

## PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN MONGOLIA

SURVEY QUESTION	ANALYSIS
<b>PPP Regulatory Framework</b>	
<b>2. Does the regulatory framework in your country allow procuring PPPs?</b>	Yes
<b>If yes, please specify the relevant regulatory framework and the year of adoption:</b>	<p>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 (last amended April 14, 2017) [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 RfQ and Sample 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 concession 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.</p>
<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>	<ol style="list-style-type: none"> <li>1. State Policy on PPPs- <a href="http://legalinfo.mn/annex/?lawid=6653">http://legalinfo.mn/annex/?lawid=6653</a></li> <li>2. Concessions Law- <a href="http://www.legalinfo.mn/law/details/312">http://www.legalinfo.mn/law/details/312</a></li> <li>3. Concessions Regulations- <a href="http://legalinfo.mn/law/details/9235?lawid=9235">http://legalinfo.mn/law/details/9235?lawid=9235</a></li> </ol>
<b>2.1. Are you aware of any reforms (in the regulatory frameworks – laws, regulations, policies, etc.- or in generally followed practices) related to PPPs that: Took place in 2016, are ongoing and/or are planned to be adopted BEFORE June 1, 2017?</b>	Yes
<b>Please describe:</b>	<p>Several amendments were introduced to the regulatory framework of PPPs in Mongolia. The first of which is the requirement of Parliamentary approval of “Build-Transfer” concessions as part of the State Budget of the given year. All other types of concessions will be approved by the Government. Further in connection with the State Budget and as a consequence of an amendment to the Concessions Law, concession items must have obtained permission from the Ministry of Finance in consideration of the requirements under the Fiscal Stability Law, Debt Management Law and the limits set by the Budget Law of</p>

	<p>the given year before being approved by the Government as part of the list of concession items.</p> <p>Further, the Government of Mongolia issued a list of actions to be taken with regards to concession projects by its Resolution No. 37 dated 17 August 2016, which was subsequently amended in 2017. It provides that “Build-Transfer” concessions that are repayable from the state budget are not to be implemented until 2018 although this does not apply to certain “Build-Transfer” concessions which are crucial to social and economic development and which will not impose budget strains until 2020. The Resolution also stated that concession agreements for which the works have not begun for are to be suspended, and new concession agreements which provide for repayments from the state or local budget are not to be established.</p> <p>Amendments to specifically Articles 7.3.; 8.3.; 9.6.; 9.9 of the Concessions Law have taken place.</p>
<b>2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?</b>	Yes
<b>Please describe:</b>	Authorities may be considering, revising the Concessions Law and a new law on PPP, which would be broader and more-encompassing than the Concessions Law or update this latter Law.
<b>3.1 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>3.2 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Water and Irrigation</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>3.3 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Energy generation and distribution.</b>	No

<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>3.4 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Telecom</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions:</b>	n/a
<b>3.5 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Other</b>	No
<b>If yes, specify and provide the relevant legal/regulatory provisions:</b>	n/a
<b>4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory provision (if any):</b>	According to Article 30.1 of the Concessions law, the state may provide the following financial support to the concessionaire: 30.1.3. provide tax exemptions and waivers in accordance with the relevant laws.
<b>5. Please identify the PPP procuring authorities in Mongolia and provide their website(s) (if available):</b>	In the case of a concession related to 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 authorized procuring 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 capital city, according Article 3.1 of the Concessions Law. 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 PPP's. The Prime Minister delegated his authority to the Minister of Industry.
<b>6. 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 National Development agency, <a href="http://nda.gov.mn/">http://nda.gov.mn/</a>

<b>6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.</b>	Yes
<b>6.2 PPP capacity building for other public authorities.</b>	Yes
<b>6.3 PPP promotion among the public and/or private sectors in national and international forums.</b>	Yes
<b>6.4 Technical support in implementing PPP projects.</b>	Yes
<b>6.5 Identification and selection of PPP projects from the pipeline.</b>	No
<b>6.6 Revision of fiscal risks born by the Government.</b>	No
<b>6.7 Consultation with affected communities on potential impact of PPP projects.</b>	No
<b>6.8 Approval of PPP projects.</b>	No
<b>6.9 Undertaking the procurement of PPPs.</b>	No
<b>6.10 Oversight of PPP implementation.</b>	Yes
<b>6.11 Other</b>	No
<b>6.11 please specify:</b>	n/a
<b>Please provide the relevant legal/regulatory provisions:</b>	<p>Article 6.2 of the Concessions Law provides that such responsibilities include the duty to:</p> <p>Prepare proposals on the list of state property concession items and submit it to Government; Conduct research and conclusion on the concession item; To make public listing of concession items; Provide professional and methodological assistance to other relevant organizations regarding granting and implementing concessions; Evaluate and monitor the implementation of the concession agreement and implement the legislation on concession; Create a unified registry of concessions and databank nationwide; establish common norms for special authorization by law; To jointly develop a tender document specified in Article 11 of this Law with the relevant state administrative body, declare the tender, organize it and evaluate; Conclude a concession agreement and other related contracts, such as a concessionaire with the concessionaire and other parties in connection with obtaining financing from the concessionaire; To submit to the State Administrative Body in charge of Finance and Budget quarterly the quarterly reports on implementation of the concession agreement, projects and activities of the concessionaire according to relevant procedures.</p>
<b>PPP Preparation</b>	
<b>8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP</b>	Yes

