

**BENCHMARKING PPP PROCUREMENT 2017 IN MONGOLIA**

<b>Regulatory and Institutional Framework for PPPs</b>	
<b>Does the regulatory framework in your country allow procuring PPPs?</b>	Yes
<b>Yes. If yes, please specify the relevant regulatory framework and the year of adoption:</b>	The regulatory framework governing PPPs in Mongolia mainly consists of the State Policy on Public Private Partnership as adopted by the Parliament Resolution No. 64, dated October 15 2009 [hereinafter "State Policy on PPPs"], the 2010 Law on Concessions [hereinafter "Concessions Law"] and its Regulation adopted by Government Resolution No. 103 entitled Procedures on Granting a Concession through a Tender Process, dated 07 July 2010, together with its further adopted annexes [hereinafter "Concessions Regulation"]; Evaluation of bid proposals; Sample Request for Quotation (RfQ) and Sample Request for Proposal (RfP) documents, dated April 4, 2012 (which replaced the Government resolution No. 177, dated 07 July 2010). According to Article 2.1 of the Concessions Law, legislation on concessions shall consist of the Constitution of Mongolia, the Civil Code, the Law on Government, the Law on State and Local Property, the Law on Foreign Investment, the Concessions Law, and other legislative acts enacted in conformity therewith. Lastly, the Public Procurement Law issued 2005 would also apply. The current regulatory framework shall consist of the State Policy on PPPs, the Law on Concessions and its Regulation for purposes of this Report.
<b>and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:</b>	<a href="http://legalinfo.mn/annex/?lawid=6653">http://legalinfo.mn/annex/?lawid=6653</a> <a href="http://www.legalinfo.mn/law/details/312">http://www.legalinfo.mn/law/details/312</a> <a href="http://legalinfo.mn/law/details/9235?lawid=9235">http://legalinfo.mn/law/details/9235?lawid=9235</a>
<b>Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors? Transportation.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Water and irrigation</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Energy generation and distribution</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Telecom</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a

<b>Health</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Education</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Other</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Please identify the PPP procuring authorities in country_name and provide their website(s) (if available):</b>	<p>In the case of a concession that is state-owned property, the state central administrative authority in charge of state property submits concession project proposals together with CBA to an authorized entity, according to Articles 9.4, 10.1, 10.3, and 20.1 of the Concessions Law. The procuring authorized entity for state property is the state administrative authority in charge of concessions and the authorized entity for local property are governors of aimags and the capital city, according to Article 3.1 of the Concessions Law.</p> <p>According to Article 20(4) of the Law on the Government of Mongolia (issued may 6, 1993), the Prime minister is in charge of concessions and PPPs. The Prime Minister delegated his authority to the Minister of Industry and the implementation and procurement is done by the Invest Mongolia agency under the Prime Minister's office.</p>
<b>In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?</b>	Yes
<b>If yes, please indicate its name, and its website (if available):</b>	PPP and Concession Division at the Invest Mongolia Agency <a href="http://investmongolia.gov.mn/en/?page_id=259">http://investmongolia.gov.mn/en/?page_id=259</a>
<b>If yes, what are the main responsibilities of the PPP Unit (check all that apply). PPP regulation.</b>	Yes
<b>PPP policy guidance and capacity building for other public authorities.</b>	Yes
<b>PPP promotion among the public and/or private sectors in national and international forums.</b>	Yes
<b>Technical support in implementing PPP projects.</b>	Yes
<b>Gatekeeping (approval of PPP projects).</b>	No
<b>Procurement of PPPs.</b>	Yes

<b>Oversight of PPP implementation.</b>	Yes
<b>Other</b>	No
<b>please specify:</b>	n/a
<b>Preparation of PPPs</b>	Score: 27
<b>Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If yes, is a second approval by the Ministry of Finance or Central Budgetary Authority required before signing the PPP contract?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process?</b>	Yes
<b>If yes, please specify the relevant authority</b>	The Government of Mongolia, referring to the Cabinet, approves the list of state-owned PPP projects. Additionally, the Parliament would approve the PPP agreement only if tax exemptions are granted to the concessionaire.
<b>and provide the relevant legal/regulatory provisions (if any):</b>	<p>With regards to the Government's approval, Article 6.1 of the Concessions Law provides that the government shall have the following powers:</p> <p>6.1.1. Approve and revise the list of concession items for state-owned property;</p> <p>6.1.2. Decide on granting a concession and authorize the authority specified in Article 6.2 of this law to enter into a concession agreement;</p> <p>As for the Parliament's approval, Article 19.2 of the Concessions Law provides that if the concession agreement provides the concessionaire with tax exemptions and waivers, the government shall submit this matter to the State Great Hural (Parliament) for ratification.</p>
<b>If yes, is a second approval by the same authority required before signing the PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	According to Article 19.1 of the Concessions Law, the Government shall authorize the authorized entity to conclude an agreement based on the recommendations submitted in accordance with Articles 15.3, 17.2, 18.5 and 18.6 of this law.
<b>Does the government integrate the prioritization of</b>	No

