

PROCUREMENT CAPACITY ASSESSMENT

I. PROCUREMENT CAPACITY ASSESSMENT

A. General

1. ADB requires an assessment of the capacity of the executing agency (EA) to procure the goods and works and consulting services required in the project preparation process, and recommendations for mitigation actions that should minimize any weaknesses or constraints. Specifically, the assessment process seeks to:

- (i) evaluate the adequacy of the EA and implementing agencies' existing processes adopted for procurement and their ability to comply with ADB's Procurement Guidelines (2013 as amended from time to time) using standard ADB assessment tools;
- (ii) identify the need for capacity building and training for the executing and implementing agencies during the project implementation to develop the staff's competence in areas relating to procurement; and,
- (iii) define the appropriate level of review, either prior or post by ADB.

2. The assessment contains three components:

- (i) The assessment of general procurement environment
- (ii) A questionnaire to be completed by the EA
- (iii) The procurement capacity assessment and recommendations.

B. Expected Procurement Under the Project

3. There will be a broad range of procurement for the project involving road maintenance and rehabilitation civil works, performance-based maintenance works, and consulting services and goods.

4. The international competitive bidding (ICB) procedure will be used for procurement of road construction civil works, including the proposed road rehabilitation and periodic maintenance works. The project preparatory technical assistance team has developed the procurement plan (part of project administration manual (PAM)) and assisted the Ministry of Road and Transport Development (MRTD) in the preparation of draft bidding documents, and the pilot performance-based maintenance contract.

5. For procurement of consulting services for loan implementation including construction supervision, quality-cost based selection (QCBS) method will be adopted. The implementation consultants will be recruited either as individuals or as a firm using quality and cost based selection in accordance with ADB's Guidelines on the Use of Consultants (2013, as amended from time to time), using a ratio of 90% for the technical proposal and 10% for the financial proposal.

6. Advance contracting is expected to be sought by the MRTD. All works contracts will be financed by ADB, will be procured using ADB procurement and consultant selection guidelines.

C. General Procurement Environment Assessment

7. This assessment identifies the level of risks that exist within the general procurement environment. It is shown in Appendix 1.

1. Legal and Regulatory Framework – Low.

8. **Average** risks exist in participation of foreign bidders: National preference scheme applies in some cases. Although foreign bidders and consultants are not forced to submit bids through or with local partners, there is potential for foreign bidders to be encouraged to enter into a joint venture with local companies through specific bidding document requirements.

2. Institutional Framework – High

9. **High** risk exists on procurement cycles where funding is tied to an annual budgeting cycle. The procurement activity commences only after the budget is approved. Once an annual budgeting cycle has ended, any unutilized funding returns to the state budget (if state budget is involved in the loan amount). Time management is essential in this regard.

10. **High** risk exists on capacity building. As there is no nationwide procurement training plan that is sponsored by government, risk is assessed as **high**. Public procurement law requires all bid evaluation committee (BEC) members must have procurement accredited A3 certificate. also, public procurement law requires the BEC to include at least two NGO members or representatives from private or professional sector, yet there are currently no capacity building programs for NGO members or local citizens being initiated by the Government.

3. Procurement Market and Operations – Average

11. **Average** risk exists in the capacity of private companies and small businesses to participate in public procurement. The procurement market is relatively weak whereas the competition for large contracts is concentrated within a relatively small number of firms.

4. Integrity of The Procurement System – Low

12. The integrity of procurement system is adequate. Conflicts of interest and breaches of the law are clearly emphasized.

D. Procurement Capacity Assessment Questionnaire

13. The MRTD and the procurement division of Agency for Policy Coordination on State Property (APCSP) (the successor to the Government Procurement Agency) will be responsible for overall procurement planning and management.

14. ADB has a standard assessment tool that is a questionnaire form for completion by the executing agency and implementing agencies to assess the procurement capacity of related agencies. This tool addresses:

- (i) Organizational and staff capacity
- (ii) Information management
- (iii) Procurement practices
- (iv) Effectiveness
- (v) Accountability measures

15. Questionnaires were completed by working with the MRTD and the APCSP. The results are summarized below. The completed questionnaires are in Appendix 2 and Appendix 3.

1. Organizational and Staff Capacity

Risk assessment

16. The risk associated with the organizational and staff capacity of MRTD and APCSP is assessed as **average**.

Summary of findings

17. The procurement departments of both are adequately staffed and have some procurement experience on donor-funded projects. The experience includes the World Bank and ADB funded projects.

18. The additional procurement for this project will be a heavy work pressure. Therefore, the role of Project Implementation Unit (PIU) that will be established is important for timely implementation of the project. The PIU should play an instrumental role for proper application of ADB procurement guidelines. Additional technical assistance for development of technical specifications and TORs as well as contract management and monitoring may be encouraged while considering the value and size of the contracts.

19. The capacity building plan is required for both following the recent organizational structure changes and hiring of new staff. Some of the officers do not have broad experience.

2. Information Management

Risk assessment

20. The risk associated with information management is assessed as **low**.

Summary of findings

21. MRTD and APCSP have adequate resources allocated for record keeping infrastructure, which includes a record keeping system, space, equipment and personnel to administer the procurement records management functions within the agency. However, ADB has previously found poor record-keeping within MRTD.¹ Therefore, documents must be prepared in duplicate and filed at the PIU.

3. Procurement Practices

Procurement of goods and works

Risk assessment

¹ ADB. 2013. Project Procurement-related Review Report. Loan 2087-MON(SF): Regional Road Development Project, and Loan 2621-MON(SF) and Grant 0199-MON(SF): Regional Road Development Project – Supplementary. Office of Anticorruption and Integrity. Manila

22. The risk associated with the procurement of goods and works is assessed as **low to average**.

Summary of findings

23. The procedures of procurement of goods and works are generally in line with the internationally accepted procurement practices and both MRTD and APCSP have some experience with the application of foreign donor-funded procurement guidelines. However, some challenges may be faced due to a lack of significant/proven experiences on the application of ADB procurement guidelines. The PIU should play an instrumental role for the application of ADB procurement guidelines.

24. A current risk and bad practice is that instead of opening the bids immediately after deadline of bid submission, the bid opening may be delayed up to one hour after the deadline of bid submission.

Procurement of consulting services

Risk assessment

25. The risk associated with the procurement of consulting services is assessed as **average**.

Summary of findings

26. The public procurement law covers the selection process of consulting services, however, in comparison to the goods and civil works, it is riskier and has certain gaps.

27. Instead of opening the bids immediately after deadline of bid submission, the bid opening may be delayed up to one hour after the deadline of bid submission.

28. The lack of full commitment of the officers may cause project implementation delays due to officers already being occupied with the public_procurement. The PIU should play an instrumental role for the application of ADB procurement guidelines.

4. Effectiveness

Risk assessment

29. The risk associated with the effectiveness is assessed as **average**.

Summary of findings

30. Though contract management is emphasized in the public procurement law, it is not systematically monitored and reported.

31. Capacity building on contract monitoring is vital and must be highlighted.

5. Accountability measures

Risk assessment

32. The risk associated with the accountability measures is assessed as **average**.

Summary of findings

33. The capacity of accountability measures is adequate and the commitments are mainly framed at the relevant guidelines of public procurement law.

34. Provisions related to breaches are clearly stated at the public procurement law including fraudulent practices.

E. Summary of Assessment and Recommendations for Project Implementation

35. Table 1 below summarizes the findings of the Procurement Capacity Assessment Questionnaire.

Strengths

36. The risks of procurement are predominately **low to average**. Both MRTD and APCSP have certain but limited experience with the ADB funded project procurement. Therefore, the PIU should play a key role to facilitate timely implementation of the project, and handling the interests of key stakeholders at the Ministry and ADB.

