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Ulaanbaatar, Mongolia

Vulnerabilities to Corruption Approach Assessment Report

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I. Introduction

The International Republican Institute (IRI) is a non-profit, non-partisan organization headquartered in Washington, DC. IRI works with civil society and governmental partners throughout the world to strengthen democratic practices and empower democratic leaders. With support from the National Endowment for Democracy (NED), IRI has created the Vulnerabilities to Corruption Approach (VCA) to assist local governments in identifying risks to corrupt practices as a first step for improving transparency and accountability at the municipal level.¹

Since Mongolia embarked on its democratic path in 1989, its widespread public support for democratic reform has secured its status as one of the few countries in Asia that can boast dynamic institutions of democracy. Throughout this period, Mongolia has created and strengthened democratic institutions, including the national legislature, the judiciary, political parties and civil society.

Through the Institute's democratic governance work, IRI has supported Mongolia's fight against corruption, a significant obstacle to securing citizens' trust and confidence in its institutions. Building on a long-standing relationship with the Capital City Governor's Office (CCGO) of Ulaanbaatar, the Institute is helping the CCGO bolster open government in the capital city. In June 2014, IRI piloted its first ever VCA assessment in Ulaanbaatar, which led to the creation of the Transparent Ulaanbaatar Academy and other pro-transparency initiatives. This latest VCA program seeks to assess the progress made by the municipality in addressing corruption vulnerabilities and provide technical expertise to facilitate initiatives, led by the government and civil society, to further mitigate corruption-related risks.

II. Methodology

IRI's VCA assessment methodology relies on stakeholders' perceptions to assess vulnerabilities to corruption within selected local government processes and practices. The VCA assessment in Ulaanbaatar was conducted by five IRI staff from both the Washington, DC and Mongolia offices on a one-week site visit to the city from September 27 – October 3, 2018. The assessment team conducted semi-structured interviews with 20 individuals (12 women). Before each interview, the team clarified what kind of information was sought, the purpose of the evaluation and the intended use of the assessment report.

IRI drew key informants primarily from the city procurement and investment offices, CCGO finance office, prominent civil servants, local civil society leaders and elected officials. The number and type of interviewees selected was intended to include a broad representation of civil society, elected officials, municipal staff and community leaders. The interviews were conducted

¹ The VCA is a methodology that IRI created that bolsters anti-corruption efforts by partnering with local stakeholders through direct partnership with representatives of both government and civil society. The VCA identifies corruption-related risks and gaps in government processes and supports government responses to these issues. It comprises four steps: explore, assess, enact and showcase. This report represents the outcome of the assessment step.

in either English or Mongolian with a translator in attendance. Accordingly, all the transcripts are in English. The interview protocol used for this assessment is consistent with those used by IRI in other VCA assessments.

Through the exploratory phase of the VCA process, IRI determined the scope of this assessment in partnership with local stakeholders. Prior to carrying out the assessment mission, IRI worked with the local field office in Ulaanbaatar and the Mongolia team in D.C. in order to identify windows of opportunity as well as potential bottlenecks for successful engagement on citizen budgets and public procurement. Thus, the report is structured around two primary findings: 1) greater citizen involvement in the budget process is necessary and 2) citizens do not have enough oversight in the public procurement process. A central theme of a lack of purposeful citizen engagement was diagnosed throughout this assessment as a cross-cutting issue.

Programmatic Context

In June 2014, IRI fielded a VCA through a team of anti-corruption experts who met with municipal leadership and civil servants in selected departments of the city government to identify strengths in the then Mayor E. Bat-Uul’s anti-corruption efforts. The team divided strengths and vulnerabilities into two categories: systemic and procedural.

Strengths	Weaknesses
<ul style="list-style-type: none"> • political will, • high priority placed on anti-corruption efforts, • desire to strengthen civil society engagement, • advantageous legal framework, • civil servant hiring process, • efforts to increase transparency, and • efforts to increase efficiency and impartiality. 	<ul style="list-style-type: none"> • retaliation against complainants and whistleblowers, • city-owned enterprises, • land allocation and use, • decision making, • property registry, permits, and procurement.