PPP projects with all other public investment project prioritization? (e.g. in the context of a national public investment system)?	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
If yes, which of the following options best describes the way your government prioritizes PPP projects? (Please select only one). The regulatory framework provides for the inclusion of PPPs in the national public investment system and/or details a specific procedure to ensure the consistency of PPPs with other public investment priorities.	n/a
If yes, please specify:	n/a
The regulatory framework prescribes the need for PPPs to be consistent with all other investment priorities without establishing a specific procedure to achieve that goal.	n/a
The regulatory framework does not include any provisions.	n/a
Other	n/a
please specify:	n/a
Among the PPP projects procured within the last two (2) years, how many of them were prioritized along with all other public investment projects? Please elaborate:	n/a
Which of the following assessments are conducted when identifying and preparing a PPP? (check all that apply): 10.1. Socio-economic analysis (cost-benefit analysis of the socio-economic impact of the project)	Yes
Relevant legal/regulatory provision (if any)	Practice

<b>Is there a specific methodology?</b>	No
<b>If yes, elaborate.</b>	n/a
<b>Affordability assessment, including the identification of the required long term public commitments (explicit and implicit)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Practice
<b>Is there a specific methodology?</b>	No
<b>If yes, elaborate</b>	n/a
<b>Risk identification, allocation and assessment (risk matrix)</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>Is there a specific methodology?</b>	n/a
<b>If yes, elaborate</b>	n/a
<b>Financial viability or bankability assessment.</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	Practice
<b>Is there a specific methodology?</b>	No
<b>If yes, elaborate</b>	n/a
<b>Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>Is there a specific methodology?</b>	n/a
<b>If yes, elaborate</b>	n/a
<b>Market assessment (showing evidence of enough interest in the market for the project)</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>Is there a specific methodology?</b>	n/a
<b>If yes, elaborate</b>	n/a
<b>Among the PPP projects procured within the last two (2) years, for how many of them were all of the required</b>	None of the projects

<b>assessments conducted? Please elaborate:</b>	
<b>Does the procuring authority include a draft PPP contract in the request for proposals?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 13.7 of the Concessions Law provides that tender documents shall include the following: 13.7.6. Draft agreement containing general terms of the concession agreement, and non-negotiable terms of the agreement, an indication of whether there shall be additional agreements and, if so, information on them;
<b>If no, please elaborate (provide examples):</b>	n/a
<b>Have standardized PPP model contracts and/or transaction documents been developed?</b>	Yes
<b>If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:</b>	"Model Concession Agreement" developed by Invest Mongolia Agency, available at: <a href="http://investmongolia.gov.mn/wp-content/uploads/2015/01/Kontsesiin_jishig_geree.doc">http://investmongolia.gov.mn/wp-content/uploads/2015/01/Kontsesiin_jishig_geree.doc</a>
<b>Does the procuring authority obtain the permits necessary to develop and operate the PPP project before calling for tenders in any of the following areas? Environmental permits.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 21.1.8 of the Concessions Law provides that amongst the contents of the concessions agreement are rights and obligations of the regulatory authorities to provide support to the concessionaire in obtaining permits, licenses, land or land use rights necessary for the implementation of the concession.
<b>Urban and zoning permits.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 21.1.8 of the Concessions Law provides that amongst the contents of the concessions agreement are rights and obligations of the regulatory authorities to provide support to the concessionaire in obtaining permits, licenses, land or land use rights necessary for the implementation of the concession.
<b>Other permits.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 21.1.8 of the Concessions Law provides that amongst the contents of the concessions agreement are rights and obligations of the regulatory authorities to provide support to the concessionaire in obtaining permits, licenses, land or land use rights necessary for the implementation of the concession.
<b>Does the procuring authority make available to PPPCo the necessary land or right of way to develop the PPP project (if any)? Land</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 21.1.8 of the Concessions Law provides that amongst the contents of the concessions agreement are rights and obligations of the regulatory authorities to provide support to the concessionaire in obtaining permits, licenses, land or land use rights necessary for the implementation of the concession.