<b>project before launching the procurement process?</b>	
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	Article 9.5 of the Concessions Law provides that the state administrative body in charge of concessions shall prepare proposals on the list of concession items in conjunction with the provisions of 10.3 of this law and expenditure and profit estimation and submit them to the Government upon approval from the state administrative central organization in charge of finance and budget matters.
<b>8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>8.3. If yes to question 8.2, which of the following alternatives best describes the regulation?: Accounting and reporting according to International Public Sector Accounting Standards (IPSAS).</b>	n/a
<b>Accounting and reporting according to other international standard (e.g. European System of Accounts).</b>	n/a
<b>Please specify:</b>	n/a
<b>Other.</b>	n/a
<b>Please specify:</b>	n/a

<b>9. 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 (e.g. Cabinet, Cabinet Committee, Parliament, Supreme Audit Office, etc.)?</b>	<p>Yes</p>
<b>If yes, please specify the relevant authority</b>	<p>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.</p>
<b>and provide the relevant legal/regulatory provisions (if any):</b>	<p>With regard 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>9.1. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before signing the PPP contract?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>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.</p>
<b>10. Does the procuring authority use transaction advisors during the PPP project cycle?</b>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>n/a</p>
<b>11. In a case comparable to the case study assumptions, please select the option that best describes the way your government integrates the prioritization of PPP projects with other public investment project prioritization? (e.g. in the context of a national</b>	<p>Yes</p>

<p><b>public investment system, multi-year perspective plans, medium-term budgetary framework): The regulatory framework provides for the inclusion of PPPs in the national public investment system/medium term budgetary framework and details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</b></p>	
<p><b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b></p>	<p>Within May of each year, the National Development Agency must submit the draft project proposals for the national investment plan to the Government in accordance with the Budget Law. The national investment plan comprises of the State Budget, foreign loans, aid, concession agreements, Government debt guarantees and projects to be financed by the Development Bank of Mongolia. Article 28 of the Budget Law sets out the process of prioritizing projects for public investment with respect to infrastructure and development projects that are aimed at long term social and economic development, are for a period of 1 year or more and with a value of 30 billion MNT or more. It states that the General Budget Administrator shall submit the project proposal to the NDA, who will then prioritize the projects by taking into account the following: the medium and long term development policy of the State, economic benefits, return on investment, social value, priorities of the action plan of the Government, standards of public services, development policy of the relevant sector, regional development policy, rural development requirements, medium term budget scope, contingent liabilities and other financial risk assessments as well as any other requirements provided by the Law on Debt Management and other policy documents.</p> <p>The National Development Agency will then conduct a pre-feasibility study on the projects to determine whether the project is consistent with the medium term budget scope, the Law on Debt Management and other policy documents. If the economic benefits, return on investment and social benefits of the project are determined, a feasibility study will be carried out.</p>
<p><b>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.</b></p>	<p>No</p>
<p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>	<p>n/a</p>
<p><b>The regulatory framework does not include any provisions but the procuring</b></p>	<p>No</p>

<b>authority evaluates the consistency of PPPs with other government investment priorities in practice.</b>	
<b>If yes, please elaborate:</b>	n/a
<b>The procuring authority does not evaluate PPPs against existing government priorities.</b>	No
<b>Please elaborate and provide examples:</b>	n/a
<b>11.1. Based on your experience, is it always the case that this prioritization is done in practice in accordance with the provisions of the regulatory framework described above?</b>	No
<b>If yes, please specify:</b>	n/a
<b>If no, please elaborate:</b>	Contributors provide that there is no consistency in such prioritization
<b>12.1 Which of the following assessments are conducted when identifying and preparing a PPP in order to inform the decision to proceed with it? (check all that apply): Socio-economic analysis (cost-benefit analysis of the socio-economic impact of the PPP project)</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>Is there a specific methodology for the assessment?</b>	Yes
<b>If yes, please elaborate</b>	Resolution No. 153 of the State Property Committee on approving the Interim Methodology on Cost- Benefit Analysis of Concession Items dated 25 March 2010 approved “the Temporary Procedure for Expenditure and Profit Estimation of Concession Items”, where the methodology of cost-benefit estimation and calculation of Net Present Value is detailed in the annex.
<b>Is the assessment done in practice?</b>	No
<b>Details:</b>	n/a
<b>12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)</b>	Yes



