

## **PROJECT PROCUREMENT RISK ASSESSMENT**

### **EXECUTIVE SUMMARY**

#### **Overall Assessment**

1. The project procurement risk was assessed as moderate due to lack of staff capacity at the executing and implementing agency of the project, the Ministry of Education, Culture, Science and Sport (MECSS), particularly with regard to direct experience with civil works procurements and contracts. They do not have all the staff and systems in place to ensure civil works are procured and monitored effectively. The MECSS has implemented other Asian Development Bank (ADB) projects but always with the support of a project implementation unit (PIU) which included a procurement specialist. A properly structured and qualified PIU with detailed policies and procedures led by a competent project coordinator and staffed by a qualified procurement specialist will effectively mitigate the risks identified and ensure compliance with the Public Procurement Law and ADB guidelines. It should be noted that in the event of conflicting requirements, ADB procurement guidelines will prevail.

#### **Summary of Weaknesses and Risks Identified**

2. The MECSS has no fulltime procurement professional staff. Procurements are led by the relevant "investment officer" in the Department of Finance and Economics. Although these officers have received procurement training, procurement is not their profession and they have many other responsibilities. The department has no staff with the capacity to neither develop the complex specifications associated with civil works procurements, nor to administer contracts once active. Moreover, the MECSS staff lacks the capacity to prepare terms of reference (TORs), requests for proposals (RFPs), and evaluate expressions of interest (EOIs), technical and financial proposals. The inability to timely and properly perform these tasks will cause delays in the procurement and recruitment processes and contracting, which will further result in delays in the delivery of actual physical works, goods, and services.

3. The procurement law has requirements and guidance regarding the composition of bid evaluation committees and qualifications of committee members and these must be fully complied with. There is no designated staff at the MECSS who is specifically tasked with monitoring warranties and defect periods for high value assets. Hence, it is possible that the MECSS may not be getting full value for warranties on assets. The PIU is expected to perform this task for relevant project assets.

4. The MECSS does not have detailed procedures or qualified staff in place to monitor and control complex civil works contracts with multiple benchmarks and payments based on progress. The progress claimed by contractors needs to be verified, which requires technical knowledge. Budgets for civil works and payments need to be tracked and recorded to avoid cost overruns and timely completion of civil works.

5. There are also some issues with the MECSS asset management and goods receipt procedures and controls. The goods receipt process could have stronger checks and controls. Tracking of assets in service could also be improved.

6. A PIU staffed by a qualified and experienced procurement specialist has not been established by the MECSS at this point.

## Summary of Mitigation/Management Measures to Be Adopted

7. The PIU should include a procurement specialist with adequate procurement skills, knowledge, and experience supporting ADB or similar civil works projects. ADB will review and approve the TOR for the procurement specialist as well as the selection and recruitment processes. The relevant MECSS and PIU staff will be trained on ADB Procurement Guidelines (2015, as amended from time to time), Guidelines on the Use of Consultants (2013, as amended from time to time), and Standard Bidding Documents. There will also be an experienced project coordinator and a civil engineer on the PIU. The PIU will ensure all procurements of goods and civil works, and recruitment of consultants are conducted in compliance with the national procurement regulations and ADB guidelines. The Ulaanbaatar Metropolitan Education Department has staff engineers with the skills and experience to assist in developing specifications and provide technical expertise to the bid evaluation committees. These measures will provide the procurement and technical capacity, particularly for civil works procurements, that is currently not available at the MECSS.

8. Specifications, designs, drawings and bills of quantities will be prepared by local engineering firms with the support of PIU civil engineer and procurement specialist, and an international procurement specialist to be recruited under the project. The PIU procurement and other specialists will also assist the MECSS in preparing TORs and RFPs, and evaluating EOs, technical, and financial proposals. All goods procured under the project will be appropriately labelled and recorded, and reported in project quarterly and annual reports. The PIU will also ensure that contracts are properly monitored and adequate construction supervision is provided. In this connection, engineering firms which prepare designs, drawings and bills of quantities, construction supervision firm, and an international construction supervision training specialist will be recruited to assist the MECSS and PIU to supervise civil works contractors. Moreover, the PIU will monitor the performance of all consultants contracted for the project and ensure they deliver all services as required by their contracts. ADB will review the performance of contractors, suppliers, and consultants through missions.

### I. INTRODUCTION

9. The Government of Mongolia requested ADB support against a background of serious economic difficulties which have led to large revenue shortfalls and cuts in government budget, including that for the education sector. The project aims to sustain access to and quality of education during economic difficulties through the following five outputs: (i) gap in enrollment capacity of schools and kindergartens narrowed; (ii) unfinished curriculum reform and associated assessment system reforms completed; (iii) teaching and learning materials that accompany the new curriculum provided; (iv) teachers' and managers' knowledge and skills upgraded for the new curriculum and assessments; and (v) systems for planning and managing education services strengthened. The project is estimated to cost \$50.69 million and will finance civil works, school equipment and furniture, teaching-learning materials, tools and equipment, training, workshops, project management, physical and price contingencies, interest, and other charges during implementation. The project will be implemented from November 2017 to June 2021. The executing agency of the project will be the MECSS. The implementing agencies will be the MECSS and Ulaanbaatar Metropolitan Education Department.

