



Anti-Corruption Strategy and
Activities in Ulaanbaatar
*Review of Existing Measures and Suggestions
for Improvement*

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As presented to Mayor of Ulaanbaatar and Governor of Capital City E. Bat-Uul Ulaanbaatar, Mongolia 8 October 2014

Updated December 2014 based on the forthcoming Citizens' Representative Khural Resolution on Ulaanbaatar's Anti-Corruption Plan

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Introduction

Programmatic context

The International Republican Institute (IRI) is currently implementing a National Endowment for Democracy (NED) funded program in partnership with the Ulaanbaatar Capital City Governor's Office, *Facilitating Anti-Corruption Initiatives in Mongolia* (FACTIM). FACTIM's overarching objectives are to reduce opportunities for corruption at the municipal level and improve the relationship between the municipal government and civil society in order to reduce the incidence of corrupt behavior by government and improve public understanding of government actions to prevent corruption. FACTIM seeks to achieve these objectives by assisting Ulaanbaatar government officials and civil society to develop, plan and implement successful anti-corruption strategies and initiatives, seeking to enable closer and more productive collaboration. The first step in the program was an assessment the existing anti-corruption efforts currently underway in Ulaanbaatar and systematic and procedural vulnerabilities to corruption that may exist within the city government.

The main goal of the assessment was to directly inform the Mayor of Ulaanbaatar and Governor of Capital City E. Bat-Uul's strategy to combat corruption in Ulaanbaatar and to inform IRI's broader program to support this effort. This assessment represents the results of a one-week visit to Ulaanbaatar, Mongolia in June 2014 by a four-member team comprised of professionals from Canada, Slovakia and the United States with expertise in assessing and combating corruption. In order to gain a comprehensive perspective on the corruption challenges and anti-corruption efforts in Ulaanbaatar, as well as opportunities for future interventions, the team used an interview-based methodology for assessing vulnerabilities to corruption. The assessment comprised of 22 focus group-style semi-structured interviews with representatives of Ulaanbaatar-based civil society organizations, international non-governmental organizations and the business community, as well as with Ulaanbaatar civil servants at all three levels of administration (*khoroos* [sub-district], district and municipality) whose positions range from executive leadership to entry-level bureaucrats.

NATIONAL APPROACH TO COMBATING CORRUPTION IN MONGOLIA

Historically, the focus of anti-corruption efforts in Mongolia has been concentrated at the national level. Corruption risks, such as those associated with nepotism, patronage and collusion, are exacerbated by a relatively small population in which many families have particularly strong ties amongst each other through school, marriage and provincial connections. This is even more evident in Ulaanbaatar, where approximately one-half of Mongolia's total population resides.

The current coalition government has publicly declared the anti-corruption agenda a priority national issue. Mongolian authorities indicated that a draft proposal, "National Program for Combating Corruption and Strengthening Accountability and Integrity in 2013-2016," has been prepared and would soon be introduced to Parliament. This was described in the OECD report "Anti-Corruption Reforms in Mongolia Assessment and Recommendations" which was developed for its Anti-Corruption Network for Eastern Europe and Central Asia, which monitors implementation of the UNCAC and other international standards. Owing to the size and structure of the Mongolian government, many of the issues at the national level are applicable at the municipal level, though there are significant differences that require targeted analysis of and solutions for municipal corruption, such as the allocation of residential land.

Key assessment findings

The assessment team identified strengths in current anti-corruption efforts, vulnerabilities to corruption and recommendations for mitigating the risks identified.¹ Based on IRI’s analysis of the assessment team’s report, the Institute will highlight two key strengths - high level of **political will** and **online transparency** - along with four vulnerabilities - one overarching vulnerability, a **lack of citizen awareness**, and three targeted vulnerabilities, **inconsistent application of procedures**, the **absence of whistleblower protections** and **insufficient evaluation of goods and services’ value for money**.

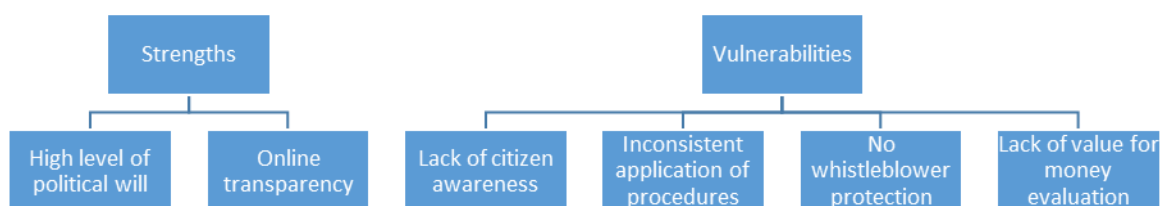


Figure 1: Mapping assessment findings

Analysis of findings and potential mitigation activities

Based on the findings of the assessment, IRI has outlined a number of strategic focus areas to build upon strengths of the Ulaanbaatar municipal government’s current initiatives and recommend ways to mitigate vulnerabilities to corruption within the Ulaanbaatar government. The Institute’s recommendations include activities that can be implemented immediately as well as longer-term projects.

