in particular, CSO has also been further identified as one of eligible research implementers, both in article 62 of Presidential Regulation no 16/2018 and in its technical regulation, i.e. article 4 of the Minister of Research, Technology and Higher Education regulation no 20/2018)</li> <li data-bbox="560 1549 1443 1581">○ Contest or competition</li> <li data-bbox="560 1591 1443 1623">○ Outputs from creative economy</li> <li data-bbox="560 1633 1443 1749">○ Census, survey, data processing/analysis, public policy drafting, lab testing, and creation of system, application, governance mechanism, or a particular quality standard</li> <li data-bbox="560 1759 1443 1791">○ Goods and service that are still in development phase</li> <li data-bbox="560 1801 1443 1833">○ Goods and services provided by CSOs or community groups</li> <li data-bbox="560 1843 1443 1904">○ Goods and services whose provision requires community participation</li> </ul> </li> </ul>

- Classified goods and services
- Article 1.6.2.c in the attachment on eligibility criteria
  - Legal entity (foundation or association)
  - Registered tax ID
  - Organization structure, bylaws, and article of association
  - Has the necessary managerial and technical skill to provide the service and has provided similar service in the last 3 years, either on its own or in partnership
  - Audited financial statements for the last 3 years
  - Permanent address
  - In case of partnership, CSO has to prepare legal agreement with partner(s).
- Article 2.3.c in the attachment on selection mechanism
  - Spending units informed potential CSOs regarding the opportunity to be *swakelola* partner
  - If there are more than 1 CSOs, spending units may choose to carry out competition mechanism. There is no specific regulation on the way such competition may be carried out.
  - Upon selected, MoU is made between spending unit and CSOs.
  - CSO then submit budget plan based on MoU to be reviewed by spending unit.
  - Should additional procurement be needed, it can be included as part of the CSO contract or separated (to be held by spending unit).

**PR.04.01/I/2263/2019, Secretary General of Ministry of Health:**  
“*Pedoman Penelitan RKA/KL Kementerian Kesehatan 2020*” (Guideline for Budget Preparation Analysis at the Ministry of Health

“18.b. Planning of procurement: In programs where *Swakelola* type III with CSOs or type IV with community groups are used, [program implementers] should obey rules mandated within Presidential Regulation 16/2018, and [programs should also] be equipped with technical implementation guidelines formalized by Echelon I under relevant account as guided by relevant regulations.”

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Topics	Legislation
<b>Mechanism 3:</b>  <b>Fund channeling using grant mechanism at central government level (<i>Bantuan Pemerintah</i>)</b>	<p>Minister of Finance Regulation no 168/PMK.05/2015 on Government Assistance Given by Ministries and Central Level Agencies</p> <p>Article 1(1) on Definition of <i>Bantuan Pemerintah</i>  “Assistance that are not categorized as social assistance, provided by government to individuals, community groups or government and non-government entities.”</p> <p>Article 3 on List of supported activities</p> <ul style="list-style-type: none"> <li>○ Awards</li> <li>○ Scholarship</li> <li>○ Additional remuneration for teacher, and other form of remuneration to others</li> <li>○ Operational funds</li> <li>○ Equipment and infrastructure</li> <li>○ Funds for rehabilitation or to build a new building</li> <li>○ Others as defined by spending unit</li> </ul> <p>Article 6 on Guidelines</p> <p>Spending units (Ministries and central level agencies) have to prepare general guideline and technical guidelines, which include among other: legal basis for assistance (e.g. as part of a national program or to support a particular regulation/mandate), objective, eligibility criteria of beneficiary (may include CSOs), form of assistance, disbursement mechanism, and accountability mechanism.</p>
<p>Notes:</p> <ul style="list-style-type: none"> <li>○ MoF regulation no 173/PMK.05/2016 revised the above MoF regulation, including by adding sanction in the list of elements which needs to be prepared in the technical guidelines.</li> <li>○ Ministry of Health has enacted Minister of Health Regulation no 79/2016 which has been revised by no 17/2018 as general guideline for <i>Bantuan Pemerintah</i>. This regulation has been used recently to support training provision on utilization of locally available nutrients in complementary feeding by CSOs (in this case by Women Group for Family Wellbeing or PKK).</li> </ul>	<p><b>Mechanism 4:</b> Ministry of Home Affairs regulation no 13/2018</p> <p><b>Fund channeling using grant</b> Article 4.1 on beneficiary:</p>