10. The procurement risk assessment (PRA) was conducted on 13–24 February 2017 in accordance with the *Guides on Assessing Procurement Risks and Determining Project Procurement Classification*. The PRA considered the organizational and staff capacity, information management, procurement practices and their effectiveness, and accountability

measures at the MECSS. Preparation activities included reviewing documents, ADB's ongoing procurement experience, interviews with counterpart, and discussions with stakeholders.

## **II. PROJECT PROCUREMENT RISK ASSESSMENT**

### **A. Overview**

#### **(i) Organization and Staff Capacity**

11. The MECSS establishes a procurement committee for each major procurement as required by The Public Procurement Law of Mongolia. The chairman of the committee is usually the Investment Officer from the Finance and Economics Department who is responsible for investments in the relevant area. It can also be another senior official. The committee is appointed by the state secretary and will include officers with other technical knowledge and responsibilities, possibly from other government agencies.

12. The MECSS has no fulltime procurement professionals after the recent reorganization of the Finance and Economics Department. Procurements are usually coordinated by the relevant investment officer who is responsible for the procurement. These officers have all received procurement training, and hold "A3" certificate which indicates they have completed a 3-day procurement training provided by the Ministry of Finance. However, they are not procurement professionals and have limited procurement experience.

13. A project implementation unit (PIU) will be established by the MECSS to manage day-to-day activities of the project, including procurement. The PIU remains yet to be established and staffed by a project coordinator, a financial management specialist/accountant, a procurement specialist, a civil engineers, and other professionals.

#### **(ii) Information Management**

14. The MECSS has good procedures and facilities in place to organize and store documents. Documents are kept in archives for 10 years, which is longer than required for ADB project documents. They also have systems to back up electronic data. However, the MECSS has not always been diligent, allowing documents that should be kept confidential are left unsecured. Documents must be handled securely and privately to ensure a fair and transparent process during all stages of procurement. Once the bid process is complete, documents must be filed systematically to ensure all records are available to auditors and other parties who may need access to documents.

#### **(iii) Procurement Practices**

15. The Public Procurement Law which is generally based on international best practices guides procurement at the MECSS. The MECSS procurement procedures comply with the law and in general with ADB guidelines and procedures under ADB-financed projects. In case there are discrepancies or uncertainties, the ADB guidelines shall prevail. The MECSS itself does not have all the staff with technical competency to develop specifications for civil works and goods and TORs for consulting services required under this project. There will be civil works procurements and recruitment of technical consultants. Hence, the MECSS will need a procurement specialist on the PIU to manage procurements and consultant recruitments and administer contracts. The PIU should also have a civil engineer who will participate in civil works procurement processes, assist in developing specifications, and monitoring contract compliance,

with the support of international and national consultants.

**(iv) Effectiveness**

16. The MECSS does not have the capacity to develop detailed specifications or monitor and control complex civil works contracts. There have been instances of poor oversight of building in the past, resulting in poor performance of contractors and poorly constructed buildings. Complaints resolution mechanisms are outlined in the Public Procurement Law and should be referred to in contracts. The goods receipt process could also include stronger internal controls. The MECSS has neither the sufficient technical expertise to develop detailed TORs and RFPs for consultants, and evaluate EOIs, technical and financial proposals. They have no fulltime procurement professionals on staff, although staff responsible for procurements do have procurement experience and training.

**(v) Accountability Measures**

17. The Public Procurement Law outlines ethical standards and requires the avoidance of any conflict of interest in procurements. Fines are imposed on violations. There have been challenges in the past with possible noncompliance with the ethical standards, and individuals attempting to provide advantages to particular bidders. Once the procurement plan for any fiscal year is approved along with the budget, the department which requires goods, works and services will implement procurements as per the plan. Duties concerning procurement transactions, contracts, payments, recording of procurement transactions and events are segregated. Procurement decisions are tracked as all documents are kept on file and are also supposed to be scanned and stored in digital format.

**B. Strengths**

18. The Public Procurement Law is consistent with international best practices, and procurements under previous ADB projects have generally been in compliance with the law and ADB guidelines. In case of any discrepancy, ADB guidelines will prevail. Harmonized standard bidding documents approved by ADB will be used to prepare bidding documents under the project. The bid evaluation/consultant selection committees for goods, works, and services will be established by the State Secretary of the MECSS as required by the law. The MECSS has effective procedures in place to establish bid evaluation/consultant selection committees, process contracts and payments. The Ulaanbaatar Metropolitan Education Department, one of the implementing agencies of the project, has staff engineers and has experience with building schools and kindergartens. The PIU will be staffed by qualified and experienced professionals and will be supported by international and national consultants, which will bring all the required technical competencies to the project. The PIU procurement specialist will provide the necessary competencies in terms of procurement skills and knowledge. The PIU will be responsible for ensuring effective and efficient procurement processes and contractual compliance.