<b>If no, please elaborate (provide explanation):</b>	n/a
<b>Does the procuring authority make available to PPPCo the necessary land or right of way to develop the PPP project (if any)? Right of way</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 21.1.8 of the Concessions Law provides that amongst the contents of the concessions agreement are rights and obligations of the regulatory authorities to provide support to the concessionaire in obtaining permits, licenses, land or land use rights necessary for the implementation of the concession.
<b>If no, please elaborate (provide explanation):</b>	n/a
<b>Does the regulatory framework establish any exceptions where the preparation process described above does not apply or allows for a “fast track” procedure?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>What is the average number of calendar days that the procuring authority spends on each of the following activities to prepare a PPP project? Conducting the required assessments:</b>	No data
<b>Obtaining the required approvals from other relevant authorities:</b>	No data
<b>Preparing the draft PPP contract:</b>	360
<b>Obtaining any permits, land and/or right of way that the procuring authority must provide according to the regulatory framework:</b>	360
<b>PPP Procurement</b>	Score: 58
<b>Are the bid evaluation committee members required to meet specific qualifications?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any)</b>	Section 3.4 of the Concessions Regulations provides for general requirements to be met. The qualification requirements are: <ul style="list-style-type: none"> <li>- To be qualified to evaluate proposals;</li> <li>- To be specialized in the relevant sector; and</li> <li>- Have not been employed by any of the bidders for the last 3 years.</li> </ul>

<b>If no, please elaborate (provide examples):</b>	n/a
<b>If yes, which of the following options best describes the required qualifications of the committee members? (Please select only one). The regulatory framework details the qualifications required and/or the specific membership of the bid evaluation committee.</b>	No
<b>If yes, please specify:</b>	n/a
<b>The regulatory framework requires generally sufficient qualification without detailing the specific qualifications required to be a member of the bid evaluation committee.</b>	Yes
<b>The regulatory framework does not include any provisions.</b>	No
<b>Other</b>	No
<b>please specify:</b>	n/a
<b>Does the procuring authority issue a public procurement notice of the PPP?</b>	Yes
<b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>	Article 12.2 of the Concessions Law provides that an announcement of tender shall be published in national daily newspapers and other media and, if necessary, in an industry publication issued in a language commonly used in international trade.
<b>If yes, is the public procurement notice published online?</b>	Yes
<b>If yes, please specify the website:</b>	Procurement notices of state-owned PPPs are published at: <a href="http://www.investmongolia.gov.mn">www.investmongolia.gov.mn</a>
<b>Does the procuring authority grant the potential bidders a minimum period of time to submit their bids?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 12.4 of the Concessions Law provides that the deadline for receiving proposals to participate in the tender shall be no less than two months from the date of the tender's announcement to the public.
<b>and the time in calendar days :</b>	60
<b>Do the tender documents detail the stages of the procurement process?</b>	Yes

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 12.1 of the Concessions Law provides that the announcement of the tender shall contain the following: 12.1.7. stages and procedures of the tender;
<b>If no, please elaborate (provide examples):</b>	n/a
<b>Does the procurement process include a pre-qualification stage to select a number of qualified bidders to present the full proposal?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 13.6 of the Concessions Law provides that the authorized entity shall prepare a list of participants who meet the criteria specified in Articles 13.3 and 13.4 of this law and who shall be eligible to submit project proposals, and the authorized entity shall inform them accordingly and organize the distribution of the tender documents to them.
<b>If yes, do the tender documents specify the prequalification criteria in order to make them available to all of the bidders?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Contributors provided that the general criteria as provided in Articles 12.1.3 and both 13.3 and 13.4 of the Concessions Law would apply. Article 13.3 of the Concessions Law contains the following criteria: (i) financial capacity, (ii) management, professional personnel, technical and technological capacity and experience, (iii) whether or not participants satisfies the conditions required for issuing a license (when required), (iv) whether or not a participant meets the specific requirements provided in the tender notice, (v) other criteria deemed necessary by the authority issuing the tender; Article 13.4 relates to the criteria of evaluation when the applicant is a consortium.
<b>Among the PPP procurement processes conducted within the last two (2) years that had a prequalification stage, how many of them included prequalification criteria in the tender documents? Please elaborate</b>	None of the projects
<b>Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 16.4 of the Concessions Law provides that the authorized entity may organize meetings with participants to clarify and obtain additional information on the proposals specified in Article 16.3 of this law. Yet, this provision only applies to "two-stage procedures" (Article 16 of the Concessions Law) when the nature of the concession item and the concerned industry makes it impossible to reflect in sufficient details in the tender documents the technical and economic feasibility, financing conditions, and other requirements and criteria.
<b>If yes, does the procuring authority disclose those</b>	No