Topics	Legislation
<b>mechanism at sub-national level (<i>Hibah Pemerintah Daerah</i>)</b>	<p data-bbox="467 237 1442 432">Sub-national grants can be given to central government, other sub national government, state enterprise, CSOs with legal status. Ministry of Home Affairs regulation no 14/2016 Article 1.8 stated that whoever the beneficiary will be, the decision to give grants to beneficiary should be formalized in a decree of Head of Sub-national Government.</p> <p data-bbox="467 485 786 516">Article 4.3 on objective:</p> <ul data-bbox="467 527 1442 678" style="list-style-type: none"> <li data-bbox="467 527 1442 600">○ Supporting the achievement of programs and activities of sub-national government.</li> <li data-bbox="467 604 1442 678">○ Principles: fairness, appropriateness, rational, and benefiting communities</li> </ul> <p data-bbox="467 730 792 762">Article 4.4 on limitations</p> <ul data-bbox="467 772 1442 924" style="list-style-type: none"> <li data-bbox="467 772 1149 804">○ Assistance should have predetermined purpose</li> <li data-bbox="467 808 963 840">○ It should not be made mandatory</li> <li data-bbox="467 844 1442 924">○ It should not be given repeatedly every year, except in the case of emergency or mandated by other higher regulation</li> </ul> <p data-bbox="467 976 850 1008">Article 7 on eligibility criteria</p> <ul data-bbox="467 1018 1442 1127" style="list-style-type: none"> <li data-bbox="467 1018 1230 1050">○ Has been registered as legal entity for at least 3 years</li> <li data-bbox="467 1054 1442 1127">○ Is based on and has permanent address in the relevant sub-national region</li> </ul>

## Annex 2 – List of Key Resource Persons & Organizations

- **CSOs:** Aisyiah, Lembaga Kesehatan (Health Foundation) Nahdhatul Ulama, Indonesia Aids Coalition, Spiritia, Orbit, PKBI, Mahameru, Penabulu, AIDS Forum Jakarta
- **Bappenas:** Mr. Pungkas Bahjuri Ali (Director for Public Health & Nutrition) & team
- **Ministry of Health:** Mr. Donald Pardede (Ministerial Advisor for Economy & Health), Mrs. Wiendra Waworuntu (Director of Infectious Disease Prevention and Control), team at the Directorate General for Public Health, Planning Bureau, and representatives from the Center for Health Financing and Risk Protection, Sub Directorate TB, Sub Directorate HIV and STI
- **Ministry of Finance:** Directorate General of Budget, Fiscal Policy Agency
- **National Public Procurement Agency/LKPP:** Mr. Fadli Arif (Director for Development of Strategy & Policy of General Procurement) & team
- **Global Fund’s Country Coordinating Mechanism:** Mr. Samhari Baswedan (CCM Executive Secretary) & team
- **District Health Office - Surabaya City**

## Annex 3 – SWOT analysis

### S strengths

- Several mechanisms to channel public funds to CSOs are available, and have been implemented or used by the public sector – although mainly outside of the health sector
- Presidential regulation (Perpres 16/2018) on the new *Swakelola* mechanism was issued in 2018; LKPP has produced a follow-up regulation and a formal dissemination plan
- There is also an agreement within MOH to operationalize Perpres 16/2018
- Overall, the public sector has been able to independently fund health sector activities, with less than 1% of funds coming from donors

### W weaknesses

- There is a lack of awareness about existing public fund channeling mechanisms on both the Government and CSO side
- There is no platform to easily connect Government budget holders with non-state providers
- Few CSOs have met the requirements needed to access public funds such as providing tax identification numbers and tax and financial reports
- CSOs have limited resources and capacity to fully engage in the Government's lengthy budget planning cycle
- The absence of a CSO repository and quality assessment guideline makes it difficult for the government to review and monitor CSO performance
- The capacity of government agencies (in particular subnational regions) to contract and manage engagement with CSOs is limited.



## opportunities

- Several MOH units have involved CSOs in program implementation especially for outreach and service delivery of priority programs through partnership with Global Fund
- There is an opportunity to share lessons learned and transfer knowledge from the Global Fund experience on how to assess CSO capacity, design and manage CSO contracts, and monitor CSO performance with health sector budget holders
- The involvement of CSOs in other public sectors (advocacy, community mobilization, accountability, and service delivery) – also offer potential cross-learning opportunities particularly from those that have successfully become financially independent
- There is a high likelihood that a strategy for Public-Private Partnerships, including CSOs, will be featured more prominently in the upcoming National Medium-Term Plan
- There are ongoing initiatives in-country that work on strengthening public policy through CSO involvement (e.g. the Knowledge Sector Initiative (KSI) and KOMPAK)
- There are CSOs in-country that specialize in providing training on management, including financial management which could help develop CSO capacity in the health sector



## threats

- It is unclear if engaging with CSOs is seen as a priority at the sub-national level – where the majority of service delivery takes place
- Fear of potential procurement-related fraud allegations for public health managers may discourage engagement with CSOs
- Although LKPP has given more freedom to budget holders to design their own procurement mechanism, without the explicit sign-off from government auditors and law enforcement authorities budget holders will be unwilling to develop their own contest mechanisms to select CSOs
- Government audit office(s) and law enforcement authorities are not yet involved in the discussion and may raise objections
- Socialization and capacity building in a decentralized context will require significant government investment given the variety in decision making processes and differences in capacity

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