Since 2014, the CCGO has conducted programming to support and tackle these two pillars, notably through the Transparent Ulaanbaatar Academy (TUA). Through NED funding, prior IRI anti-corruption efforts in Mongolia have included supporting the development of citizen budgets, conducting anti-corruption and ethics training workshops, convening more than 200 stakeholders from 13 countries at the Transparent Ulaanbaatar 2014 Forum. Despite the change in Mayors since 2016, municipal training for civil servants has continued, along with the CCGO’s commitment to transparency and accountability. Owing to the success of the TUA in training civil servants to be more knowledgeable on ethics, transparency and accountability, the 2018 iteration of the VCA focuses on two areas of municipal importance: the budget process and public

procurement. Historically, the focus of anti-corruption efforts in Mongolia has been concentrated at the national level and involve investigations into alleged perpetrators. In contrast to such an approach, which is largely administered by Mongolia's Independent Authority Against Corruption (IAAC), IRI's program focuses locally and through a democratic-governance-lens to mitigate opportunities for corruption through broad based stakeholder engagements that support existing transparency and accountability mechanisms. In addition to establishing the two aforementioned VCA focus areas, IRI has identified two cross-cutting themes as pertinent to both the municipal budget and procurement processes: 1) citizen participation and 2) access to information.

III. Findings – Limited Citizen Involvement in the Budget Cycle is a Lost Opportunity for Increasing Transparency and Improving Public Trust

Problem Statement

Although Mongolia has a legal framework² that provides structured time for citizen input into municipal, provincial and national budgets, locally elected officials and civil servants have little avenues at their disposal to ensure that the public's perspective is effectively incorporated into the budgeting process. The establishment of the Local Development Fund (LDF), an intergovernmental transfer mechanism, represented a major milestone, since the Law outlines a system for the involvement of the community in planning of local investments. This include administering surveys and questionnaires to citizens to solicit their priorities. However, this process is only limited to local level capital investment. In the city of Ulaanbaatar, citizens only have 10 days after the city budget has been presented to provide their feedback, after which the draft budget is revised and submitted to the city council, and the city only hosts one townhall-style meeting to collect feedback from the public.³ These inadequate provisions for citizen input, leads to limited discussions, and citizens are often operating under a lack of knowledge about the budget process, including municipal representatives' roles and responsibilities.

Findings: Key Strengths

- **Civil Servants are working for solutions** – a reoccurring theme from interviews with civil servants was the full knowledge of the shortcomings of the current system, and the desire to improve the budget cycle to better incorporate citizen feedback. Various civil society leaders commented that civil servants are doing the best that they can with the very limited resources that they have.

² Integrated Budget Law (January 2013), Government Resolution No. 30/2012 on Methodology for Determining Transfers to be Allocated from the General Local Development Fund and Local Development Fund and the Methodology for Determining Base Expenditure of Local Budget (September 2012), Procedure for Formulation of Local Budget Proposal (November 2012).

³ The key milestones for approving the city budget are as follows: 1 - The national government submits the next year's draft budget to the State Great Hural (SGH) or Parliament of Mongolia by October 1 and makes the draft budget available to public within three business days. 2) - SGH passes the budget by November 15. 3 – The CCGO r submits the draft budget to the city's Citizens' Representative Khural or city council by November 25. 4- the city council passes the city budget by December 5.

- **The law requires citizen feedback** – unlike many countries still consolidating their democracy, Mongolia has open budget laws that allow for public participation and input. As noted by the CCGO, citizen interest in the budget cycle has also grown over the past five years and attendance at the annual meeting to discuss the capital budget has grown from 100 to 300 people.