37. Procurement practices are generally in line with international best practices.

38. Both will play major roles in the project management including procurement management with the help of PIU and the consultants in charge. Both have some exposure to the ADB procurement guidelines and have sufficient staff to implement the project, following capacity building in ADB procedures.

Weaknesses

39. ADB is a financial institution that assists its members, and partners, by providing loans, technical assistance, grants, and equity investments to promote social and economic development projects and helps and monitors the proper utilization of the funds. On the other hand, Ministry and Government agencies are the organizations that are governed by national laws and have not generally been exposed to project management. Therefore, assuring the best interest of both parties' stakeholders and smooth project implementation, the PIU must play an instrumental role in addressing ADB comments and must have ADB qualified staff.

40. ADB project procurement may receive a lower priority in comparison to the public procurement due to heavy workloads.

Table 1: Summary of Procurement Assessment and Recommendations for Project Implementation

Major Risks/ Capacity constraints	Recommended actions/Mitigation of Risks	Responsible parties
General recommendations for general procurement environment		
<ul style="list-style-type: none"> The lack of capacity of procurement market The lack of capacity of private companies and small businesses to successfully participate in procurement 	<ul style="list-style-type: none"> Organize road show on procurement Hold pre-bid meetings Apply correct criteria for bidders in bidding documents Do procurement market research Organize integrity training 	ADB/EA/PIU/TA
General recommendations for the Ministry of Road and Transport Development and the Procurement Division of Agency for Policy Coordination on State Property		
<ul style="list-style-type: none"> The lack of experience and capacity throughout all phases of Procurement and project management Reluctance to accept ADB procurement guidelines that overrules the national Procurement law 	<ul style="list-style-type: none"> Develop systematic capacity building plan on for project and procurement management Daily assistance to EAs from PIU or direct involvement of PIU staff to the adherence of ADB procedure. Additional assistance to PIU for the contract performance monitoring and development of technical specification and TORs may be considered. Let the EA know of ADB prior and post review procedure on procurement, use PCMR and CRAM for procurement monitoring. Reinforce understanding and compliance with ADB guidelines; Highlight ADB procurement guidelines differences from Public procurement law. 	ADB/EA/PIU/TA
Specific Recommendations for the Project Implementation Unit		
<ul style="list-style-type: none"> ADB Project procurement may receive lower priority in comparison to the public procurement due to heavy workloads at EAs. Lack of familiarity to ADB procedure Lack of hands-on project management experience Lack of commitment due to ADB project procurement being seen as additional duties not included at EA officers TORs. 	<ul style="list-style-type: none"> Hire PIU staff that are highly qualified and experienced at ADB procedure /Project management to ensure compliance with relevant procurement policies and procedures adhered by ADB and Government; Have efficient contract management system and demonstrate it within PIU and regular monitoring of it. Frequent training on ADB procurement guidelines and let the EA know of ADB prior and post review procedure for procurement. Assist in the development of bidding documents, bid evaluation reports, addressing ADB comments to ensure compliance with ADB procurement guidelines. Include the responsibilities of ADB project related procurement directly into EAs officers' TORs and contracts. 	ADB/EA/PIU/TA team

ADB = Asian Development Bank; CRAM = Consultant Recruitment Activities Monitoring; EA = executing agency; PCMR = Procurement Capacity Monitoring Report; PIU = Project Implementation Unit; TA = technical assistance; TOR = terms of reference.

I. GENERAL PROCUREMENT ENVIRONMENT ASSESSMENT

Risk Ratings	Extremely High	High	Average	Low
--------------	----------------	------	---------	-----

A. Specific Assessment and Ratings

Question	Yes/No	Narrative Explanation	Risk
1. LEGAL AND REGULATORY FRAMEWORK			
1. Is there a Public Procurement Law? Is there a single law governing procurement that is consistent with internationally accepted principles and practices; or is procurement governed through various laws, decrees etc.?	Yes	The Public Procurement Law was enacted in 2005 and amended in 2007, 2009, 2011, 2014, 2015 and 2016.	Low
2. Does the procurement law have implementing regulations? Does the procurement law have implementing rules and regulations that support it by providing the details that are not normally found in a law? Are these clear, comprehensive and consolidated as a set of regulations that are available in a single and accessible place? Are these regularly updated?	Yes	All documents can be found at www.pcsp.gov.mn conducted by the agency for Policy coordination on State Property (the successor of Government Procurement Agency), and www.e-procurement.mof.gov.mn by Ministry of Finance (MOF).	Low
3. Are the procurement law and regulations clear and concise? If there is a single law that is easy to follow, then the risk is "low". If the law is complex and difficult to follow, then the risk is "average". If there is no single law, then the risk is "extremely high" or "high".	Yes		Low
4. What does the procurement law/regulation cover? If there is a single law, the risk will be "low" if it covers drafting and use of standard bidding documents, evaluation, contracting through to the management of contracts, including payment, warranty and defects liability periods. The less the procurement process is covered the higher the risk. If there is no single law, then the risk is "extremely high" or "high".	Yes	The Public Procurement Law covers bidding documents drafting and use of standard bidding documents, evaluation, contracting. However The law does not address the contract performance or implementation phase including the issues arising in the contract implementation phase such as contract administration, resolution of performance disputes and monitoring.	Average
5. Does the procurement law/regulation cover the procurement of consulting services? If there is a single procurement law that also covers consulting services, then the risk is "low". If consulting services are not covered, or there is no law, then the risk is "extremely high" or "high".	Yes		Low

Question	Yes/No	Narrative Explanation	Risk															
<p>6. Does the procurement law/regulation differentiate between processes for goods, works and consulting services? If there is a single law that deals separately with consulting services, then the risk is “low”. If there is a single law that provides some differentiation, but the processes are similar, then the risk is “average”. If there is no single law, or it applies the same processes to consulting services as for goods and works, then the risk is “extremely high” or “high”.</p>	Yes	<p>The Public Procurement Law provides a Chapter (Chapter 5) specifically designed for the procurement of consulting services to differentiate this from the procurement of goods and works. Unlike procurement of goods and works where price is the predominant criterion in the evaluation process, the price of services is often not considered as important criterion in the evaluation.</p> <p>The qualification of the consultants is most important in the respect of evaluation of consultancy services. Chapter 5 is intended to provide procedures that reflect these differences.</p>	Average															
<p>7. Does the law/regulation require the advertisement of all procurement opportunities? A “low” risk may be indicated if advertisement is required for all procurements above \$25,000. An “average” risk may be indicated if advertisement is required only for procurements above \$100,000. A “high” risk may be indicated if advertisement is required for all procurements above a threshold that is higher than \$100,000. An “extremely high” risk should be indicated if no advertisement is required.</p>	Yes	<table border="1" data-bbox="922 894 1279 1423"> <thead> <tr> <th data-bbox="922 894 967 957"></th> <th data-bbox="967 894 1122 957">Method</th> <th data-bbox="1122 894 1279 957">Threshold (MNT)</th> </tr> </thead> <tbody> <tr> <td data-bbox="922 957 967 1020">1</td> <td data-bbox="967 957 1122 1020">Shopping for goods</td> <td data-bbox="1122 957 1279 1020">≤50,000,000</td> </tr> <tr> <td data-bbox="922 1020 967 1083">2</td> <td data-bbox="967 1020 1122 1083">Shopping for works</td> <td data-bbox="1122 1020 1279 1083">≤80,000,000</td> </tr> <tr> <td data-bbox="922 1083 967 1272">3</td> <td data-bbox="967 1083 1122 1272">Shopping for services except consulting services</td> <td data-bbox="1122 1083 1279 1272">≤50,000,000</td> </tr> <tr> <td data-bbox="922 1272 967 1423">4</td> <td data-bbox="967 1272 1122 1423">Direct contracting for works and goods</td> <td data-bbox="1122 1272 1279 1423">≤10,000,000</td> </tr> </tbody> </table> <p>Consulting services are required to be advertised regardless of its budget. At the current rate of exchange (1USD = 2460MNT), MNT80,000,000 equals \$32,520.</p>		Method	Threshold (MNT)	1	Shopping for goods	≤50,000,000	2	Shopping for works	≤80,000,000	3	Shopping for services except consulting services	≤50,000,000	4	Direct contracting for works and goods	≤10,000,000	Low
	Method	Threshold (MNT)																
1	Shopping for goods	≤50,000,000																
2	Shopping for works	≤80,000,000																
3	Shopping for services except consulting services	≤50,000,000																
4	Direct contracting for works and goods	≤10,000,000																
<p>8. Are contract awards advertised? The same thresholds as stated at A7 should be applied.</p>	Yes	Yes, the same thresholds as stated at response to A7 are applied.	Low															
<p>9. Are there restrictions on goods, works and services on the basis of origin? If there is no limitation, restriction and/or preference scheme, then the risk is “low”. If there are restrictions or a national</p>	Yes	Margin of preference for goods originating in Mongolia is provided in the Public Procurement Law, Article 10. The list of preferred goods that	Average															