<b>questions and clarifications to all of the potential bidders?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Among the PPP procurement processes conducted within the last two (2) years where questions were submitted, in how many were the questions and clarifications disclosed to all of the potential bidders? Please elaborate:</b>	None of the projects
<b>Besides questions and clarifications, can the procuring authority conduct other types of dialogue with the potential bidders?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	Article 15.1 of the Concessions Law provides that the authorized entity shall negotiate with participants the terms of the concession and other related agreements.
<b>If yes, does the procuring authority disclose the content and the results of the dialogue to all of the potential bidders?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Among the PPP procurement processes conducted within the last two (2) years where any other type of dialogue was conducted, in how many was the content and the result of the dialogue disclosed to all of the potential bidders? Please elaborate:</b>	None of the projects
<b>Does the procuring authority require the bidders to prepare and present a financial model with their proposals ?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	According to Article 14.1 of the Concessions Law, the participants specified in Article 13.6 of this law shall submit their sealed project proposals prepared in accordance with the tender documents together with the technical and economic feasibility studies. The components of the studies and tender documents would include the total amount of payments and fees for works and services to be rendered during the concession agreement (Article 14.3.4), cost of design, construction, maintenance, total investments and their present value (Article 14.3.5), financial support from the state (Article 14.3.6) and financing plan (Article 14.3.7).

<b>If no, please elaborate (provide examples):</b>	n/a
<b>Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 14.4 of the Concessions Law provides that the authorized entity shall evaluate the project proposals as specified in Article 14.3 of this law and rank them beginning with the best proposal. Article 14.3 of this Law contains a list of the required evaluation criteria. And according to Section 3.10.3 of the Concessions Regulation, the evaluation committee members shall evaluate the proposals in accordance with the evaluation criteria indicated in the solicitation documents.
<b>Among the PPP procurement processes conducted within the last two (2) years, in how many of them was the evaluation of the bidders conducted in accordance with the criteria stated in the tender documents? Please elaborate:</b>	No Data
<b>In the case where only one proposal is submitted (sole proposals), does the procuring authority follow any special procedure before awarding the PPP?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If yes, what of the following options best describes the way the procuring authority deals with sole proposals? (Please select only one). The regulatory framework details a specific procedure that the procuring authority must follow before awarding a PPP contract where only one proposal is submitted.</b>	n/a
<b>Please specify:</b>	n/a
<b>The regulatory framework considers sole proposals valid as long as they meet the conditions outlined in the tender documents.</b>	n/a
<b>The regulatory framework does not allow the award of a</b>	n/a

<b>PPP contract if only one proposal is submitted.</b>	
<b>The regulatory framework does not include any provisions.</b>	n/a
<b>Other</b>	n/a
<b>please specify:</b>	n/a
<b>In practice, what is the average number of calendar days between the initial publication of the PPP public procurement notice and the award of the PPP? Number of calendar days:</b>	270
<b>Does the procuring authority publish the award notice?</b>	No
<b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If yes, is the public procurement award notice published online?</b>	n/a
<b>If yes, please specify the website:</b>	n/a
<b>Does the procuring authority provide all the bidders with the result of the PPP procurement process?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If no, please elaborate (provide examples):</b>	No clear provisions exist, neither have contributors confirmed that this is done in practice.
<b>If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid?</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Does the regulatory framework restrict or regulate in any way negotiations with the selected bidder between the award and the signature of the PPP contract?</b>	No