**C. Weaknesses**

19. The MECSS staff who conduct procurements are not procurement professionals and have responsibilities other than procurement, although they have procurement training and experience. A PIU staffed by a qualified and experienced procurement specialist is not yet established by the MECSS. Whereas the law outlines requirements for qualifications of bid evaluators and the composition of the bid evaluation committee, the requirements are not always observed. Bid evaluation committees do not always include members with the necessary technical knowledge.

There is some weakness in the verification of goods procured as they are only checked by the officer in charge of the procurement. Goods received should also be checked against the invoice/purchase order by a procurement specialist or other professional to reduce the opportunities for collusion. There is no established procedure at the MECSS to track warranty and latent defects liability periods. Civil works contracts oversight in the past has been inadequate and substandard schools have been built. Under some previous contracts, construction sites were only monitored on an occasional basis which was insufficient to ensure contract compliance.

#### D. Procurement Risk Assessment and Management Plan

Risk Area	Risk Assessment	Risk Description	Mitigation Measures or Risk Management Plan
<b>Organizational and Staff Capacity</b>			
Procurement Department/Unit	Substantial	The MECSS has no fulltime procurement staff. Procurements are organized by "Investment Officers" in the Finance and Economics Department. These officers have received procurement training and hold their "A3" certificates. However, they are not procurement professionals and have other tasks and responsibilities.	<p>A procurement specialist with the necessary skills and experience should be recruited to the PIU. The specialist should have ADB project experience and should be provided with training in ADB requirements.</p> <p>There will be a civil engineer on the PIU who participates in civil works bid evaluation committees, supports the development of appropriate specifications, and monitors contract compliance, with the support of international and national consultants. The Ulaanbaatar Metropolitan Education Department has significant civil works procurement experience and engineers on staff who can bring valuable skills and knowledge to the bid evaluation committees.</p>
Project Management Unit	Substantial	The PIU should include a procurement specialist with the necessary skills and experience to procure civil works, goods, and services, including consulting services,	ADB will approve terms of reference (TOR) for the procurement specialist and review the selection and recruitment processes.

Risk Area	Risk Assessment	Risk Description	Mitigation Measures or Risk Management Plan
		and experience with ADB or similar projects.	
<b>Information Management</b>			
Retention and Filing of Procurement Records and Contract Papers	Low	Hard copies of all original documents are filed in the Finance and Economics department and later moved to archives where they are kept for 10 years.	The PIU must develop an effective document and electronic data storage procedures.
<b>Procurement Practices</b>			
Goods and Works	Substantial	<p>The MECSS has experience in organizing procurement committees, and managing procurements and follow the requirements of the Public Procurement Law. There have been issues with poor supervision of contractors resulting in the construction of substandard kindergarten and school buildings and delivery of subpar products. The MECSS does not have engineering technical expertise to develop detailed specifications for civil works or monitor contract compliance. The goods receipt procedure is managed by one staff only, whereas at least two staff, preferably one with technical and one with procurement experiences should check goods against invoices and delivery notes.</p> <p>Previous and existing ADB projects have been supported by a procurement specialist</p>	<p>The PIU civil engineer should participate in procurements of civil works and contract monitoring, with the support of engineering firms, international procurement specialist, construction supervision training specialists, and national construction supervision specialists. Engineers with significant school and kindergarten construction experiences of the Ulaanbaar Metropolitan Education Department can be part of civil works bid evaluation committees. The ADB will review the procurements and performance of contractors, suppliers, and consultants.</p>

Risk Area	Risk Assessment	Risk Description	Mitigation Measures or Risk Management Plan
		in the PIU.	
Consulting Services	Moderate	The MECSS's experience with recruiting consultants has been limited to that under ADB and other donor-funded projects which always had a procurement specialist to support the process. The MECSS staff does not always have the technical expertise to develop TORs and request for proposals for consultants.	The PIU should develop procedures that will ensure compliance with the Public Procurement Law and ADB guidelines. PIU staff with the relevant technical skills and knowledge should be included in consultant selection committees and be involved in the development of specifications/TORs and monitoring of contract compliance.
Payments	Low	The MECSS has a good payment processing system with strong internal controls. The goods receipt process could be strengthened and there are issues with contract compliance for civil works contracts.	The PIU will develop procedures/internal controls to ensure all payments are valid and certified/authorized by a technically competent staff or consultant. The PIU financial management specialist/accountant will control and track all payments as per ADB guidelines. missions will also review payments.
<b>Effectiveness</b>			
Monitoring of contractual performance and complaints resolution mechanisms	Moderate	In the past, the MECSS did not have sufficient monitors and did not always adequately supervise construction sites. As a result, school and kindergarten buildings constructed turned out to be of substandard quality. The MECSS does not have effective internal controls to ensure building contractors fulfill their contractual obligations.	The MECSS and the PIU will be supported by national construction supervision specialists (engineers) and international construction supervision training specialist, as well as engineering firms which will prepare designs, drawings, specifications, and bills of quantities. They will ensure the contractors' compliance with technical requirements of contracts. Contractual performance will be