Question	Yes/No	Narrative Explanation	Risk
<p>preference scheme, then the risk is “average”. If procurement is solely limited to those of national origin, then the risk is “extremely high” or “high”.</p>		<p>can be produced and originating in Mongolia is enacted by the Government on 17 August 2015. Those listed goods should only be bought from national bidders. The procuring entity may grant a margin of preference to the Bidder that offers to supply only goods of Mongolian origin. In this case the bid price is discounted by 10%. Bidders that offer to execute at least 50% of works independently or the Bidder employs that largest share of local labor, etc. and then the bid price shall be discounted subjectively by 7.5% for works executed by bidders specified in provisions of respectively.</p>	
<p>10. Does the procurement law or relevant legislation and regulation provide acceptable provisions for the participation of state-owned enterprises (SOEs)? If an exception is given to SOEs that are legally and financially autonomous and are not dependent agencies of the purchaser/employer, then the risk is “low”. Otherwise, the risk is “extremely high” or “high”.</p>	No	<p>The Public Procurement Law does not specify that SOEs have to be legally and/or financially autonomous. As per Article 14.1.3, SOEs that are dependent of the purchase / employer will be disqualified if they bid.</p>	High
<p>11. Are there restrictions on the nationality of bidders and consulting firms to be invited? If there is no limitation, restriction and/or preference scheme, then the risk is “low”. If there are nationality restrictions or a national preference scheme, then the risk is “average”. If procurement is solely limited to national firms and individuals, then the risk is “extremely high” or “high”.</p>	Yes	<p>There is a restriction for foreign bidders for the certain thresholds.</p>	Average
<p>12. Are foreign bidders and consultants forced to submit offers through or with local partners? If this is never required, then the risk is “low”. If this is required under certain circumstances, then the risk is “average”. If this is always required, then the risk is “extremely high” or “high”.</p>	No	<p>It is not required by the law. However through the bidding documents, they can be required to have local partner or agency to qualify as lowest evaluated bidder.</p>	Average
<p>13. Is there a domestic preference scheme? If there is no scheme, then the risk is “low”. If it is applied in limited circumstances, then the risk is “average”. If a domestic preference scheme is applied across the board, then the risk is “extremely high” or “high”.</p>	Yes	<p>The procuring entity may grant a margin of preference to the Bidder that offers to supply goods of Mongolian origin; and whose bid price shall be discounted by 10 percent for goods of Mongolian origin and</p>	Average

Question	Yes/No	Narrative Explanation	Risk
		by 7.5 percent for works executed by bidders who qualified for Article 10 of The Public Procurement Law.	
14. Is there a national standard mandated for the use for quality control purposes? If there are no mandated national standards or if these have direct and accessible international equivalents, then the risk is "low". If there are mandated national standards that have no international equivalents, then the risk is "high".	Yes	Quality reference for technical specifications is subject to international standards accepted in Mongolia. If such standards do not exist, subject to national standards, technical requirements, regulations, and instructions as per Article 11 of Public Procurement Law; The Law of Standards and Quality Management is enacted and is being implemented since 1994.	Low
15. Are any agencies or parts of public expenditure exempt from the procurement law/regulation? If yes, such as defense equipment, then the risk may range from "average" to "extremely high", depending on the extent of the exemption. For example, if an exemption is outrightly granted to medicines, text books or other similar commodities, then the risk is "extremely high".	Yes	Such as (a) defense equipment (b) procurement of works and services related to repair and maintenance of national automobile roads undertaken by state-owned enterprises, (c) procurement related to Development Bank of Mongolia (d) Goods, works, services of Central Election Committee as stated at Election Law, Article 38.1 (e) Goods, works, services of "Future assets" corporation are exempt from the procurement Law/regulation.	High
16. Is the default method for procurement open competition? If yes, then the risk is "low". If no, or if it is not clearly established, then the risk may be "extremely high" or "high".	Yes	The open procurement procedure shall be applied to procurement of goods, works and/or services whose cost estimates exceed the threshold values set forth in R7. The law provides certain thresholds to open advertisement.	Low
17. Is open competition easily avoided? If avoidance requires the approval of an oversight agency, then the risk is "low". If open competition can be avoided by senior management decision, then the risk is "average". If the Public Procurement Law/regulation allows the avoidance of open competition above a certain national threshold on the basis of circumstances that are not in response to natural disasters, i.e. simple urgency, then the risk is "extremely high" or "high".	No	The open procurement procedure can be avoided for the goods works and/or services whose cost estimates did not exceed certain threshold value and plus urgency or some other conditions to be met.	Average
18. Does the procurement law/regulation require pre-qualification?	Only for complex or	The procuring entity may conduct a pre-qualification prior to bid submission for the	Low

Question	Yes/No	Narrative Explanation	Risk
If it is only for complex or high value contracts, then the risk is "low". If no pre-qualification is allowed, then the risk is "average". If it applies to all contracts, then the risk is "high".	high value contracts	purpose of assessing the capacity of bidders. The Public Procurement Law provides procedures for prequalification of suppliers and contractors at early stages of procurement proceedings. This requires reconfirmation at later stages of the qualifications of suppliers and contractors that had been pre-qualified.	
19. Does the procurement law/regulation require the pre-registration of bidders? If no pre-registration is required, then the risk is "low". If it is only required for special types of goods, such as medicines, then the risk is "average". If yes, then the risk is "extremely high" or "high".	No	For the purpose of expanding the scope of bidders, engaging broad competition and providing detailed information to the procuring entity, MOF maintains a database/register of legal entities and individuals interested in participating in the procurement. A legal entity and/or individual may apply for a registration by submitting information on the type of operations, capability and qualification at any time. The registration status of bidders does not limit their rights to participate in the bidding and the parties who are registered in the database will not have an advantage over those who did not register.	Low
20. Does the procurement law/regulation mandate the use of standard documents? If it does and there are documents for goods, works and consultants services, then the risk is "low". If it is required just for only two of the three procurement types, then the risk is "average". If it is required for only one of the procurement types, or it is required but no documents have yet been issued, then the risk is "high". If standard documents are not required, then the risk is "extremely high".	Yes	The standard documents are used for all procurements. The procuring entity shall prepare bidding documents pursuant to standard bidding documents, contract templates, other procedures and methodology pertaining to bid. Use of them is mandatory allowing small necessary project specific changes.	Low
21. Have these standard documents been approved for use on ADB projects? If yes, then the risk is "low". If some, but not all, then the risk is "average". If no, then the risk is "extremely high" or "high".	Yes	On October 2010, Asian Development Bank (ADB) reviewed and approved NCB Standard bidding documents of works and goods for the use of ADB funded projects. These are updated on 28 June 2016. Necessary changes were made to the Government standard bidding documents such as ADB anticorruption	Low