Findings: Key Vulnerabilities

- **Citizen participation in the budget formulation process is limited to the Local Development Fund (LDF)** – although Ulaanbaatar is ahead many Asian cities by providing space for direct participation in the determination of expenditure priorities, this is only limited to the capital expenditures budget or LDF. Within the LDF, the process is marred by the lack of obligation to fund selected ideas and projects and widespread budget illiteracy.
- **Inadequate provisions for popular review and feedback** – the current budget cycle only allows for 10 days in November for citizens to provide feedback to the city budget, which neither prepares them properly nor gives Ulaanbaatar residents enough time to adequately understand and make contributions to the budget. In addition, there is only one townhall style discussion on the capital city’s budget that takes place around November 20, but it usually brings together mostly officials from the CCGO and some districts and just a few citizens. A compounding issue here is that it also puts pressure on civil servants to ensure that citizen voices are heard in a very short time frame as the final budget is then due November 25, leaving them little time for interacting with citizens and soliciting their feedback. The challenge here is structural as the budget cycle is dictated by the National Budget Law. City officials have no capacity to modify the official calendar and the decision-making process is largely top-down. In addition, the limited information available to citizens is not aggregated by programs or citizen-relevant categories, which makes budget monitoring more difficult, thus constituting an access to information issue on top of citizen participation.
- **Inconsistent engagement of the public** – citizen engagement varies tremendously by *khoroо*, and even more so based on proximity to municipal offices. Many citizens reported being uninformed about the budget oversight process and left feeling aloof of their expected role in providing oversight. One civil society leader mentioned that in a mapping exercise of all the proposed citizen budgets in one locality there was a very clear ring around the municipal office, as that was the only place that the limited number of flyers were distributed.
- **Public engagement sessions only occur during working hours** –all the citizen engagement sessions of the municipal budget occur during working hours. This prevents many low-income, low-service access and working-class individuals from being able to attend these sessions. Furthermore, many civil servants and civil society leaders commented on the homogenous make-up of attendees as being predominantly from middle-to-upper income neighborhoods as well as elderly. This leaves a tremendous segment of the population out of the budget oversight process. With regards to the LDF, the

questionnaires administered to city residents to solicit their feedback on priority investments are fielded also during working hours.

Recommendations

- **Leverage existing institutional and legal mechanisms as well as high performers** - bolstering the implementation of the Law on Glass Accounts, which requires every government organization to report on their operation and finance, would be a good start. The Law allows for citizens to monitor budgets at all levels of government but, municipal departments in Ulaanbaatar are inconsistent in their provision of information. The good news is that some of them are already fully complying with the requirements and could serve as models for others.
- **Bring awareness to the public about transparency provisions and laws** –there are many opportunities for engaging citizens based on the existing institutional and legal framework. The Law on Public Hearings and the Law on Accountability of Civil Servants are two key tools that citizens have at their disposal to exact greater accountability from government officials. Yet, citizens by and large are not aware of their implications for providing oversight on the budget. Using platforms like Periscope, Facebook or Twitter the CCGO can better inform citizens, particularly younger citizens who are more likely to be online, of ways they can be involved in the budgeting process. Conducting a Facebook Live during public engagement sessions would give citizens the opportunity to follow the process from their homes or places of work as well as send their feedback directly to organizers. It should be noted that online trolling is becoming pervasive in Mongolia and has the potential to distort these efforts to allow for the community to share their views. Thus, the CCGO should pay special attention to the legitimacy and authenticity of online feedback when promoting these avenues for public participation.
- **Greater budget literacy and analysis skills are needed** – citizens currently lack the knowledge to digest government budgets which are often unwieldy, difficult to read and require an abundant amount of context to understand. By holding a series of budget literacy and analysis workshops targeting community leaders, citizens and civil society would better have the opportunity to learn more about the budget, budget process and ways that they can engage with their municipal government.
- **CSOs can exercise better budget monitoring and oversight if they open up** – greater efforts are needed by civil society to provide opportunities for citizens to participate in their activities. In tandem with targeted workshops CSOs should also engage with civil servants and the budget process in a structured and predictable way.