Building upon strengths

While the Ulaanbaatar government enjoys a high level of Internet connectivity and qualified municipal personnel to implement online transparency initiatives, it was clear that civil society groups do not feel these initiatives are sufficient to address the widespread perceptions of corruption associated with the Ulaanbaatar government. Pointing to relatively low Internet penetration, 17.7% in 2013², and citizen and civil society capacity to utilize data published on municipal websites, civil society and citizens clearly require offline transparency options as well as greater government engagement around the information posted in order to increase its utility. These needs directly relate to the other key strength identified - political will - which makes it possible for Ulaanbaatar government bodies to implement offline transparency initiatives that

¹ The team’s assessment of the current state of Ulaanbaatar’s (UB) anticorruption strategies, its vulnerabilities and opportunities for further improvements in UB was informed by a formula that measures the factors that provide opportunities for corruption to take place: $C=M+D-A$, or Corruption = Monopoly + Discretionary power – Transparency/Accountability (Klitgaard, Robert. "International Cooperation Against Corruption." Finance and Development March 1998). The formula suggests that *reducing corruption is a function of reducing the misuse of monopoly powers, clarifying and limiting subjective discretionary powers within decision-making processes and increasing transparency and accountability*.

²Percentage of Individuals Using the Internet. International Telecommunication Union, June 2014.

ensure data provided by the municipality is not just available but understood, while also promising to further strengthen the relationship with citizens and civil society groups.

Offline transparency

On numerous occasions, interviewees from government offices and civil society noted the use of websites as a transparency initiative by the municipal government. However, government officials noted, with confusion and frustration, that usage was low and civil society representatives highlighted the reality that much of the Ulaanbaatar population, especially those living in the ger districts located outside the city center, do not have access to the Internet. Further, they noted that even when Internet accessibility was not a challenge, the information presented was not easy to understand or contextualize.

To better reach citizens through transparency initiatives, IRI recommends that the mayor's office consider a range of activities that complement and enhance existing initiatives:

- Re-design municipal websites to be simple, approachable and easy to use. Currently the websites such as www.ulaanbaatar.mn and www.umch.ub.gov.mn are crowded with elements that make them difficult for users to navigate.
- Make step-by-step procedural flow charts, required documents and processing times publicly available and readily accessible through means other than the Internet. For example, through on-site posters in khoroo buildings and through the regular khoroo town hall meetings.
- Post information currently listed on municipal websites in common meeting areas or at the site of service:
 - Signage at construction sites, newly permitted businesses, etc.
 - Use schools, one-stop shops, health clinics and khoroo buildings to display key budget information, service delivery details and permits issued. For example, post school budgets on school building doors and advertise the rules that govern central government transfers in community newspapers or khoroo administration bulletin boards.
 - Publicly post prices and fees for all government services, including permits.
- Create an SMS platform that spreads frequently requested and newly published information. Platforms could either be unidirectional, allowing information to be pushed out to citizens, or bi-directional, where the system allows queries based on a set of standard questions and responses.

Leveraging political will

There exists a perception amongst civil society representatives that municipal government bodies make administrative or policy decisions without public consultation. Government representatives noted public consultation mechanisms but the examples given tended to be online only. Further,

civil society representatives noted that engagement opportunities were limited to roundtable style meetings without concrete outcomes or subsequent actions to be taken. While in some cases, civil society organizations appear to need increased capacity to engage on substantive issues, such as service delivery needs or budgetary oversight, overall findings indicate the need and desire for more pronounced, structured public mechanisms that occur offline. Given the high level of commitment to transparency and increasing substantive engagement with civil society and citizens, government officials have indicated this would be a prime area for new initiatives that can substantially change the dynamics of the relationships between the groups in Ulaanbaatar.