Question	Yes/No	Narrative Explanation	Risk
<p>22. Is there a national procurement manual or guide? If an omnibus procurement manual or guide exists, then the risk is "low". If a manual exists, but it is out of date or is not widely used / distributed, then the risk is "average". If there is no manual, then the risk is "extremely high" or "high".</p>	Yes	<p>practices and ADB member country scheme.</p> <p>Procurement manuals or guides can be found at https://e-procurement.mof.gov.mn/?lid=396&f=newpage&id=2&t=legis.</p>	Low
2. INSTITUTIONAL FRAMEWORK			
<p>23. Which body oversees public procurement? If there is a regulatory body at an adequate level in government, and financing is secured by the legal/regulatory framework, then the risk is "low". If the body is at an adequate level, but financing is subject to administrative decisions and can be changed easily, then the risk is "average". If the level of the body is too low or financing is inadequate for proper discharge of its responsibilities, then the risk is "high". If there is no body, or the body is too low with no independence to perform its obligations, then the risk is "extremely high".</p>	Yes	MOF shall administer the Government policy, practice, and oversight on procurement in accordance with the Public Procurement Law.	Low
<p>24. What powers does the oversight body have? The rating may range from "low" to extremely high", depending on whether the body exercises all, some, a few or none of the following responsibilities: providing advice to contracting entities, drafting amendments to the legal/regulatory framework, monitoring public procurement, providing procurement information, managing statistical databases, reporting on procurement to other parts of government, developing/supporting the implementation of initiatives for improvements to the public procurement system, and providing implementation tools and documents to support capacity development.</p>	Yes	<p>As per Article 52 of Public Procurement Law, Ministry of Finance (MOF) shall administer the government policy, practice, and oversight on procurement in accordance with the law including:</p> <ul style="list-style-type: none"> • enhance procurement legislation; • provide professional and practical advice to the procuring entity on procurement matters; • draft and adopt, if the law provides for, policies and procedures, guidelines, instructions, manuals and standard documents pertaining to procurement; • annually report to the Government on implementation of procurement legislation; • oversee and assess the procuring entity's compliance to relevant procurement procedures; 	Low

Question	Yes/No	Narrative Explanation	Risk
		<ul style="list-style-type: none"> • consolidate procuring entity's reports, create and maintain a national database of procurements, issue consolidated reports and data; • entertain complaints from bidders in accordance with this law; • provide recommendations and opinions on particular issues pertaining to the implementation of this law upon request from legal and supervision authorities; etc.	
25. Is there a nationwide procurement training plan? If procurement trainings are regularly implemented nationwide and needs are regularly assessed, then the risk is "low". If there is an existing program, but it is insufficient to meet national needs, then the risk is "high". If there is no formal training program, then the risk is "extremely high". Consider also the existence of a helpdesk.	No		High
26. Is there a procurement accreditation or professionalization program? If there is an externally recognized program, then the risk is "low". If it is a government sponsored program, then the risk is "average". If there is no accreditation or professionalization program, then the risk is "high".	Yes	Training is conducted by the external organization. However, final accreditation exam is conducted by Government agency.	Average
27. Are major projects identified within agencies' appropriations or budgets? If yes, then the risk is "low". If no, but a system is in place for the ring-fencing of project funds, then the risk is "average". If neither condition exists, then the risk is "high".	Yes	Authorized bodies and budget governors shall be responsible for the budget planning, approval, implementation and reporting processes. Under his/her area of responsibility prepare investment project proposals within the annual budget ceiling in line with all types of financial sources for the budget year and the medium-term; and maintain normal operation of budgetary entities and agencies under his/her area of responsibility; prepare and submit program performance and budget	Low

Question	Yes/No	Narrative Explanation	Risk
		execution reports to the Cabinet Meeting.	
<p>28. Is the procurement cycle tied to an annual budgeting cycle, i.e. can procurement activity only commence once a budget is approved?</p> <p>If yes and a medium-term expenditure framework is in place, then the risk is "low". If an activity may start up to, but excluding contract award, then the risk is "average". If the procurement cycle is not tied to an annual budget, then the risk is "extremely high" or "high".</p>	Yes	The procurement cycle is tied to an annual budgeting cycle and a medium-term expenditure framework is in place.	Low
<p>29. Once an appropriation or budget is approved, will funds be placed with the agency or can the agency draw them down at will?</p> <p>If yes, then the risk is "low". If not, such as when additional bureaucratic controls are imposed (such as a cash release system), then the risk is "extremely high" or "high".</p>	No	<p>The procuring entity shall formulate the procurement plan of goods, services or works along with the draft budget and submit to his/her budget governor.</p> <p>The budget governor shall finalize and integrate the draft procurement plan of goods, works or services in line with his/her budget scope and submit to the State administrative body for budgetary issues (MOF).</p> <p>The budget governor shall submit the order for procuring goods, works, services along with cost estimate, technical specifications, drawing, and feasibility study to the Government Procurement Agency of Mongolia within 10 days following the budget approval.</p> <p>The budget governor and the Government Procurement Agency of Mongolia shall approve the procuring entity's procurement plan and submit to The state administrative body for budgetary issues (MOF) within 10 days following the budget approval.</p> <p>The procuring entity shall disclose the procurement plan publicly through mass media within 30 days following the budget approval.</p>	High
<p>30. Is there a nationwide system for collecting and disseminating procurement information, including tender invitations,</p>	Yes	Established database of procurement management, supervision, and analysis, and actual procurements taking	Low

Question	Yes/No	Narrative Explanation	Risk
<p>requests for proposals, and contract award information?</p> <p>If there is an integrated information system that provides up-to-date information and is easily accessible at no or minimum cost, then the risk is “low”. If there is such an integrated information system that covers majority of contracts, but access is limited, then the risk is “average”. If there is a system, but it only provides information on some of the contracts and is not easily accessible, then the risk is “high”. If there is no procurement information system, except for some individual agency systems, then the risk is “extremely high”.</p>		<p>place nation-wide and available publicly for use at www.tender.gov.mn and www.pcsp.gov.mn, www.e-procurement.gov.mn.</p> <p>The procuring entity shall also advertise the invitation to particular tender in a daily newspaper, other forms of mass media and where appropriate, the invitation to tender must be advertised by disclose important details. For works contracts whose value exceeds MNT1,000,000,001 and goods contracts whose value exceeds MNT100,000,001, the advertisement should be placed in an international publication.</p> <p>Public Procurement Law requires the procuring entity to give an adequate and equal time to prepare and submit their bids. In the open bidding procedure, there shall be a minimum time limit of 30 days before the deadline for the submission of bids and in limited tendering minimum of 15 days. For online procurement, MOF enacted the E-tendering guidelines on 11 January 2011.</p>	
<p>31. When an agency is implementing a project using funds from the national budget, are there general experiences/reports of funding delays that significantly hamper procurement?</p> <p>If no, then the risk is low. If yes, then the risk is “extremely high” or “high”.</p>	No		Low
<p>32. Is consolidated historical procurement data available to the public?</p> <p>If yes, then the risk is “low”. If the data is too much or too little, then the risk is “average”. If none, then the risk is “extremely high” or “high”.</p>	Yes	<p>The consolidated historical procurement data available to the public at https://e-procurement.mof.gov.mn/?month=&f=statistic&year=2006. The data is consolidated since 2006.</p>	Low
<p>33. Does the law/regulation require the collection of nationwide statistics on procurement?</p> <p>If yes and statistics are actually collected, then the risk is “low”. If yes, but data is not collected or used, then the risk is</p>	Yes	<p>According to Public Procurement Law, MOF has responsibility to maintain the collection of statistics. The consolidated historical procurement data available to</p>	Low