<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	No
<b>Details:</b>	Contributors provided that there is no clear evidence that affordability assessments are conducted in practice.
<b>12.3. 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 for the assessment?</b>	n/a
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	n/a
<b>Details:</b>	n/a
<b>12.4. Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives (i.e. value for money analysis, public sector comparator)</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>Is there a specific methodology for the assessment?</b>	n/a
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	n/a
<b>Details:</b>	n/a
<b>12.5. Financial viability or bankability assessment</b>	Yes
<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>Is there a specific methodology for the assessment?</b>	No
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	No

<b>Details:</b>	Contributors provided that there is no clear evidence that financial viability and bankability assessments are conducted in practice.
<b>12.6. Market sounding and/or assessment (showing evidence of investors' 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 for the assessment?</b>	n/a
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	n/a
<b>Details:</b>	n/a
<b>12.7. Environmental impact assessment</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>Is there a specific methodology for the assessment?</b>	n/a
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	n/a
<b>Details:</b>	n/a
<b>12.8. Consultation process with affected communities on potential impact of the PPP project</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>Is there a specific methodology for the assessment?</b>	n/a
<b>If yes, please elaborate</b>	n/a
<b>Is the assessment done in practice?</b>	n/a
<b>Details:</b>	n/a
<b>13. Does the procuring authority include the assessments (indicated in Question 12 above) in the request for proposals and/or tender documents (for example, as part of an Information Memorandum to the bidders)?</b>	Yes

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis
<b>and specify which of the assessments are included in the request for proposals and/or tender documents:</b>	Depending on particular project conditions, they would include Socio-economic analysis, affordability assessment, and financial viability assessments.
<b>13.1. Are the assessments published online?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>specify the website</b>	n/a
<b>please specify which of the assessments are published online:</b>	n/a
<b>14. 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</b>	n/a
<b>14.1. Are the tender documents published online?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>and please specify the website:</b>	n/a
<b>15. In a case comparable to the case study assumptions, 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> <a href="http://nda.gov.mn">http://nda.gov.mn</a>
<b>16.1 In a case comparable to the case study assumptions, who is the responsible party for each of the following requirements? Obtaining the required urban permits:</b>	No

<b>Procuring authority (or other Government entity)</b>	
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	Yes
<b>To be established in the contract</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	Article 21.1.8 of Concessions Law provides that, rights and obligations of regulatory authorities to support the concessionaire in obtaining permits, licenses, land or land use rights necessary for the concession, which shall be included in the concession agreement.
<b>16.2. Obtaining the required environmental permits: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	Yes
<b>To be established in the contract</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	Article 21.1.8 of Concessions Law provides that, rights and obligations of regulatory authorities to support the concessionaire in obtaining permits, licenses, land or land use rights necessary for the concession, which shall be included in the concession agreement.
<b>16.3. Obtaining the required operational permits: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	Yes
<b>To be established in the contract</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	Article 21.1.8 of Concessions Law provides that, rights and obligations of regulatory authorities to support the concessionaire in obtaining permits, licenses, land or land use rights necessary for the concession, which shall be included in the concession agreement.
<b>16.4. Obtaining the required land: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to</b>	Yes

<b>the procuring authority (or other Government entity)</b>	
<b>To be established in the contract</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	Article 21.1.8 of Concessions Law provides that, rights and obligations of regulatory authorities to support the concessionaire in obtaining permits, licenses, land or land use rights necessary for the concession, which shall be included in the concession agreement.
<b>16.5. Obtaining the required right of way: Procuring authority (or other Government entity)</b>	No
<b>Private Partner</b>	No
<b>Private partner with facilitation role assigned to the procuring authority (or other Government entity)</b>	Yes
<b>To be established in the contract</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	Article 21.1.8 of Concessions Law provides that, rights and obligations of regulatory authorities to support the concessionaire in obtaining permits, licenses, land or land use rights necessary for the concession, which shall be included in the concession agreement.
<b>PPP Procurement</b>	
<b>18. Which of the following options best describes the required qualifications of the bid evaluation committee members? (Please select only one): The membership of the bid evaluation committee is specified and/or its members are required to meet detailed qualifications.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The bid evaluation committee members require sufficient qualification without specific details.</b>	Yes
<b>If yes, please 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>The bid evaluation committee members are not required to have any specific qualifications.</b>	No