Risk Area	Risk Assessment	Risk Description	Mitigation Measures or Risk Management Plan
			monitored and controlled by the PIU and will be reported in the quarterly and annual project reports. ADB will review the performance of civil works contractors, suppliers, and consultants.
<b>Accountability Measures</b>			
Code of ethics, segregation of duties, and documentation	Low	The Public Procurement Law outlines ethical standards for all government officials involved in procurement. They should not serve on a procurement committee if there is a conflict of interest. There have been issues in the past with staff trying to unfairly promote the interests of certain vendors.	MECSS and PIU staff will be trained in ADB's anticorruption and integrity policy. The ADB will also review potential corruption and integrity issues in the project procurements.
<b>Overall Risk</b>	<b>Moderate</b>		

### III. PROJECT SPECIFIC PROCUREMENT THRESHOLDS

20. International competitive bidding (ICB) will be applied to goods contracts estimated to cost \$2 million and more, and works contracts estimated to cost \$5 million and more. Goods contracts worth less than \$2 million and works contracts worth less than \$5 million will follow national competitive bidding (NCB). Shopping will be used for contracts for works and goods valued up to \$100,000. NCB procurement will be carried out in accordance with the Public Procurement Law of Mongolia, subject to modifications agreed with ADB.

### IV. PROCUREMENT PLANS

21. There will be 11 works contracts for the amount of \$33,790,000 and five goods contracts for the amount of \$4,330,000 will be procured through national competitive bidding, while at least seven goods contracts for the total amount of \$116,000 will be procured through shopping. It is expected that the proposed project will fund 23.0 person-months of international and 416.5 person-months of national consulting services to provide expertise in architectural engineering, civil works procurement, construction supervision, environment safeguards, social and gender development, curriculum standards, Mongolian and Kazakh languages, sciences, student assessment, teacher evaluation, school-based management, teaching and learning materials, e-learning, information technology (IT) systems, and physical investment planning. Five engineering firms which will prepare designs, drawings, specifications, and bills of quantities for school and kindergarten construction and expansion (150 person-months [national]), one IT firm which will

customize IT systems for Education Evaluation Center (40 person-months [national]), and one construction supervision firm (150 person-months [national]) will be engaged through QCBS, using the quality- and cost- ratio of 90:10 and simplified technical proposal. One engineering firm which will prepare designs, drawings, specifications, and bills of quantities for Institute of Teachers Professional Development's science, math and IT laboratories will be engaged through least cost selection, using simplified technical proposal. In addition, 9 international consultants (23.0 person-months) and 19 national consultants (72.5 person-months) will be recruited through individual consultant selection. There will be no advance contracting and retroactive financing for the project.

## **V. CONCLUSION**

22. The project arrangements with a qualified PIU and other mitigation measures, will be satisfactory. The ADB and the MECSS will jointly undertake reviews of the project at least once a year. The reviews will assess progress in the project activities, including implementation of the mitigation measures, procurement transactions, performance of contractors, suppliers and consultants, monitoring and reporting of project assets, identify issues and constraints, and determine necessary remedial actions and adjustments.

**APPENDIX:** Completed Procurement Risk Assessment Questionnaire

### APPENDIX: PROJECT PROCUREMENT RISK ASSESSMENT QUESTIONNAIRE

QUESTION	RESPONSE of MECSS	REPNSE of Ulaanbaatar Municipal Govt. Procurement Dept.	RISK
<b>A. ORGANIZATIONAL AND STAFF CAPACITY</b>			
PROCUREMENT DEPARTMENT/UNIT			
A.1 Does the agency or Government have a Procurement Committee that is independent from the head of the agency?	Yes, they create one for each bid appointed by the State Secretary.	Yes, they create one for each tender as per the procurement law.	Low
A.2 Does the agency have a procurement department/unit, including a permanent office that performs the function of a Secretariat of the Procurement Committee?	No procurement staff but staff with the A3 Procurement Certificate participates on the procurement committees. A procurement specialist will be recruited for the PIU.	Yes, there are 16 procurement staff.	Low
A.3 If yes, what type of procurement does it undertake?	Staff at the ministry have experience with procurements for construction projects, textbooks and all types of goods.	Roads, buildings, equipment all sorts of goods.	Low
A.4 How many years' experience does the head of the procurement department/unit have in a direct procurement role?	The department head has been with MECSS since 2013.	The department head has 7 years of procurement experience.	Low
A.5 How many staff in the procurement department/unit are: i. full time ii. part time iii. seconded	There are no permanent procurement specific staff but several staff supervise procurements as required. The person responsible for investments in the sector will lead the procurements in his or her sector.	Sixteen.	Low
A.6 Do the procurement staff have a high level of English language proficiency (verbal and written)?	The MECSS staff have limited English language proficiency.	Three staff speak English fluently.	High
A.7 Are the number and qualifications of the staff sufficient to undertake the additional procurement that will be required under the proposed project?	No, the PIU will need to have a procurement specialist or officer to serve as the secretary of the procurement committees. There are several qualified staff to serve on procurement committees however they are not procurement professionals and they may not have the technical knowledge required for civil works procurements etc.	Yes, all the staff have taken procurement training. The PIU should have a procurement specialist with the adequate skills and experience.	High