Question	Yes/No	Narrative Explanation	Risk
<p>“average”. If there is no requirement, then the risk is “extremely high” or “high”.</p>		<p>the public at https://e-procurement.mof.gov.mn/?month=&f=statistic&year=2006. The data is consolidated since 2006.</p>	
3. PROCUREMENT MARKET AND OPERATIONS			
<p>34. Do formal mechanisms exist to encourage dialogue and partnerships between the government and the private sector, and are these well established in the procurement law/regulation? If such mechanisms exist, such as programs to build the capacity of private companies and small businesses to participate in public procurement, and these are effective, then the risk is “low”. If such mechanisms exist, but there is no proof of its effectiveness, then the risk is “average”. If no such mechanisms exist, then the risk is “extremely high” or “high”.</p>	No	<p>The Public Procurement Law did not address the contract performance or implementation phase. However, The Public Procurement Law, Article 52.3 allows that Private sector or professional NGOs may conduct the supervision and monitoring of the contract on issues arising during contract implementation phase, issues such as contract administration and quality of works and upon selected by MOF as a consultant. Also some private sector associations such private Mongolian Contractors Association interact with the government on behalf of private sector contractors.</p>	Average
<p>35. Are private sector institutions well organized and able to facilitate access to the market? If the private sector is competitive, well organized and able to participate in open competition, then the risk is “low”. If there is a reasonably well functioning private sector, but competition for large contracts is concentrated in a relatively small number of firms, then the risk is “average”. If the private sector is relatively weak and/or competition is limited owing to monopolistic or oligopolistic features in important segments of the market, then the risk is “high”. If the private sector is not well organized and lacks capacity and access to information for participation in the public procurement market, then the risk is “extremely high”.</p>	Yes	<p>According to the statistics of MOF, in 2016, total 3,938 bids were advertised and 1,658 bids’ results were announced. Total 16 bids cancelled. More than 56% of bids were successfully organized. It is noted majority of contractors awarded with small value contracts.</p>	Average
<p>36. Is there an alternative disputes resolution process independent of the government and courts? If there is an arbitration law with an independent process, then the risk is “low”. If there is no arbitration law, but the standard contracts use ICC or similar dispute resolution provisions, then the risk is “average”. If alternative dispute</p>	Yes	<p>On 26 January 2016, the Parliament of Mongolia enacted the new Arbitration law to regulate the arbitration disputes in accordance with international standards. Mongolia adopted the latest version of the UNCITRAL Model Law on International</p>	Low

Question	Yes/No	Narrative Explanation	Risk
<p>resolution is not practiced, or if arbitration is through the courts or can be overturned by the courts, then the risk is “extremely high” or “high”.</p>		<p>Commercial Arbitration (the “UNCITRAL Model Law”), including all 2006 amendments, for both international and domestic arbitration. The new Arbitration Law enacts the UNCITRAL Model Law in full, departing from its text only where necessary to do so in view of the particularities of the Mongolian legal system, while also implementing certain innovations inspired by a range of different international sources.</p>	
4. INTEGRITY OF THE PROCUREMENT SYSTEM			
<p>37. Are there systematic procurement process audits? If yes, then the risk is “low”. If only financial audits are conducted, then the risk is “average”. If no systematic audits are conducted, then the risk is “extremely high” or “high”.</p>	Yes	<p>Procurement State Inspector who is a MOF officer shall inspect the breaches of Law according to State inspection law, Article 10.9. If a breach of the law does not constitute a criminal offense, the court or authorized state professional inspector shall impose administrative penalties. Professional Auditing Agency conducts regular government internal financial auditing bi-annually and if they found the Public Procurement Law was breached they may apply penalty sanctions according to the Civil Servants Law and other administrative legislation. Also State Audit Authority conducts auditing upon plan or request.</p>	Average
<p>38. Does the procurement law/regulation contain provisions for dealing with misconduct, such as fraud and corruption? A cross reference to an anti-corruption law will suffice. If yes, then the risk is “low”. If no, then the risk is “extremely high” or “high”.</p>	Yes	<p>The individual and legal entity that breached the law will be punished by Law of Criminal act and the Law of Conflict of Interest as per Public Procurement Law, Article 57.</p>	Low
<p>39. Is fraud and corruption in procurement regarded as a criminal act, whereby the penalty includes imprisonment? If yes, then the risk is “low”. If no, then the risk is “extremely high” or “high”</p>	Yes	<p>The individual and legal entity that breached the law will be punished by Law of Criminal act and the Law of Conflict of Interest as per Article 57. Those laws involve fraud and corruption in procurement are regarded as a criminal act,</p>	Low

Question	Yes/No	Narrative Explanation	Risk
		whereby the penalty includes imprisonments.	
40. Have there been prosecutions for fraud and corruption? If there have been successful prosecutions for fraud and corruption, then the risk is "low". If prosecutions seem to focus solely on low grade/junior staff, then the risk is "average". If there is no evidence of any prosecution, then the risk is "extremely high" or "high".	Yes		Low
41. Does the legal/regulatory framework allow for sovereign immunity to agencies for claims against them? If plaintiffs can sue the government for contractual non-performance, then the risk is "low". If they cannot, then the risk is "extremely high" or "high".	No		Low
42. Do the regulations allow for the debarment of firms and individuals? If there is a debarment process that is transparent and equitable, and undertaken by an independent oversight agency, then the risk is "low". If there is a process and it is administered by a single agency, such as the Ministry of Finance, then the risk is "average". If it is administered by the procuring agency, then the risk is "high". If there is no debarment mechanism, then the risk is "extremely high".	Yes	MOF administers the debarment process. The debarred list is publicly available at https://e-procurement.mof.gov.mn/?lid=450&f=blacklist&id=6&t=legis . The guidelines for Registration system is enacted on 22 November 2013 by MOF which regulates the process of debarred firm as well as Registers of suppliers, contractors or service providers. Latest debarred company on that list is Khurel Kharsh LLC by fraudulent practice on June 2016.	Average

B. General Ratings

Criterion	Risk
A. Legal and Regulatory Framework	Low
B. Institutional Framework	High
C. Procurement Market and Operations	Average
D. Integrity of the Procurement System	Low
OVERALL RISK RATING	AVERAGE

II. PCA QUESTIONNAIRE PROCUREMENT DIVISION OF AGENCY FOR POLICY COORDINATION ON STATE PROPERTY

Risk Ratings	Extremely High	High	Average	Low
---------------------	----------------	------	---------	-----