<b>Please elaborate and provide examples:</b>	n/a
<b>19. Does the procuring authority issue a public procurement notice of the PPP project?</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>19.1. 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: www.investmongolia.gov.mn www.nda.gov.mn
<b>20. Are foreign companies prohibited from participating in the bidding process?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>21. In a case comparable to the case study assumptions, 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>22.1. In a case comparable to the case study assumptions, which are the procurement procedures available and/or set as default for PPP projects? Open tendering: Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	Article 11 of the Concessions Law provides, Except as provided in Article 17 of this law, the concession shall be granted through the tender selection process (hereinafter referred to as "the tender"). The authorized entity shall organize and evaluate the tender and implement the following functions: 11.2.1. To develop and approve the tender documents and its stage of implementation and valuation procedures; 11.2.2. To set and announce the tender; 11.2.3 accept and evaluate project proposals, negotiate with the participants

	<p>and evaluate the tender;</p> <p>Submit the conclusion referred to in Article 11.2.3 of this Law to the Government or the Citizens' Representatives Assembly of the aimag or the capital city.</p> <p>The organization of the tender shall create conditions for equal participation of all participants, provide them with equal information, equal requirements, and transparency of the tender process.</p>
<b>22.2. Restricted tendering (with pre-qualification stage): Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	No regulatory basis
<b>22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	<p>Article 16 of the Concessions Law provides,</p> <p>Conduct two stages</p> <p>If the authorized person deems that the feasibility study, terms of reference, criteria and requirements and criteria of the feasibility study, financing conditions, requirements and criteria are not reflected in the tender documents, it may be possible to conduct two rounds of proposals.</p> <p>When submitting a project proposal in two stages, the request shall be submitted to the participants in the specific proposal on the matters specified in Article 13.7 of this law.</p> <p>The authorized entity shall finalize the tender documents taking into account the proposals specified in 16.2 of this law.</p> <p>The authorized entity may organize meetings with participants in order to clarify the comments specified in Article 16.2 of this Law and obtain additional information.</p> <p>16.5. A participant submits his / her proposal to the authorized person within the scope of the documents specified in Article 16.3 of this law.</p> <p>The authorized entity shall follow procedures set forth in Articles 14 and 15 of this Law in evaluating, negotiating and concluding project proposals.</p>
<b>22.4. Competitive dialogue: Available</b>	No
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>22.5. Direct negotiation with more than one candidate: Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	<p>Article 17 of the Concessions Law provides:</p> <p>A concession may be granted through direct contract conclusion in the following instances: 17.1.1.</p> <p>17.1.1. if the conduct of the tender is contrary to national security;</p> <p>17.1.2. The ownership of one or more affiliated persons with the rights related</p>

	<p>to intellectual property that is necessary to implement the concession;            17.1.3 if authorized by the bidder that the tender was announced but did not receive the offer or did not meet the requirements and the re-announcement of the tender was less likely to be offered within the required time;            The concession item was transferred to other persons according to Article 28 of this law.            The conclusion of the conclusion of a concluding a contract shall be submitted by the authorized person to the Government or to the Citizens' Representatives Assembly of the aimag or the capital city.</p>
<b>22.6. Direct negotiation with only one candidate: Available</b>	Yes
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	<p>Article 17 of the Concessions Law provides,            A concession may be granted through direct contract conclusion in the following instances: 17.1.1.            17.1.1. if the conduct of the tender is contrary to national security;            17.1.2. The ownership of one or more affiliated persons with the rights related to intellectual property that is necessary to implement the concession;            17.1.3 if authorized by the bidder that the tender was announced but did not receive the offer or did not meet the requirements and the re-announcement of the tender was less likely to be offered within the required time;            The concession item was transferred to other persons according to Article 28 of this law.            The conclusion of the conclusion of a concluding a contract shall be submitted by the authorized person to the Government or to the Citizens' Representatives Assembly of the aimag or the capital city.</p>
<b>22.7 Other. Specify:</b>	No
<b>Available</b>	No
<b>Default</b>	No
<b>Relevant legal/regulatory provision (if any)</b>	n/a
<b>22.8. Do the tender documents detail the procedure of the procurement process providing the same information to all the bidders?</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:</b>	n/a
<b>22.9. Do the tender documents specify the prequalification/shortlisting criteria (when applicable) in order to make them available to all 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>22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>If no, please elaborate:</b>	n/a
<b>23. 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>	No regulatory basis
<b>23.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?</b>	n/a
<b>If yes, please specify:</b>	n/a
<b>If no, please elaborate:</b>	n/a
<b>24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?</b>	Yes
<b>If yes, please specify and provide the relevant</b>	Article 11.3.5 of the Concessions Law provides, If necessary, to meet with the authorized participants, to get acquainted with relevant information and