<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Among the PPP procurement processes conducted within the last two (2) years, in how many of them were the terms and conditions changed between the award and the signature of the PPP contract? Please elaborate:</b>	No Data
<b>Does the procuring authority publish the PPP contract?</b>	Yes
<b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>	Practice
<b>If yes, is it published online?</b>	Yes
<b>If yes, please specify the website:</b>	<a href="http://www.investmongolia.gov.mn">www.investmongolia.gov.mn</a>
<b>Does the regulatory framework establish any exceptions where the procurement process described above does not apply or allows for a "fast track" procedure?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>Article 17 of the Concessions Law provides for the possibility to enter into a "direct agreement" under the following circumstances:</p> <p>17.1.1. when it is deemed that conducting a tender would jeopardize national security;</p> <p>17.1.2. when one or several entities with common interest own intellectual and related property essential for implementation of the concession;</p> <p>17.1.3. when no proposal was submitted in response to the tender announcement or no proposals met the requirements of the tender and, in the opinion of the authorized entity, it was unlikely that any proposals would be submitted within the required timeframe if a tender is announced again;</p> <p>17.1.4. when a concession item is transferred to other entities in accordance with Article 28 of this law.</p>
<b>Unsolicited proposals</b>	Score: 75
<b>Does the regulatory framework allow for the submission of unsolicited proposals? (if no, skip to section F)</b>	Yes

<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Article 18.1 of the Concessions Law provides that Mongolian and foreign legal entities and their consortia may submit to the authorized entity an unsolicited proposal to conclude a concession agreement together with the cost-benefit analysis.
<b>If yes, please specify, to the best of your knowledge, the percentage of PPP investments in your country approved as unsolicited proposals during the last five (5) years:</b>	No Data
<b>Does the procuring authority conduct an assessment to evaluate unsolicited proposals?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	Article 18.4 of the Concessions Law provides that if the authorized entity considers that the proposal specified in Article 18.1 of this law should be added in the list of concession items in accordance with the procedure specified in Article 9 of this law or be included in the list of concession items, it shall submit its recommendation to that effect to the government or the Citizens' Representatives Assembly of the aimag or the capital city. The authorized entity would thus conduct a cost-benefit analysis to decide whether to enlist a project in the list of concession items precisely.
<b>If yes, does it ensure that the unsolicited proposal is consistent with the existing government priorities?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	The objective of the screening process mentioned in Article 18.4 of the Concessions Law is to decide whether or not to include the unsolicited proposal proposed project in the list of investments, which serves as the existing government priorities.
<b>If yes, which of the following options best describes how unsolicited proposals are evaluated against existing government priorities? (Please select only one). The regulatory framework details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</b>	No
<b>If yes, please specify:</b>	n/a
<b>The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.</b>	No
<b>The regulatory framework does not include any provisions.</b>	Yes
<b>Other</b>	No

<b>please specify:</b>	n/a
<b>Among the unsolicited proposals approved within the last two (2) years, how many of them were a part of the existing government priorities? Please elaborate:</b>	n/a
<b>Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 18.4 of the Concessions Law provides that If the government or the Citizens' Representatives Assembly of the aimag or the capital city decides to include the particular item in the list of concession items, the authorized entity shall organize a tender in accordance with the procedures specified in this law.
<b>Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	The general rules apply where as in Article 12.4 of the Concessions Law, the deadline for receiving proposals to participate in the tender shall be no less than two months.
<b>and the time in calendar days:</b>	60
<b>Does the procuring authority use any of the following mechanisms to reward/compensate the presentation of unsolicited proposals? (check all that apply): Access to the best and final offer.</b>	No
<b>Developer's fee (reimbursing the original proponent for the project development cost).</b>	No
<b>Bid bonus.</b>	Yes
<b>Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).</b>	No
<b>Other</b>	No
<b>please specify:</b>	n/a
<b>Please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>PPP Contract Management</b>	Score: 69

Has the procuring or contract management authority established a system to manage the implementation of the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any)	n/a
If yes, which of the following tools does it include (check all that apply)? Establishment of a PPP contract management team.	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Participation of the members of the PPP contract management team in the PPP procurement process.	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Possibility to consult with PPP procurement experts when managing the PPP contract.	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Elaboration of a PPP implementation manual or an equivalent document.	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Other	n/a
please specify:	n/a
If there is a contract management team, in how many of the PPP projects procured within the last two (2) years did the management system and tools fully inform the contact management team? Please elaborate:	n/a
Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract?	Yes