A. Specific Assessment and Ratings

Question	Answer/Finding	Risk
A. ORGANIZATIONAL AND STAFF CAPACITY		
A.1. How many years' experience does the head of the procurement department/unit have in a direct procurement role?	Since 2012. 4 years	Average
A.2. How many staff in the procurement department/unit are: i. Full Time? ii. Part Time? iii. Seconded?	15 staff None None	Average
A.3. Does the procurement staff have English language proficiency?	Intermediate for writing	Average
A.4. Are the number and qualifications of the staff sufficient to undertake the additional procurement that will be required under the proposed project?	Yes	Average
A.5. Does the unit have adequate facilities, such as PCs, internet connections, photocopy facilities, printers, etc., to undertake the planned procurement?	Yes	Low
A.6. Does the agency have a procurement training program?	Yes	Low
A.7. Does the agency have a Procurement Committee that is independent from the head of the agency?	Yes	Average
A.8. Does the agency have a procurement department/unit, including a permanent office that performs the function of a Secretariat for the Procurement Unit, and which serves as the main support unit of the Procurement Committee?	Yes	Average
A.9. If yes, what type of procurement does it undertake?	Goods, works, Consultant services	
A.10. At what level does the department/unit report (to the head of agency, deputy etc.)?	Head of Agency	Low
A.11. Do the procurement positions in the agency have job descriptions, which outline specific roles, minimum technical requirements and career routes?	Yes	Average
A.12. Is there a procurement process manual for goods and works?	Yes	Average
A.13. If there is a manual, is it up to date and does it cover foreign-assisted projects?	No	
A.14. Is there a procurement process manual for consulting services?	Yes	
A.15. If there is a manual, is it up to date and does it cover foreign-assisted projects?	No	
A.16. Are there standard documents in use, such as Standard Procurement Documents/Forms, and have they been approved for use on ADB funded projects?	Yes	

Question	Answer/Finding	Risk
A.17. Does the ToR follow a standard format such as background, tasks, inputs, objectives and outputs?	Yes	
A.18. Who drafts the procurement specifications?	Bid Evaluation Committee (BEC)	Average
A.19. Who approves the procurement specifications?	Head of Agency	
A.20. Who drafts the bidding documents?	BEC	
A.21. Who manages the sale of the bidding documents?	BEC Secretary	
A.22. Who identifies the need for consulting services requirements?	BEC subject to Head of Agency approval	Average
A.23. Who drafts the terms of reference (ToR)?	BEC	
A.24. Who prepares the request for proposals (RFPs)?	BEC	
B. INFORMATION MANAGEMENT		
B.1. Is there a referencing system for procurement files?	Yes	Average
B.2. Are there adequate resources allocated to record keeping infrastructure, which includes the record keeping system, space, equipment and personnel to administer the procurement records management functions within the agency?	Yes	Average
B.3. For what period are records kept?	15 years	Low
B.4. Are copies of bids or proposals retained with the evaluation?	Yes	Low
B.5. Are copies of the original advertisements retained with the pre-contract papers?	Yes	Low
B.6. Is there a single contract file with a copy of the contract and all subsequent contractual correspondence?	Yes	Low
B.7. Are copies of invoices included with the contract papers?	No. The copy of documents made up to contract award.	Average
C. PROCUREMENT PRACTICES		
Goods and Works		
C.1. Has the agency undertaken foreign-assisted procurement of goods or works recently (last 12 months, or last 36 months)? (If yes, please indicate the names of the development partner/s and the Project/s.)	Yes for last 36 months. World Bank funded "Education quality reform project".	Average
C.2. If the above answer is yes, what were the major challenges?	Difference between guidelines of foreign assisted project and Public procurement law.	
C.3. Is there a systematic process to identify procurement requirements (for a period of one year or more)	Yes. Procurements are identified through Ministries and approved by MOF and then by the Parliament through the Budget law of each year.	Average
C.4. Is there a minimum period for preparation of bids and if yes how long?	Yes. 30 days	Average
C.5. Are all queries from bidders replied to in writing?	Yes	
C.6. Does the bidding document state the date and time of bid opening?	Yes	Low
C.7. Is the opening of bids done in public?	Yes	High
C.8. Can late bids be accepted?	Yes. Only if late bid is arrived within deadline but not yet registered within deadline.	
C.9. Can bids be rejected at bid opening?	No	

Question	Answer/Finding	Risk
C.10. Are minutes of the bid opening taken?	Yes	Low
C.11. Who may have a copy of the minutes?	Yes. All participants	
C.12. Are the minutes free of charge?	Yes	
C.13. Who undertakes the evaluation of bids (individual(s), permanent committee, ad-hoc committee)?	Ad-hoc committee	Average
C.14. What are the qualifications of the evaluators with respect to procurement and the goods and/or works under evaluation?	Must be professional of procurement and have certified procurement A3	Average
C.15. Is the decision of the evaluators final or is the evaluation subject to additional approvals?	No. It is subject to Approval of Head of Agency	Average
C.16. Using at least three real examples, how long does it normally take from the issuance of the invitation for bids up to contract effectiveness?	<p>Default minimum 30 days for bid advertisement and bid evaluation must be finalized within 45 days after bid opening. Plus one time only 30 days extension upon approval of MOF. HAAG-2016/KHB-03:</p> <p>(a) Procurement of supply of the electricity for Ger area users of Bayan-Ulgii aimag: Bid advertisement 2016/04/22, Bid opening 2016/05/22, Contract award 2016/06/28. Total 30+37 days.</p> <p>(b) HAAG-2016/VIII.2.1.3 Construction of Police division building, Bayankhongor aimag, Bayankhongor soum; Bid advertisement 2016/01/19, Bid opening 2016/03/07, Contract award 2016/04/29. Total 49+29 days.</p> <p>(xi)</p> <p>(c) HAAG-2015/IX.1.1.153: Expansion of school building (48th school, Bayanzurkh district, Ulaanbaatar), Bid advertisement 2015/10/27, Bid opening 2015/11/27, Contract award 2016/01/04. Total 30+42 days.</p>	Average
C.17. Are there processes in place for the collection and clearance of cargo through ports of entry?	Yes.	Average
C.18. Are there established goods receiving procedures?	NA. Procurement division is responsible only up to contract award. Goods receiving procedure is responsibility of End user.	NA

Question	Answer/Finding	Risk
C.19. Are all goods that are received recorded as assets or inventory in a register?	NA. Procurement division is responsible only up to contract award. Inventory procedure is responsibility of End user.	NA
C.20. Is the agency/procurement department familiar with letters of credit?	No.	Average
C.21. Does the procurement department register and track warranty and latent defects liability periods?	NA. Procurement division is responsible only up to contract award. Register for track warranty and defects procedure are responsibility of End user.	NA
Consulting Services		
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. World bank funded "Smart government project"	Average
C.23. If the above answer is yes, what were the major challenges?	Difference between guidelines of foreign assisted project and Public procurement law.	
C.24. Are assignments and requests for expressions of interest (EOIs) advertised?	Yes	Low
C.25. Is a consultants' selection committee formed with appropriate individuals, and what is its composition (if any)?	Ad hoc committee established in accordance with Public procurement law.	Average
C.26. What criteria is used to evaluate EOIs?	The criteria that included at the bidding documents usually the criteria related to similar experience and sound technical and financial capacity.	Average
C.27. Historically, what is the most common method used (QCBS, QBS, etc.) to select consultants?	QCBS	Average
C.28. Do firms have to pay for the RFP document?	Yes	Average
C.29. Does the proposal evaluation criteria follow a pre-determined structure and is it detailed in the RFP?	Yes	Low
C.30. Are pre-proposal visits and meetings arranged?	Yes if included at RFP	Average
C.31. Are minutes prepared and circulated after pre-proposal meetings?	Yes	
C.32. To whom are the minutes distributed?	To all participants	
C.33. Are all queries from consultants answered / addressed in writing?	Yes	Low
C.34. Are the technical and financial proposals required to be in separate envelopes?	Yes	Low
C.35. Are proposal securities required?	Yes	Low
C.36. Are technical proposals opened in public?	Yes	Average
C.37. Are minutes of the technical opening distributed?	Yes	
C.38. Do the financial proposals remain sealed until technical evaluation is completed?	Yes	Average
C.39. Who determines the final technical ranking and how?	BEC based on RFQ criteria	
C.40. Are the technical scores sent to all firms?	Yes	
C.41. Are the financial proposal opened in public?	Yes	Low
C.42. Are minutes of the financial opening distributed?	Yes	