QUESTION	RESPONSE of MECSS	REPOSE of Ulaanbaatar Municipal Govt. Procurement Dept.	RISK
A.8 Does the unit have adequate facilities, such as PCs, internet connection, photocopy facilities, printers etc. to undertake the planned procurement?	Yes, the offices are well equipped and modern.	The offices are well equipped.	Low
A.9 Does the agency have, or have ready access to, a procurement training program?	Yes, there is a 3-day procurement training program available for all government staff. It is provided by the Ministry of Finance (MOF) in collaboration with the National University of Mongolia. Successful participants are awarded an A3 certificate.	Yes, there is a 3-day procurement training program available for all government staff. It is provided by the MOF in collaboration with the National University of Mongolia. Successful participants are awarded an A3 certificate.	Low
A.10 At what level does the department/unit report (to the head of agency, deputy etc.)?	There is no permanent procurement staff. The staff supervising procurements report to the Director of the Finance and Economics Department who reports to the State Secretary.	The department head reports to the Mayor, the head of the municipal government.	Low
A.11 Do the procurement positions in the agency have job descriptions, which outline specific roles, minimum technical requirements and career routes?	The staff that supervise procurement committees have job descriptions that describe their procurement responsibilities.	Yes.	High
A.12 Is there a procurement process manual for goods and works?	They follow the procurement law and there is a manual from the MOF. They also follow the ADB Guidelines and reference two existing ADB projects.	They follow the procurement law and there is a manual from the MOF. They also follow the ADB and World Bank Guidelines for projects funded by those entities.	Low
A.13 If there is a manual, is it up to date and does it cover foreign-assisted projects?	Yes, the ADB guidelines will be followed which are up to date.	Yes, the ADB guidelines will be followed which are up to date.	Low
A.14 Is there a procurement process manual for consulting services?	Yes, and ADB guidelines will be followed for the project.	Yes.	Low
A.15 If there is a manual, is it up to date and does it cover foreign-assisted projects?	Yes, and ADB guidelines will be followed for the project.	Yes.	Low
<b>PROJECT MANAGEMENT UNIT</b>			
A.16 Is there a fully (or almost fully) staffed PMU for this project currently in place?	Not at present, the PIU is to be established and it is recommended that a procurement expert be included. There are PIUs in place for other projects.	Not at present, the PIU is to be established and it is recommended that a procurement expert be included.	Substantial

<b>QUESTION</b>	<b>RESPONSE of MECSS</b>	<b>REPONSE of Ulaanbaatar Municipal Govt. Procurement Dept.</b>	<b>RISK</b>
A.17 Are the number and qualifications of the staff sufficient to undertake the additional procurement that will be required under the proposed project?	The PIU will have a procurement specialist and a project manager. It is also expected that the Municipal Government Procurement Department will provide technical assistance.	Yes.	Substantial
A.18 Does the unit have adequate facilities, such as PCs, internet connection, photocopy facilities, printers etc. to undertake the planned procurement?	Yes, and the PIU will be equipped adequately with personal computer, internet connection, photocopy facilities, printers, etc. under the project.	Yes, and the PIU will be equipped adequately with personal computer, internet connection, photocopy facilities, printers, etc. under the project.	Low
A.19 Are there standard documents in use, such as Standard Procurement Documents/Forms, and have they been approved for use on ADB funded projects?	Yes, they have and use all necessary forms.	Yes, they have and use all necessary forms.	Low
A.20 Does the agency follow the national procurement law, procurement processes, guidelines?	The MECSS follows the Public Procurement Law of Mongolia, and MOF manual.	Yes, and the PIUs of the various projects follow the respective donor requirements as well.	Low
A.21 Do ToRs for consulting services follow a standard format such as background, tasks, inputs, objectives and outputs?	Yes. The procurement specialist will ensure procurement law and ADB guidelines are followed.	Yes.	Low
A.22 Who drafts the procurement specifications?	The procurement committee formed for each procurement. Technical experts are included as required. For the civil works procurements in the project staff from the Ulaanbaatar Metropolitan Education Department and the Procurement Department of the Ulaanbaatar Municipal Government should be included as well as engineers from the PIU.	The technical experts in the departments draft the specifications which may be edited by the procurement department staff. Consultants are retained if necessary to provide technical expertise.	Substantial
A.23 Who approves the procurement specifications?	The head of the procurement committee who is the "customer" but for the project the project director should also approve. Procurement professionals should assist with drafting the specifications.	The head of the department procuring the goods or services. The Bid documents are approved by the head of the procurement department, hence she also effectively approves the specifications.	Low
A.25 Are records of the sale of bidding documents immediately available?	Yes, all documents are kept on file by the Head of the Committee, later they are transferred to the MECS archive.	Yes, all documents are kept by the procurement department both paper and electronic versions.	Low