<b>legal/regulatory provisions (if any):</b>	<p>documents. Article 12.5 of the same Law moreover provides that the procuring authority has a duty to provide the public with information on the tender procedure by introducing the tender procedure and by organizing conferences. Moreover, 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.</p>
<b>24.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose the content and the results of the pre-bid conference to all bidders?</b>	<p>No</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>n/a</p>
<b>24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?</b>	<p>n/a</p>
<b>If yes, please specify:</b>	<p>n/a</p>
<b>If no, please elaborate:</b>	<p>n/a</p>
<b>25. In a case comparable to the case study assumptions, does the procuring authority require the bidders to prepare and present a financial model with their proposals?</b>	<p>Yes</p>
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	<p>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).</p>
<b>If no, please elaborate:</b>	<p>n/a</p>
<b>26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the</b>	<p>Yes</p>

<b>evaluation criteria stated in the tender documents?</b>	
<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>Evaluation criteria is not set in the tender documents</b>	No
<b>27. In the case where only one proposal is submitted (sole proposals), which of the following options best describes the way the procuring authority deals with them? (Please select only one)?: The procuring authority follows a specific procedure before awarding a PPP contract where only one proposal is submitted.</b>	No
<b>Please specify and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents.</b>	No
<b>Please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The procuring authority does not award a PPP contract if only one proposal is submitted.</b>	No
<b>Please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The regulatory framework does not include any provisions.</b>	Yes
<b>28. Does the procuring authority publish the award notice?</b>	No
<b>If yes, please specify the means of publication and provide the relevant</b>	n/a

<b>legal/regulatory provisions (if any):</b>	
<b>28.1. If yes, is the public procurement award notice published online?</b>	n/a
<b>If yes, please specify the website:</b>	n/a
<b>29. 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:</b>	No clear provisions exist, neither have contributors confirmed that this is done in practice.
<b>29.1. 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>30. Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow unsuccessful bidders to challenge the award decision?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis
<b>and the time in calendar days:</b>	n/a
<b>30.1. Is the standstill period set out in the notice of intention to award?</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>31. Does the regulatory framework restrict negotiations with the selected bidder between the award and the signature of the PPP contract in order to prevent an unfair disadvantage to the other bidders?</b>	No

<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>31.1. Based on your experience, is it always the case that this restriction is respected in practice?</b>	n/a
<b>If yes, please specify:</b>	n/a
<b>If no, please elaborate:</b>	n/a
<b>32. Does the procuring authority publish the PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	No regulatory basis
<b>32.1. If yes, which of the following options best describes this publication (choose only one)?: Publication of the full PPP contract including all its annexes and appendixes</b>	No
<b>Publication of the full PPP contract without including all its annexes and appendixes</b>	Yes
<b>Publication of a summary of the PPP contract without publishing the full PPP contract</b>	No
<b>Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes</b>	No
<b>Publication of a summary of the PPP contract along with the full PPP contract without including all its annexes and appendixes</b>	No
<b>32.2. If yes, is it published online?</b>	Yes
<b>If yes, please specify the website:</b>	<a href="http://www.nda.gov.mn">www.nda.gov.mn</a> <a href="http://www.investmongolia.gov.mn">www.investmongolia.gov.mn</a>
<b>32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a

PPP Contract Management	
<b>41. Has the procuring or contract management authority established a system to manage the implementation of the PPP contract (e.g. attributing responsibilities or establishing specific management tools)?</b>	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>41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team</b>	No
<b>Relevant legal/regulatory provisions (if any):</b>	n/a
<b>Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa</b>	No
<b>Relevant legal/regulatory provisions (if any):</b>	n/a
<b>Elaboration of a PPP implementation manual or an equivalent document</b>	No
<b>Relevant legal/regulatory provisions (if any):</b>	n/a
<b>Establishment of personnel training programs (i.e. initial training and continued training throughout the course of the project)</b>	No
<b>Relevant legal/regulatory provisions (if any):</b>	n/a
<b>Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)</b>	No
<b>Relevant legal/regulatory provisions (if any):</b>	n/a