Question	Answer/Finding	Risk
C.43. How is the financial evaluation completed?	According to the rules specified at the RFP	Average
C.44. Are face to face contract negotiations held?	Yes.	
C.45. How long after financial evaluation is negotiation held with the selected firm?	Within a week	
C.46. What is the usual basis for negotiation?	Negotiation include person/month, person/days, field or home office schedule, office stationary cost. Unit fee rates for person/month and person/day cannot be negotiated.	
C.47. Are minutes of negotiation taken and signed?	Yes	
C.48. How long after negotiation is the contract signed?	Within 2 week	Average
C.49. Is there an evaluation system for measuring the outputs of consultants?	No	Average
Payments		
C.50. Are advance payments made?	NA. Procurement division is responsible only up to contract award.	NA
C.51. What is the standard period for payment included in contracts?	NA. Procurement division is responsible only up to contract award. Payment procedure is responsibility of End user.	NA
C.52. On average, how long is it between receiving a firm's invoice and making payment?	NA. Procurement division is responsible only up to contract award. Payment procedure is responsibility of End user.	
C.53. When late payment is made, are the beneficiaries paid interest?	NA. Procurement division is responsible only up to contract award. Payment procedure is responsibility of End user.	
D. EFFECTIVENESS		
D.1. Is contractual performance systematically monitored and reported?	NA. Procurement division is responsible only up to contract award. Contract management is responsibility of End user.	NA
D.2. Does the agency monitor and track its contractual payment obligations?	NA. Procurement division is responsible only up to contract award. Monitoring procedure is responsibility of End user.	NA
D.3. Is a complaints resolution mechanism described in national procurement documents?	Yes. Included in law.	Average
D.4. Is there a formal non-judicial mechanism for dealing with complaints?	Yes. Included in law.	Average
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.	Average
E. ACCOUNTABILITY MEASURES		
E.1. Is there a standard statement of ethics and are those involved in procurement required to formally commit to it?	Yes by Law and Guidelines of Bid Evaluation Committee enacted by Minister of Finance.	Average

Question	Answer/Finding	Risk
E.2. Are those involved with procurement required to declare any potential conflict of interest and remove themselves from the procurement process?	Yes by Law and Guidelines of Bid Evaluation Committee enacted by Minister of Finance.	Average
E.3. Is the commencement of procurement dependent on external approvals (formal or de-facto) that are outside of the budgeting process?	Yes. Upon establishment of BEC by Head of Agency for Policy coordination on State Property	Average
E.4. Who approves procurement transactions, and do they have procurement experience and qualifications?	The Purchaser (Head of Agency for Policy coordination on State Property) approves the recommendation for Contract award by BEC.	Average
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?		Average
a) Bidding document, invitation to pre-qualify or RFP	The Purchaser (Head of Agency for Policy coordination on State Property) approves.	
b) Advertisement of an invitation for bids, pre-qualification or call for EOIs	No	
c) Evaluation reports	The Purchaser (Head of Agency for Policy coordination on State Property) approves the recommendation for Contract award by BEC.	
d) Notice of award	No	
e) Invitation to consultants to negotiate	No	
f) Contracts	No	
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.	Average
E.7. Is there a written auditable trail of procurement decisions attributable to individuals and committees?	Yes.	Average

B. General Ratings

Criterion	Risk
A. Organizational and Staff Capacity	Average
B. Information Management	Low
C. Procurement Practices	Average
D. Effectiveness	Average
E. Accountability Measures	Average
OVERALL RISK RATING	AVERAGE

III. PCA QUESTIONNAIRE - THE MINISTRY OF ROAD AND TRANSPORTATION DEVELOPMENT

Risk Ratings	Extremely High	High	Average	Low
--------------	----------------	------	---------	-----

A. Specific Assessment and Ratings

Question	Answer/Finding	Risk
A. ORGANIZATIONAL AND STAFF CAPACITY		
A.1. How many years' experience does the head of the procurement department/unit have in a direct procurement role?	Since 2010. 7 years	Average
A.2. How many staff in the procurement department/unit are: iv. Full Time? v. Part Time? vi. Seconded?	14 staff None None	Average
A.3. Does the procurement staff have English language proficiency?	Intermediate level	Average
A.4. Are the number and qualifications of the staff sufficient to undertake the additional procurement that will be required under the proposed project?	Yes	Average
A.5. Does the unit have adequate facilities, such as PCs, internet connections, photocopy facilities, printers, etc., to undertake the planned procurement?	Yes	Low
A.6. Does the agency have a procurement training program?	Yes	Low
A.7. Does the agency have a Procurement Committee that is independent from the head of the agency?	Yes	Average
A.8. Does the agency have a procurement department/unit, including a permanent office that performs the function of a Secretariat for the Procurement Unit, and which serves as the main support unit of the Procurement Committee?	Yes. Investment and Productions Division responsible for procurement of the Ministry.	Average
A.9. If yes, what type of procurement does it undertake?	Goods, Civil works, Consultant services	
A.10. At what level does the department/unit report (to the head of agency, deputy etc.)?	State Secretary	Low
A.11. Do the procurement positions in the agency have job descriptions, which outline specific roles, minimum technical requirements and career routes?	Yes	Average
A.12. Is there a procurement process manual for goods and works?	Yes	Average
A.13. If there is a manual, is it up to date and does it cover foreign-assisted projects?	No	
A.14. Is there a procurement process manual for consulting services?	Yes	
A.15. If there is a manual, is it up to date and does it cover foreign-assisted projects?	No	
A.16. Are there standard documents in use, such as Standard Procurement Documents/Forms, and have they been approved for use on ADB funded projects?	Yes	

Question	Answer/Finding	Risk
A.17. Does the ToR follow a standard format such as background, tasks, inputs, objectives and outputs?	Yes	
A.18. Who drafts the procurement specifications?	Bid Evaluation Committee (BEC)	Average
A.19. Who approves the procurement specifications?	The Purchaser, the State secretary	
A.20. Who drafts the bidding documents?	BEC	
A.21. Who manages the sale of the bidding documents?	BEC Secretary	
A.22. Who identifies the need for consulting services requirements?	BEC	Average
A.23. Who drafts the terms of reference (ToR)?	BEC	
A.24. Who prepares the request for proposals (RFPs)?	BEC	
B. INFORMATION MANAGEMENT		
B.1. Is there a referencing system for procurement files?	Yes	Average
B.2. Are there adequate resources allocated to record keeping infrastructure, which includes the record keeping system, space, equipment and personnel to administer the procurement records management functions within the agency?	Yes	Average
B.3. For what period are records kept?	15 years	Low
B.4. Are copies of bids or proposals retained with the evaluation?	Yes	Low
B.5. Are copies of the original advertisements retained with the pre-contract papers?	Yes	Low
B.6. Is there a single contract file with a copy of the contract and all subsequent contractual correspondence?	Yes.	Low
B.7. Are copies of invoices included with the contract papers?	No. The copy of documents made only up to contract award and the Acceptance certificate for goods at the Division of Investment and Productions. Financial department is responsible for record keeping of invoices as well as for payments transactions.	Average
C. PROCUREMENT PRACTICES		
Goods and Works		
C.1. Has the agency undertaken foreign-assisted procurement of goods or works recently (last 12 months, or last 36 months)? (If yes, please indicate the names of the development partner/s and the Project/s.)	Yes for last 36 months. ADB funded Western Regional Road Corridor Investment Program - 0107-MON(SF), 2847-MON(SF)	Average
C.2. If the above answer is yes, what were the major challenges?	Difference between guidelines of foreign assisted project and Public procurement law.	
C.3. Is there a systematic process to identify procurement requirements (for a period of one year or more)	Yes. Procurements are identified by the Ministry and approved by MOF and then by Parliament through the Budget law of each year.	Average
C.4. Is there a minimum period for preparation of bids and if yes how long?	Yes. Minimum 30 default days	Average
C.5. Are all queries from bidders replied to in writing?	Yes	