<b>QUESTION</b>	<b>RESPONSE of MECSS</b>	<b>REPONSE of Ulaanbaatar Municipal Govt. Procurement Dept.</b>	<b>RISK</b>
A.26 Who identifies the need for consulting services requirements?	For the project, the project director.		Low
A.27 Who drafts the Terms of Reference (ToR)	The procurement committee should draft the TORs supported by relevant technical experts. These should be reviewed and approved by ADB.		Low
A.28 Who prepares the request for proposals (RFPs)	The PIU will prepare these as per ADB requirements.		Low
<b>B. INFORMATION MANAGEMENT</b>			
B.1 Is there a referencing system for procurement files?	Yes, hard copies are filed in the Finance and Economics Dept. then transferred to archives for long-term storage, 10 years.	Yes, all files are kept in an orderly fashion.	Low
B.2 Are there adequate resources allocated to record keeping civil works, which includes the record keeping system, space, equipment and personnel to administer the procurement records management functions within the agency?	Yes, each Investment Officer keeps their own procurement records. The PIU will have facilities for this.	Yes, they have adequate facilities to store the documents. They have a designated archive room.	Moderate
B.3 Does the agency adhere to a document retention policy (i.e. for what period are records kept)?	Yes, the records are kept by the Finance and Economics Department for 2 years then transferred to the MECSS Archive Dept. for long-term storage.	Documents are kept for 5 years then transferred to the city archived for long-term storage. For this ADB project they will be kept as per ADB requirements.	Low
B.4 Are copies of bids or proposals retained with the evaluation?	All documents related to a procurement are kept including procurement committee meetings, bid documents, bids received etc.	Yes, hard copies and electronic scans are made.	Low
B.5 Are copies of the original advertisements retained with the pre- contract papers?	Yes.	Yes.	Low
B.6 Is there a single contract file with a copy of the contract and all subsequent contractual correspondence?	Yes, a file is created for each contract with all correspondence, payments etc.	Yes, the City Investment Dept. has procedures to manage contracts.	Low
B.7 Are copies of invoices included with the contract papers?	Yes.	Yes.	Low
B.8 Is the agency's record keeping function supported by IT?	Documents related to procurement are scanned and stored in electronic format.	Yes	Low

QUESTION	RESPONSE of MECSS	REPOSE of Ulaanbaatar Municipal Govt. Procurement Dept.	RISK
<b>C. PROCUREMENT PRACTICES</b>			
<b>Goods and Works</b>			
C.1 Has the agency undertaken procurement of goods or works related to foreign assistance recently (last 12 months or last 36 months)? If yes, indicate the names of the development partner/s and project/s.	Yes, the MECSS has had several ADB projects most recently the dormitory project but they have always had a PIU with a procurement specialist.	Yes, they have undertaken procurements for World Bank Fresh Air project and the ADB Civil Works Development of the Ger area.	High
C.2 If the answer is yes, what were the major challenges faced by the agency?	No significant issues. On occasion, they do not receive bids as there are no local suppliers.	There have been no major challenges other than some challenges with the integrity and professionalism of the PIU staff.	High
C.3 Is there a systematic process to identify procurement requirements (for a period of one year or more)?	Yes. The MECSS develops an annual procurement plan that is aligned with the budget.	Yes, they make an annual procurement plan that coincides with the budget preparation and approval process.	Low
C.4 Is there a minimum period for the preparation of bids and if yes, how long?	There is no specified minimum period for bid preparation but 1 or 2 months is usually required depending on the complexity of the procurement.	Thirty days is the figure prescribed by the procurement law.	Low
C.5 Are all queries from bidders replied to in writing?	Yes, all queries from bidders are replied to in writing.	Yes.	Low
C.6 Does the bidding document state the date and time of bid opening?	Yes, bidding documents should state the date, time, and place of bid opening.	Yes.	Low
C.7 Are bids opened in public?	Yes, and all bidders are invited to attend.		Low
C.8 Can late bids be accepted?	No.		Low
C.9 Can bids (except late bids) be rejected at bid opening?	No.		Low
C.10 Are minutes of the bid opening taken?	Yes.		Low
C.11 Are bidders provided a copy of the minutes?	No, but they can be given out on request.	No.	Low
C.12 Are the minutes provided free of charge?	Yes.	No.	Low
C.13 Who undertakes the evaluation of bids (individual(s), permanent committee, ad-hoc committee)?	A procurement committee is established for each procurement and they evaluate bids along with other tasks.	Same.	Low

QUESTION	RESPONSE of MECSS	REPONSE of Ulaanbaatar Municipal Govt. Procurement Dept.	RISK
C.14 What are the qualifications of the evaluators with respect to procurement and the goods and/or works under evaluation?	The evaluators should be technically competent to evaluate the bids and have knowledge of the goods or works or have procurement expertise. The MECSS does not have engineers or full time procurement professionals.	A procurement professional is the secretary of the committee. The committee is from 5–7 members including one from the Procurement Dept. The rest are from the customer or added for technical expertise, etc.	High
C.15 Is the decision of the evaluators final or is the evaluation subject to additional approvals?	The decision of the evaluators is final and they sign on the evaluation meeting minutes.	Same.	Substantial
C.16 Using the three 'worst-case' examples in the last year, how long from the issuance of the invitation for bids can the contract be awarded?	Four months.	A little over 3 months for the longest one due to complaints from losing bidders.	Substantial
C.17 Are there processes in place for the collection and clearance of cargo through ports of entry?	Yes, but clearance of cargos through ports of entry is normally the responsibility of the supplier assisted by its local partner or the supplier's representative.	This responsibility is assigned to vendors.	Low
C.18 Are there established goods receiving procedures?	The Procurement Committee receives goods and verifies they match the specifications and contract. However, in practice only the investment officer has been receiving goods.	Yes, the purchasing dept. receives and checks goods.	Moderate
C.19 Are all goods that are received recorded as assets or inventory in a register?	Yes, all assets are recorded in the GFMS system. There is no other asset register and details are not recorded in the GFMS.		High
C.20 Is the agency/procurement department familiar with letters of credit?	No, they do not use them.	The Procurement Dept. does not deal with letters of credit. These will not be used by the agency in the project.	Moderate
C.21 Does the procurement department register and track warranty and latent defects liability periods?	No, but the PIU should do this.	The Procurement Department keeps warranties and makes them available if necessary.	High
<b>Consulting Services</b>			
C.22 Has the agency undertaken foreign- assisted procurement of consulting services recently (last 12 months, or last 36 months)? (If yes, please indicate the names of the development partner/s and the Project/s.)	Yes. They have for other ADB Projects, Skills for Employment and Improving School Dormitory projects currently. These procurements were organized by the PIU for those projects though.	No.	High