<b>41.2. Which of the following options best describes the required qualifications of the PPP contract management team members? (Please select only one): The membership of the PPP contract management team is specified and/or its members are required to meet detailed qualifications.</b>	n/a
<b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The PPP contract management team members are required to meet sufficient qualification without specific details.</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The PPP contract management team members are not required to meet any specific qualifications.</b>	n/a
<b>Please elaborate and provide examples:</b>	n/a
<b>42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>42.1. If yes, is the PPP contract construction performance information made available to the public?</b>	n/a
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>42.2. If yes, is the PPP contract construction performance information made publicly available online?</b>	n/a
<b>If yes, please specify the website:</b>	n/a

<b>43. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract implementation after construction?</b>	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>43.1. If yes, which of the following tools does it include (check all that apply)?: Performance is assessed against evaluation criteria set in the tender documents and the PPP contract</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract</b>	No
<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>The private partner must provide the procuring or contract management authority with periodic operational and financial data</b>	Yes
<b>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>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>The PPP contract performance information must be available to the public</b>	No



<b>Relevant legal/regulatory provisions (if any)</b>	n/a
<b>43.2. Is PPP contract performance information made 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>44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>45. Does the regulatory framework (including standard contractual clauses) expressly regulate changes in the ownership structure (i.e. stakeholder composition) of the private partner and/or assignment of the PPP contract?</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	According to Article 27.1 of the Concessions Law, the following shall be prohibited for a concessionaire:27.1.1. transfer its rights and obligations to others unless authorized by the law or the agreement;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.
<b>45.1. If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in the private partner during an initial period (e.g. construction and first five years of operation).</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.</b>	Yes

<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>No regulatory basis</p>
<p>In other cases, flexibility to change the ownership structure and/or assign the contract.</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<p>46. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>Article 22 of the Concessions Law discussed the circumstances for the extension of the concessions agreement, and Article 23 addresses its revision.</p>
<p>46.1. If yes, is an approval from a government authority, other than the procuring authority, required?</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<p>46.2. If yes to question 46, which of the following circumstances are specifically regulated? (check all that apply): A change in the scope and/or object of the contract.</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</p>	<p>n/a</p>
<p>A change in the risk allocation of the contract.</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory/standard</p>	<p>n/a</p>

<b>contractual provisions (if any):</b>	
<b>A change in the financial and/or economic balance of the contract.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>A change in the duration of the contract.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</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>A change in the agreed price or tariff.</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>46.3. Can the procuring authority unilaterally modify a PPP contract?</b>	No
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>47. Does the regulatory framework (including standard contractual clauses) 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/standard contractual provisions (if any):</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/standard contractual provisions (if any):</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/standard contractual provisions (if any):</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/standard contractual provisions (if any):</b>	n/a
<b>Subcontracting and replacement of the subcontractors.</b>	Yes
<b>If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Article 26.6 of the Concession Law provides, "A certain work or service related to the implementation of a concession agreement may be subcontracted and the concessionaire shall be responsible for the quality and performance of such work and services."
<b>48. Does the regulatory framework (including standard contractual clauses) allow for administrative and/or contractual complaint review mechanisms to address disputes arising from the implementation of PPP contracts?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Article 34 of the Concessions Law provides, 34.2 Any disputes arising between the parties to the concession agreement shall be resolved by mutual agreement. 34.3 Disputes arising between the concessionaire, its shareholder, the concession financier and other business partners shall be settled by their mutual agreement. 34.4 In case of arbitration agreement between the concessionaire and the consumer in connection with the activities specified in the concession agreement, arbitration procedure shall be resolved in other cases by the arbitration court. / This part was amended according to the law dated January 26, 2017 /
<b>48.1. If yes, please specify which of the following</b>	No