IV. Findings – Citizens do not Have Enough Oversight in the Public Procurement Process

Problem Statement

The public procurement process in Mongolia has made notable achievements in the past decade in improving transparency and accountability surrounding public tenders. Despite this progress,

citizens still largely remain unaware of many of the facets of the public procurement process, and the opaque nature of some aspects of the process then leads to speculation of corruption.

Findings: Key Strengths

- **Civil Servants are generally knowledgeable but remain open to further technical training** – a central theme from interviews with civil servants and civil society was that public procurement officials were very knowledgeable about the process and dedicated to ensuring that public tenders are done in accordance with the law. They were also very keenly aware of areas that the law and process could be improved as well as ways that Ulaanbaatar could learn from neighboring countries and capital cities.

Findings: Key Vulnerabilities

- **Municipal officials often divide tenders for expediency reasons** - in order to stay within the limit for single sourcing, municipal officials will often split tenders—for example, per district rather than the municipality as a whole or in separate stages—thereby staying under the threshold but likely increasing the total cost for the municipality of goods and services. Splitting recurring purchases in smaller ones also makes expenditures and contracts hard to track.
- **Politicization of procurement decisions** - it is too easy to contest failed bids and companies that lose bids currently face no disincentive to contest failed bids. One reason is that some bidders get disqualified on technicalities. This has produced a result of companies either in spite or suspicion will often sue to hold up the process further. Given the time sensitive nature of awarding funds, and also the relative short season for executing public works in Mongolia, this often results in the city being unable to fulfill the projects developed in the tenders. A current bill in the State Great Khural is considering a 'Belgian model' which requires that failed companies must put up a deposit if they are going to take the city to court.
- **Anti-corruption champions have limited protections at their disposal - one chief example is** the individuals who evaluate the different proposals for the tenders, who not being anonymous are sometimes contacted by the bidders prior to making a decision. Although making the committee anonymous would not shield its citizen-members, the fact that they are so easily identifiable contributes to the ongoing speculation as to whether different tenders are awarded through either nepotism or outright corruption. This is also a byproduct of the seemingly widespread perception that that whomever is in power's people also tend to win awards. Moreover, the inexistence of a legal framework providing effective safeguards for whistle-blowers is key constraint for those civil servants who might have relevant information regarding inappropriate conducts or suspicious dealings to come forward.
- **Inadequate information and data available to the public** – there is an inconsistent application of legal obligations with regards to access to information across municipal departments and offices, which results in a great heterogeneity regarding the data that is available to citizens. The information that is online is seldom digestible, updated or easy to access. In addition, there are two websites for public procurement leading to a high degree of duplicity. For public servants, information is received on the city's public

procurement website (ub-procurement.mn) and then must be re-entered on the state procurements website (tender.gov.mn). This duplicitous process leads to human errors in data entry and can be detrimental to the integrity of bids as a result.

Recommendations

- **Establish annual contracts for recurring expenditures, such as office supplies** – Items like paper, gas, office supplies and electronics should be based off a smaller number of larger contracts rather than a series of smaller contracts that often face larger costs for items that end up being purchased in bulk.
- **Continue to learn from others and iterate as needed** – a reoccurring opportunity that interviewees discussed was the need for procurement officers to have a better understanding of how other countries handle procurement. Owing to the relative recent opening of the procurement process, there is still little awareness of how the process is handled outside of Ulaanbaatar, and what international best practices are available for adoption in the CCGO. Conducting exchange trips to neighboring countries to learn from their procurement offices could help better understand how others do it.
- **Consider the implementation of municipal whistleblower protections** – in the absence of national law, the CCGO should develop its own framework for facilitating whistleblowing. This should include protections from retaliation in the form of demotions, pay cuts, or a replacement employee, as well as a dedicated hotline or email address.
- **Develop partnerships with CSOs to facilitate better public procurement oversight** – greater effort is needed by both government and civil society to both monitor the public procurement process and also provide opportunities for citizens to engage effectively as well. The CCGO should leverage provisions in the Law on Procurement that mandate citizen representation in evaluation committees. Currently there are very few public procurement focused-CSOs and this poses a public accountability challenge for the municipal government.



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