<b>QUESTION</b>	<b>RESPONSE of MECSS</b>	<b>REPONSE of Ulaanbaatar Municipal Govt. Procurement Dept.</b>	<b>RISK</b>
C.23 If the above answer is yes, what were the major challenges?	No major challenges but again there was a procurement specialist in the PIU to support procurement.	Not applicable.	High
C.24 Are assignments and invitations for expressions of interest (EOIs) advertised?	Yes.	Yes.	Low
C.25 Is a consultants' selection committee formed with appropriate individuals, and what is its composition (if any)?	The selection committees are usually composed of the MECS staff. For the project staff from the Ulaanbaatar Metropolitan Education Department and the Ulaanbaatar Municipal Government will be included as required.	They follow the guidelines in the procurement law for procurement of consultants.	High
C.26 What criteria are used to evaluate EOIs?	For QCBS, EOIs are evaluated based on the firms' experience, management capacity, technical capacity and geographical experience of the firms. For the recruitment through ICS, EOIs are evaluated based on general qualifications, experience specific to the assignment, and geographical/country experience (international), or experience with international organizations (national). For the recruitment through CQS, more detailed criteria are specified depending on the assignment.	Same.	Substantial
C.27 Historically, what is the most common method used (QCBS, QBS, etc.) to select consultants?	The least cost selection is the usual method.	The least cost selection is the most commonly used method to select consultants for vendors that meet the specifications if the value is below \$50 million if more than 30% is price and 70% is for technical qualifications.	Moderate
C.28 Do firms have to pay for the RFP document?	No.	No.	Low
C.29 Does the proposal evaluation criteria follow a pre-determined structure and is it detailed in the RFP?	Yes, a format is detailed in the RFP.	Same.	Moderate
C.30 Are pre-proposal visits and meetings arranged?	Not usually, direct contact is not allowed.	They will respond to all bidders in writing if questions are submitted.	Moderate
C.31 Are minutes prepared and circulated after pre-proposal meetings?	Yes, minutes are prepared and circulated.		Moderate
C.32 To whom are the minutes distributed?	Procurement committee members.		Moderate

<b>QUESTION</b>	<b>RESPONSE of MECSS</b>	<b>REPONSE of Ulaanbaatar Municipal Govt. Procurement Dept.</b>	<b>RISK</b>
C.33 Are all queries from consultants answered/addressed in writing?	Yes.	Yes.	Low
C.34 Are the technical and financial proposals required to be in separate envelopes and remain sealed until the technical evaluation is completed?	Yes, the Public Procurement Law requires that technical and financial proposals should be in separate envelopes. Financial proposals should remain sealed until after the technical proposal is evaluated.	Yes, they also follow the procurement law.	Low
C.35 Are proposal securities required?	Yes, the procurement law states that "If required, the procuring entity may set tender security to be equal to 1-2% of the cost estimate given goods, works and/or services and indicate in the tendering document."	Same.	Low
C.36 Are technical proposals opened in public?	Yes, as required by the procurement law and ADB Guidelines.	Same.	Low
C.37 Are minutes of the technical opening distributed?	To procurement committee members.	Same.	Low
C.38. Do the financial proposals remain sealed until technical evaluation is completed?	Yes.	Yes.	Low
C.39 Who determines the final technical ranking and how?	The procurement committee which should include members with relevant technical expertise.	Same.	High
C.40 Are the technical scores sent to all firms?	Yes.	Same.	Low
C.41 Are the financial proposal opened in public?	Yes.	Yes.	Low
C.42 Are minutes of the financial opening distributed?	To the procurement committee.	Same.	Low
C.43 How is the financial evaluation completed?	Based on the lowest cost amongst the bids that met technical requirements.	Same.	Moderate
C.44 Are face to face contract negotiations held?	Yes.	No, they only negotiate by correspondence, letters.	Low
C.45 How long after financial evaluation is negotiation held with the selected firm?	Usually immediately.	Usually immediately.	Low
C.46 What is the usual basis for negotiation?	The winning vendor's bid proposal.	Usually in regards to the price, trying to negotiate better price or terms.	Low
C.47 Are minutes of negotiation taken and signed?	Yes.	Yes.	Low
C.48 How long after negotiation is the contract signed, on average?	5-10 days.	One week.	Low