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 25.1 of the Concessions Law provides that the following entities shall monitor the implementation of the concession agreement: 25.1.1 the state administrative and local authorities in charge of state and local property; 25.1.2 the state administrative authority in charge of the particular concession item; 25.1.3 other authorities and officials authorized to monitor as specified in the laws.
<b>If yes, which of the following tools does it include (check all that apply)? PPPCo must provide the procuring or contract management authority with periodic operational and financial data.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 21.1.17 of the Concessions Law provides that that content of a concessions agreement shall include an obligation of the concessionaire to report and inform.
<b>The procuring or contract management authority must periodically gather information on the performance of the PPP contract.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The procuring or contract management authority must establish a risk mitigation mechanism.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The PPP contract performance information must be available to the public.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Other</b>	No
<b>please specify:</b>	n/a
<b>Is PPP contract performance information publicly available online?</b>	Yes
<b>If yes, please specify the website:</b>	PPP contract performance information is available at <a href="http://shilendans.gov.mn/">http://shilendans.gov.mn/</a>
<b>Does the regulatory framework expressly regulate a change in the structure (i.e. stakeholder composition) of PPPCo?</b>	Yes

<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>According to Article 27.1 of the Concessions Law, the following shall be prohibited for a concessionaire:</p> <p>27.1.1. transfer its rights and obligations to others unless authorized by the law or the agreement;</p> <p>27.1.4. unless the concession agreement provides otherwise, transfer its controlling interest to others by pledging, selling, or otherwise without the consent of the authorized entity.</p>
<b>If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in PPPCo during an initial period (e.g. construction and first five years of operation).</b>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>n/a</p>
<b>In case of a change affecting the controlling interest, the replacing entity must meet the same technical qualifications as the original operator.</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>Practice</p>
<b>Flexibility to substitute non-controlling interest after the initial period.</b>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>n/a</p>
<b>Does the regulatory framework expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/ regulatory provisions:</b>	<p>Article 22 of the Concessions Law discussed the circumstances for the extension of the concessions agreement, and Article 23 addresses its revision.</p>
<b>If yes, which of the following circumstances are specifically regulated? (check all that apply): A change in the scope and/or object of the contract.</b>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	<p>n/a</p>
<b>A change in the risk allocation of the contract.</b>	<p>No</p>

<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>A change in the investment plan or duration of the contract.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Article 22.3 of the Concessions Law provides that the authorized entity may extend the concession agreement if unforeseen circumstances arise which have a financial impact on the concessionaire or which may lead to imposing tariffs and payments for the population that are too high.
<b>Does the regulatory framework expressly regulate the following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Article 21.1.23 of the Concessions Law provides that obligatory concession agreement content shall include: the duration of the concession agreement, its extension, transfer of rights and obligations under the agreement, revisions to the agreements, relationship between the concession agreement and other related contracts, force majeure, non-performance by parties of obligations, termination and expiration of the agreement, handing-over and transfer of the concession item, and settlement of disputes. Article 22.2 of the same Law provides that the authorized entity shall extend the concession agreement if: 22.2.1. the activities specified in the concession agreement have been disrupted or delayed as a result of force majeure; And Article 31.2 of the Concessions Law provides that the concession agreement shall provide for risk allocation related to emergency situations caused by force majeure.
<b>Material Adverse government action.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Article 22.2 of the Concessions Law provides that the authorized entity shall extend the concession agreement if: 22.2.2. the activities specified in the concession agreement have been disrupted or delayed as a result of a decision taken by state authorities.
<b>Change in the Law.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Article 23.2 of the Concessions Law provides that the concessionaire may propose to revise the agreement to receive compensations under the following circumstances: 23.2.2. changes in legislation.
<b>Refinancing.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>Other.</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory provisions:</b>	n/a
<b>Does the regulatory framework establish a specific</b>	Yes