Question	Answer/Finding	Risk
C.6. Does the bidding document state the date and time of bid opening?	Yes	Low
C.7. Is the opening of bids done in public?	Yes	High
C.8. Can late bids be accepted?	Yes. Only if late bid is arrived within deadline but not yet registered within deadline.	
C.9. Can bids be rejected at bid opening?	No	
C.10. Are minutes of the bid opening taken?	Yes	Low
C.11. Who may have a copy of the minutes?	Yes. All participants	
C.12. Are the minutes free of charge?	Yes	
C.13. Who undertakes the evaluation of bids (individual(s), permanent committee, ad-hoc committee)?	Ad-hoc temporary committee	Average
C.14. What are the qualifications of the evaluators with respect to procurement and the goods and/or works under evaluation?	Must have A3 certification on public procurement	Average
C.15. Is the decision of the evaluators final or is the evaluation subject to additional approvals?	No. It is subject to Approval of State secretary	Average
C.16. Using at least three real examples, how long does it normally take from the issuance of the invitation for bids up to contact effectiveness?	<p>Default minimum 30 days for bid advertisement and bid evaluation must be finalized within 45 days after bid opening. Plus one time 30 days extension upon approval of MOF.</p> <p>a) NCB: Development of iron concrete bridge of Shiver River, Khovd soum, Uvs aimag. Bid advertisement: 2016/01/08, Contract award: 2016/03/09; total 46 days; the contract value 3.03 billion MNT</p> <p>b) NCB: Development of 1.79km asphalt road in Khonkhor town, Bayanzurkh district, Ulaanbaatar city, Bid advertisement: 2016/02/05, Contract award: 2016/04/13; total 68 days; the contract value 1.7 billion MNT.</p> <p>c) NCB: 0.25m asphalt road near FM194.5 building, Bayanzurkh district, Ulaanbaatar city, Bid advertisement 2016/04/20f, Contract award 2016/06/20; total 60 days; the contract value 388.0 million MNT</p>	Average
C.17. Are there processes in place for the collection and clearance of cargo through ports of entry?	Yes.	Average
C.18. Are there established goods receiving procedures?	Yes.	Average

Question	Answer/Finding	Risk
C.19. Are all goods that are received recorded as assets or inventory in a register?	Yes	Average
C.20. Is the agency/procurement department familiar with letters of credit?	No.	Average
C.21. Does the procurement department register and track warranty and latent defects liability periods?	No	Average
Consulting Services		
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. ADB funded Western Regional Road Corridor Investment Program - 0107-MON(SF), 2847-MON(SF)	Average
C.23. If the above answer is yes, what were the major challenges?	Difference between guidelines of foreign assisted project and Public procurement law.	
C.24. Are assignments and requests for expressions of interest (EOIs) advertised?	Yes	Low
C.25. Is a consultants' selection committee formed with appropriate individuals, and what is its composition (if any)?	Ad hoc committee established in accordance with Public procurement law.	Average
C.26. What criteria is used to evaluate EOIs?	The criteria that included at the RFQ usually the criteria related to similar experience and sound technical and financial capacity	Average
C.27. Historically, what is the most common method used (QCBS, QBS, etc.) to select consultants?	QCBS	Average
C.28. Do firms have to pay for the RFP document?	Yes	Average
C.29. Does the proposal evaluation criteria follow a pre-determined structure and is it detailed in the RFP?	Yes	Low
C.30. Are pre-proposal visits and meetings arranged?	Yes if included at RFP	Average
C.31. Are minutes prepared and circulated after pre-proposal meetings?	Yes	
C.32. To whom are the minutes distributed?	To all participants	
C.33. Are all queries from consultants answered / addressed in writing?	Yes	Low
C.34. Are the technical and financial proposals required to be in separate envelopes?	Yes	Low
C.35. Are proposal securities required?	Yes	Low
C.36. Are technical proposals opened in public?	Yes	Average
C.37. Are minutes of the technical opening distributed?	Yes	
C.38. Do the financial proposals remain sealed until technical evaluation is completed?	Yes	Average
C.39. Who determines the final technical ranking and how?	BEC based on RFQ criteria	
C.40. Are the technical scores sent to all firms?	Yes	
C.41. Are the financial proposal opened in public?	Yes	Low
C.42. Are minutes of the financial opening distributed?	Yes	
C.43. How is the financial evaluation completed?	According to the rules specified at the RFP.	Average
C.44. Are face to face contract negotiations held?	Yes.	
C.45. How long after financial evaluation is negotiation held with the selected firm?	Within 1 week.	

Question	Answer/Finding	Risk
C.46. What is the usual basis for negotiation?	Negotiation include person/month, person/days, field or home office schedule, office stationary cost. Unit fee rates for person/month and person/day cannot be negotiated.	
C.47. Are minutes of negotiation taken and signed?	Yes	
C.48. How long after negotiation is the contract signed?	Within 2 weeks	Average
C.49. Is there an evaluation system for measuring the outputs of consultants?	No	Average
Payments		
C.50. Are advance payments made?	Yes	Average
C.51. What is the standard period for payment included in contracts?	Yes. 28 days after receipt of invoice according to standard contract template	Average
C.52. On average, how long is it between receiving a firm's invoice and making payment?	Within 28 days	
C.53. When late payment is made, are the beneficiaries paid interest?	Yes.	
D. EFFECTIVENESS		
D.1. Is contractual performance systematically monitored and reported?	No.	Average
D.2. Does the agency monitor and track its contractual payment obligations?	Yes	Average
D.3. Is a complaints resolution mechanism described in national procurement documents?	Yes. Included in law.	Average
D.4. Is there a formal non-judicial mechanism for dealing with complaints?	Yes. Included in law.	Average
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.	Average
E. ACCOUNTABILITY MEASURES		
E.1. Is there a standard statement of ethics and are those involved in procurement required to formally commit to it?	Yes by Law and Guidelines of Bid Evaluation Committee enacted by Minister of Finance.	Average
E.2. Are those involved with procurement required to declare any potential conflict of interest and remove themselves from the procurement process?	Yes by Law and Guidelines of Bid Evaluation Committee enacted by Minister of Finance.	Average
E.3. Is the commencement of procurement dependent on external approvals (formal or de-facto) that are outside of the budgeting process?	Yes. Upon Procurement plan approval and establishment of BEC by The Purchaser (State secretary)	Average
E.4. Who approves procurement transactions, and do they have procurement experience and qualifications?	The Purchaser (State secretary) approves the recommendation for Contract award by BEC.	Average
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?		Average
g) Bidding document, invitation to pre-qualify or RFP	The Purchaser (State secretary) approves.	

Question	Answer/Finding	Risk
h) Advertisement of an invitation for bids, pre-qualification or call for EOIs	No	
i) Evaluation reports	The Purchaser (State secretary) approves the recommendation for Contract award by BEC.	
j) Notice of award	Notice is issued by the Purchaser (State secretary)	
k) Invitation to consultants to negotiate	No	
l) Contracts	No	
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.	Average
E.7. Is there a written auditable trail of procurement decisions attributable to individuals and committees?	Yes.	Average

B. General Ratings

Criterion	Risk
A. Organizational and Staff Capacity	Average
B. Information Management	Low
C. Procurement Practices	Average
D. Effectiveness	Average
E. Accountability Measures	Average
Overall Risk Rating	Average