<b>options are available (check all that apply): Local administrative review body</b>	
<b>If yes, please specify:</b>	n/a
<b>Local courts</b>	Yes
<b>Domestic arbitration</b>	Yes
<b>International arbitration</b>	Yes
<b>Investor-State Dispute Settlement (ISDS)</b>	Yes
<b>Mediation</b>	Yes
<b>Please provide the relevant legal/ regulatory/standard contractual provisions (if any)</b>	<p>Article 34 of the Concessions Law provides,</p> <p>34.2 Any disputes arising between the parties to the concession agreement shall be resolved by mutual agreement.</p> <p>34.3 Disputes arising between the concessionaire, its shareholder, the concession financier and other business partners shall be settled by their mutual agreement.</p> <p>34.4 In case of arbitration agreement between the concessionaire and the consumer in connection with the activities specified in the concession agreement, arbitration procedure shall be resolved in other cases by the arbitration court.</p> <p>/ This part was amended according to the law dated January 26, 2017 /</p> <p>The different options mentioned are available based on what the parties to the concession agreement agree on.</p> <p>Article 2 of the Law of Mongolia on Arbitration (2003) under “Legislation on Arbitration” provides,</p> <p>2.1 The legislation on arbitration shall consist from the Constitution of Mongolia, the Civil Code, Law on Decision of Civil Cases in the Court, Law on Court Decision Enforcement this Law and other laws and other legislative acts issued in conformity therewith.</p> <p>2.2 If an international treaty to which Mongolia is a party is inconsistent with this law, then the provisions of the international treaty shall prevail.</p> <p>Article 3 of the Law of Mongolia on Arbitration also provides, 3.1 This Law shall be applied in case when the arbitration which proposed to settle the dispute is located within the territory of Mongolia.</p> <p>Mongolia additionally joined the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958) (New York Convention) on October 24, 1994, within international arbitration and investor-state arbitration, where Mongolia also signed the Convention on the Settlement of Investment Disputes between States and Nationals of Other States on June 14, 1991, which permits investor-state dispute settlement a well.</p>
<b>48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration</b>	Yes
<b>If yes, please provide the relevant legal/ regulatory provisions/standard</b>	<p>Article 42 of the Law of Mongolia on Arbitration provides,</p> <p>42.1 The parties shall be obliged to fulfill the arbitration award.</p> <p>42.2 If any of the parties fail to implement the award, the other may appeal to</p>

<b>contractual provisions (if any):</b>	<p>a court of appeal pursuant to the procedures on enforcement of a court decisions.</p> <p>42.3 Unless otherwise stipulate in laws, international treaties to which Mongolia is a signatory, the period of limitation to appeal to a court, according to the Article</p> <p>42.2 of this Law shall be 3 years from date of award’s coming into force.</p> <p>42.4 Timing of an appeal to a court about enforcement of foreign arbitration award shall be the same as provision in the Article 42.3.</p> <p>42.5 The party, appealing for arbitration award enforcement, shall duly attach arbitration award, original copy of arbitration agreement or a certified copy pursuant to relevant procedures /according to laws of state, where arbitration award is passed/ to its appeal.</p> <p>42.6 Arbitration award or agreement, written in the foreign language, shall be translated into Mongolian and notarized and attached to an appeal.</p> <p>42.7 If a court of appeal consider an appeal to enforce arbitration award has good reasons, it shall certify that particular arbitration award and write execution notification pursuant to the Section 184.3 of the Law on decision of Civil Cases in the Court.</p> <p>42.8 Arbitration award, that came into force according to the Sections 37.1, 37.2 and Article 39 of this Law and enforcement notification thereon shall serve as grounds for enforcement of court decision and any documents, altering its content or deceiving thereof shall be regarded as illegal.</p> <p>42.9 The fact that a court of appeal has not written enforcement notification based on legal grounds or for uncertain reasons, does not serve as grounds for not enforcing decisions thereof and in this case, court decision enforcement body shall carry out enforcement activities at its own initiative.</p>
<b>International arbitration</b>	Yes
<b>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</b>	<p>Article 3 of the Law of Mongolia on Arbitration provides,</p> <p>3.2 Arbitration awards of a foreign country shall be recognized in Mongolia and enforcement proceedings shall be regulated in conformity with the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards and Chapter 8 of the present Law.</p> <p>3.3 Mongolian Arbitration awards shall be recognized in a foreign state and enforcement proceedings shall be conducted according to the International treaties to which Mongolia is a party.</p> <p>Mongolia additionally joined the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958) (New York Convention) on October 24, 1994</p>
<b>Investor-State arbitration</b>	Yes
<b>If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):</b>	<p>Article 3 of the Law of Mongolia on Arbitration provides,</p> <p>3.2 Arbitration awards of a foreign country shall be recognized in Mongolia and enforcement proceedings shall be regulated in conformity with the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards and Chapter 8 of the present Law.</p> <p>3.3 Mongolian Arbitration awards shall be recognized in a foreign state and enforcement proceedings shall be conducted according to the International treaties to which Mongolia is a party.</p> <p>Mongolia additionally joined the Convention on the Recognition and</p>

	Enforcement of Foreign Arbitral Awards (New York, 1958) (New York Convention) on October 24, 1994 and signed the Convention on the Settlement of Investment Disputes between States and Nationals of Other States on June 14, 1991, which permits investor-state dispute settlement a well.
<b>49. Does the regulatory framework (including standard contractual clauses) allow for the restructuring of a PPP private partner (SPV) in financial difficulty prior to insolvency?</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>50. Does the regulatory framework (including standard contractual clauses) allow for the lenders to take control of the PPP project (lender step-in rights) if either the private partner 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/standard contractual provisions (if any):</b>	Article 28.2 of the Concessions Law provides, “The authorized entity, the concessionaire and the concession financier may enter into an agreement on mutual agreement and shall include the following: 28.2.1. 28.2.1. Conditions and procedures for altering the concessionaire; 28.2.2. The grounds for the authorized person to refuse from the newly proposed person to possess the concession; 28.2.3. Obligation of the concession financier to provide services in accordance with the conditions and standards required by the concession agreement; 28.2.4. Other obligations set forth in the legislation on concession.”
<b>50.1. 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>	No
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a