QUESTION	RESPONSE of MECSS	REPOSE of Ulaanbaatar Municipal Govt. Procurement Dept.	RISK
C.49 Is there an evaluation system for measuring the outputs of consultants?	No.		Moderate
<b>Payments</b>			
C.50 Are advance payments made?	Yes, if they are specified in the contract.	Yes, if they are specified in the contract.	Low
C.51 What is the standard period for payment included in contracts?	The standard period for payment depends on the type of goods, works and services purchased.	Varies by type of contract.	Moderate
C.52 On average, how long is it between receiving a firm's invoice and making payment?	One month or less depending on the payment. Payment on complex contracts with technical requirements may take longer to certify		Moderate
C.53 When late payment is made, are the beneficiaries paid interest?	Not applicable.	Not applicable.	Low
<b>D. EFFECTIVENESS</b>			
D.1 Is contractual performance systematically monitored and reported?	The Construction Development Center monitors contracts and serves as the "Customer's Engineer" or "Project Manager". However, they have not effectively ensured contractors comply with contractual obligations.	Yes, by the purchasing department.	Substantial
D.2 Does the agency monitor and track its contractual payment obligations?	Yes but there have been issues of payments made to building contractors who did not deliver the quality of work required. The Construction Development Center has only been able to send monitors to building sites once a week which is much less than is required.	Yes.	Moderate
D.3 Is a complaints resolution mechanism described in national procurement documents?	Yes, complaints resolution mechanisms are described in the Public Procurement Law.	Yes, complaints resolution mechanisms are described in the Public Procurement Law.	Moderate
D.4 Is there a formal non-judicial mechanism for dealing with complaints?	Yes, these are described in the procurement law.	Same.	Low
D.5 Are procurement decisions and disputes supported by written narratives such as minutes of evaluation, minutes of negotiation, notices of default/withheld payment?	Yes, meeting minutes and all correspondence are kept on file.	Same.	Moderate

QUESTION	RESPONSE of MECSS	REPNSE of Ulaanbaatar Municipal Govt. Procurement Dept.	RISK
<b>E. ACCOUNTABILITY MEASURES</b>			
E.1 Is there a standard statement of ethics and are those involved in procurement required to formally commit to it?	Yes. These are outlined in the procurement law.	Same.	Low
E.2 Are those involved with procurement required to declare any potential conflict of interest and remove themselves from the procurement process?	Yes, again this is in the procurement law.	Yes, but there have been issues with PIU staff.	Substantial
E.3 Is the commencement of procurement dependent on external approvals (formal or de-facto) that are outside of the budgeting process?	Once the procurement plan for a financial year and the accompanying budget are approved by the Parliament, procurement can commence immediately and no further approval is required.	Same.	Low
E.4 Who approves procurement transactions, and do they have procurement experience and qualifications?	Procurement transactions are initiated and approved by the "purchasing" department. The procurement committee supervises bidding and contracting. Committee members should have an A3 Procurement Certificate or bring technical qualifications to the committee.	Same	Low
E.5 Which of the following actions require approvals outside the procurement unit or the evaluation committee, as the case may be, and who grants the approval?			
a) Bidding document, invitation to pre-qualify or RFP	The procurement committee which will include members from outside the Finance and Economics Dept.		Low
b) Advertisement of an invitation for bids, pre-qualification or call for EOIs	The procurement committee which will include members from outside the Finance and Economics Dept.		Low
c) Evaluation reports	The procurement committee which will include members from outside the Finance and Economics Dept.		Low
d) Notice of award	The procurement committee which will include members from outside the Finance and Economics Dept.		Low
e) Invitation to consultants to negotiate	The procurement committee which will include members from outside the Finance and Economics Dept.		Low

<b>QUESTION</b>	<b>RESPONSE of MECSS</b>	<b>REPONSE of Ulaanbaatar Municipal Govt. Procurement Dept.</b>	<b>RISK</b>
f) Contracts	Contracts are prepared by the Department of Finance and Economics and approved by the department which requires the goods, works and services and the State Secretary.	Draft is prepared by the Procurement Dept. then the customer and vendor negotiates details. Contracts are signed by customer, vendor, and Head of the City Treasury Dept.	Low
E.6 Is the same official responsible for: (i) authorizing procurement transactions, procurement invitations, documents, evaluations and contracts; (ii) authorizing payments; (iii) recording procurement transactions and events; and (iv) the custody of assets?	No, there is a procedure with effective internal controls and proper segregation of duties for the different responsibilities. Goods receipt are usually only checked by one staff and two or more would be better.	No, there is a procedure with effective internal controls and proper segregation of duties for the different responsibilities.	Low
E.7 Is there a written auditable trail of procurement decisions attributable to individuals and committees?	Yes, all documents are kept including minutes of all meetings. These are kept by the Finance and Economics Dept. for 2 years then moved to archives for 10.	Yes, all documents are retained by the Procurement Dept. then moved to archives.	Moderate