<b>dispute resolution mechanism for PPPs?</b>	
<b>If yes, please specify and provide the relevant legal/regulatory provisions</b>	Article 34.2 of the Concessions Law provides that any dispute between the parties to the concession agreement shall be settled in the manner prescribed in the agreement.
<b>If yes, which of the following options best describes the dispute resolution mechanism for PPPs? (Please select only one). The regulatory framework details specific resolution mechanisms for disputes arising during the implementation of the PPP.</b>	No
<b>If yes, please specify:</b>	n/a
<b>The regulatory framework prescribes that a dispute resolution mechanism should be regulated in the contract.</b>	Yes
<b>The regulatory framework provide the parties with recourse to arbitration but no other alternative dispute resolution mechanism.</b>	No
<b>Other</b>	No
<b>please specify:</b>	n/a
<b>Does the regulatory framework allow for the lenders to take control of the PPP project (lender step-in right) if either PPPCo defaults or if the PPP contract is under threat of termination for failure to meet service obligations?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Article 28.1.4 of the Concessions Law provides that in the event of non-performance or failure by the concessionaire to properly perform under the concession agreement or if the concessionaire is bankrupt or liquidated, submit a proposal to the authorized entity to manage the concession item or transfer it to others with the consent of the authorized entity in accordance with the procedures specified in the concession agreement.
<b>If yes, which of the following options best describes the lender step-in right? (Please select only one). The regulatory framework expressly regulates the lender step-in rights.</b>	Yes
<b>If yes, please specify:</b>	Article 28.1.4 of the Concessions Law provides that in the event of non-performance or failure by the concessionaire to properly perform under the concession agreement or if the concessionaire is bankrupt or liquidated, submit a proposal to the authorized entity

	to manage the concession item or transfer it to others with the consent of the authorized entity in accordance with the procedures specified in the concession agreement.
<b>The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.</b>	No
<b>The regulatory framework prescribes that a direct agreement should be signed with the lenders.</b>	No
<b>Other</b>	No
<b>please specify:</b>	n/a
<b>Does the regulatory framework expressly establish the grounds for termination of a PPP contract?</b>	Yes
<b>If yes, please specify:</b>	<p>Articles 24.1 of the Concessions Law provides for specific termination circumstances of a concession agreement where:</p> <p>24.1.1. mutual agreement of the parties;</p> <p>24.1.2. the agreement expires and it has not been extended;</p> <p>24.1.3. the concessionaire is bankrupt or liquidated;</p> <p>24.1.4. termination of the concession agreement in accordance with the Law on Concession or the concession agreement.</p> <p>Articles 24.2 list the grounds under which the concession agreement may be terminated by the authorized authority:</p> <p>24.2.1. it is determined by the court that the concessionaire breached the law or submitted false tender documents when participating in the tender</p> <p>24.2.2. it is determined by the relevant authority that the concessionaire has repeatedly and /or seriously violated the legislation of Mongolia;</p> <p>24.2.3. the concessionaire's non-performance or failure to properly perform under the concession agreement, if the agreement so provides</p> <p>24.2.4. the government has decided to terminate the concession agreement on grounds of national security, national defence or public interest;</p> <p>24.2.5. unless specified in the concession agreement, the controlling interest in the concessionaire has been transferred to others without the consent of the authorized entity;</p> <p>24.2.6 unless the law or the concession agreement provide otherwise, the concessionaire is bankrupt or liquidated.</p> <p>Article 24-3 list the grounds under which the concession agreement may be terminated by the concessionaire:</p> <p>24.3.1. non-performance or failure to properly perform under the concession agreement by</p>

	<p>the authorized entity or regulatory authority if the concession agreement so provides;</p> <p>24.3.2. failure by the parties to revise the concession under Article 23 of this law if the agreement so provides;</p> <p>24.3.3. other grounds specified in the law and the concession agreement</p>
<b>and provide the relevant legal/regulatory provisions:</b>	Article 24 of the Concessions Law
<b>If yes, does the regulatory framework also establish the consequences for the termination of the PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	Article 24.4 of the Concessions Law provides that the agreement shall specify how compensation due to either party is calculated in the event of the termination of the concession agreement, providing, where appropriate, for the proper value of the works rendered under the concession agreement, expenses incurred, and losses sustained by the relevant party including, as appropriate, lost profit.
<b>Are you aware of any reforms (in practice or in laws, regulations, policies, etc.) related to PPPs that: Took place in 2015, are ongoing and/or are planned to be adopted BEFORE June 1, 2016?</b>	No
<b>Please describe:</b>	n/a
<b>Are you aware of any reforms (in practice or in laws, regulations, policies, etc.) related to PPPs that: 50.2. Are ongoing and/or are planned to be adopted AFTER June 1, 2016?</b>	Yes
<b>Please describe:</b>	ADB is providing TA to draft the PPP law, which aimed to replace the existing concession law