<b>The regulatory framework prescribes that a direct agreement should be signed with the lenders.</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Article 28.2 of the Concessions Law provides, “The authorized entity, the concessionaire and the concession financier may enter into an agreement on mutual agreement and shall include the following: 28.2.1. 28.2.1. Conditions and procedures for altering the concessionaire; 28.2.2. The grounds for the authorized person to refuse from the newly proposed person to possess the concession; 28.2.3. Obligation of the concession financier to provide services in accordance with the conditions and standards required by the concession agreement; 28.2.4. Other obligations set forth in the legislation on concession.”
<b>The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.</b>	No
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	n/a
<b>Other.</b>	No
<b>Please Specify:</b>	n/a
<b>51. Does the regulatory framework (including standard contractual clauses) expressly establish the grounds for termination of a PPP contract?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</b>	Articles 24.1 of the Concessions Law provides for specific termination circumstances of a concession agreement where:24.1.1. mutual agreement of the parties;24.1.2. the agreement expires and it has not been extended;24.1.3. the concessionaire is bankrupt or liquidated;24.1.4. termination of the concession agreement in accordance with the Law on Concession or the concession agreement. Articles 24.2 list the grounds under which the concession agreement may be terminated by the authorized authority:24.2.1. it is determined by the court that the concessionaire breached the law or submitted false tenderdocuments when participating in the tender 24.2.2. it is determined by the relevant authority that the concessionaire has repeatedly and /or seriously violated the legislation of Mongolia; 24.2.3. the concessionaire’s non-performance or failure to properly perform under the concession agreement, if the agreement so provides 24.2.4. the government has decided to terminate the concession agreement on grounds of national security, national defence or public interest; 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; 24.2.6 unless the law or the concession agreement provide



	otherwise, the concessionaire is bankrupt or liquidated. Article 24-3 list the grounds under which the concession agreement may be terminated by the concessionaire: 24.3.1. non-performance or failure to properly perform under the concession agreement by the authorized entity or regulatory authority if the concession agreement so provides; 24.3.2. failure by the parties to revise the concession under Article 23 of this law if the agreement so provides; 24.3.3. other grounds specified in the law and the concession agreement Article 24 of the Concessions Law
<b>51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?</b>	Yes
<b>If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):</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>Unsolicited Proposals</b>	
<b>34. Are unsolicited proposals in Mongolia: (choose only one): Explicitly prohibited by the legal framework? (If prohibited, skip to section F)</b>	No
<b>Explicitly allowed by the legal framework?</b>	Yes
<b>Not regulated by the legal framework, but do happen in practice?</b>	No
<b>Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section F)</b>	No
<b>If the legal framework explicitly prohibits or allows unsolicited proposals, 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>35. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 37)</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>35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>36. Which of the following options best describe how the procuring authority ensures that unsolicited proposals are consistent with existing government priorities? (Please select only one): The procuring authority follows a specific procedure to ensure the consistency of PPPs with other government investment priorities.</b>	Yes
<b>If yes, please specify and 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>The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.</b>	No
<b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>	n/a
<b>The procuring authority does not evaluate unsolicited proposals against existing government priorities.</b>	No
<b>Please elaborate and provide examples:</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>37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding</b>	Yes

<b>with the unsolicited proposal?</b>	
<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>38. 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>39.1 Does the procuring authority use any of the following incentive mechanisms to reward/compensate the presentation of unsolicited proposals? (check all that apply): Access to the best and final offer (BAFO) process and/or automatic shortlisting.</b>	No
<b>39.2 Developer's fee (reimbursing the original proponent for the project development cost).</b>	No
<b>39.3 Bid Bonus.</b>	Yes
<b>39.4 Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).</b>	No
<b>39.5 Other.</b>	No
<b>Please specify:</b>	n/a
<b>Please provide the relevant legal/regulatory provisions (if any):</b>	Article 18.6 of the Concessions Law provides that the original proponent shall be given some preference in the process of evaluating the project proposals and preparing a conclusion on the results of the tender, and such preference shall be reflected in the tender documents, with no further elaboration.