Recommendations to leverage political will and increase public consultation include:

- Require widely publicized public consultation periods before new regulations or development projects commence and/or plans are finalized.
- Create technical stakeholder committees on specific topics (education, health, infrastructure, etc.) that have hybrid oversight/consultative roles. Include civil society/businesses with representatives of the relevant municipal departments and service providers. These committees can liaise with the IAAC’s public council on an as needed basis to build upon the IAAC’s experiences in utilizing civil society to facilitate public oversight.
- Host “Open-Door Days” in offices of high-ranking municipal officials, and publish the daily schedules of high-ranking municipal officials, to improve public understanding of job functions and responsibilities of Ulaanbaatar’s leadership.
- Facilitate a jointly implemented Transparent UB Academy where government officials, civil servants and civil society organizations collaborate and create a citizen-focused information campaign. Government officials and civil servants would educate civil society representatives about the government processes and procedures vulnerable to corruption and the laws and regulations intended to mitigate these vulnerabilities. Civil society organizations could make specific recommendations for additional improvements. Finally, all parties would create a cohesive citizen information campaign, ensuring that the municipal government and civil society are sharing the same information through their respective outlets.

Mitigating vulnerabilities

In evaluating areas of vulnerability to corruption, the assessment team defined both systemic and procedural vulnerabilities. These terms describe the framework in which each type of vulnerability occurs. Systemic vulnerabilities relate to the overall system of controls against corruption and which cut across agencies or operations, such as decision-making, whereas procedural vulnerabilities exist within an identifiable process, such as procurement, even though that process may involve multiple organizations.

Whistleblower protections

The ability to launch complaints of abuse of office and corruption are cornerstones of integrity. As such, a critical systemic vulnerability within an otherwise robust legal framework is the lack of legal protection for anonymous reporting of corrupt behavior. The absence of this protection is likely to discourage reporting of corrupt acts out of the very real fear of retaliation. Globally, it is common for whistleblowers to experience demotion, dismissal and other types of negative treatment from their employers or politically affiliated organizations after they disclose the malfeasance or corruption. The IAAC cannot effectively carry out its full mandate if people are afraid to bring information to its attention that could possibly trigger an investigation or legal proceedings, especially when considering Mongolia's rather strict libel laws. While the only true solution for this vulnerability is the enactment of a whistleblower law that meets international standards, there are immediate actions that Ulaanbaatar can undertake to mitigate this vulnerability as well as publicly support a broader solution:

- Create anonymous hotline specifically for hiring and employment concerns.
- Declare municipal support for the creation of a national whistleblower law that meets international standards, supporting and advocating for such a law with national decision-makers.
- Establish internal whistleblower policies within the Ulaanbaatar government in partnership with civil society organizations.

Insufficient independent oversight of city-owned enterprises

In several meetings with city agencies, it was reported that city-owned enterprises maintain their own governance structures and systems, having only to "report in" to city agencies. As an example, city-owned enterprises must report acquired property to the property registry agency, but they maintain their own system for procuring and internal registration that may or may not align with municipal regulations. Since city-owned enterprises are controlled by an independent Board of Directors, city agencies have relatively little official power over city-owned enterprise operations and cannot require additional internal controls. It was reported that city-owned enterprises are audited regularly, but these audits are not made publicly available and therefore city-owned enterprises remain a unique intersection of public and private sectors where vulnerabilities to corruption exist in the form of nepotism or patronage in the appointment of Board members and weak controls over costs, revenues and related operations that may not necessarily be consistent with City Government operations. While city-owned enterprises lack transparency and objective evaluations, immediate actions that the Ulaanbaatar government can undertake to mitigate this area of vulnerability include:

- Make internal audits publicly available and work with relevant CSOs to encourage independent evaluation and information sharing.
- Allow an independent audit/review of city-owned enterprises to determine specific corruption vulnerabilities as well as suitability for full privatization or re-inclusion in the municipal structure.

- Appoint unaffiliated, informed citizens, business leaders and civil society representatives as Board members to city-owned enterprises.

Inconsistent application of procedures

During meetings with city agencies throughout the assessment period, it became clear that a range of processes and procedures that should be consistently applied are not. Those most evident were within four specific areas: city-owned property, land allocation, business permitting and procurement practices.

City-owned property procurement, registration and disposal processes are disjointed

City agencies and city-owned enterprises require a significant range and amount of physical resources to provide services to citizens. Existing legislation requires that individual agencies and enterprises keep records of purchases and inventory of resources but currently does not have a comprehensive framework that dictates when property must be registered, where it is located and how it is eventually disposed, therefore increasing the risk for diversion, loss and theft. Reducing this systematic vulnerability will necessitate both policy and oversight changes:

- Invest in a “cradle-to-grave” property management system that connects to city departments, including the property registry department, and city-owned enterprises.
- Amend current legislation/regulations to require all city contracts (inclusive of city-owned enterprises) to be filed with the property registry department and registration to take place before any payments are made.
- Develop a uniform procedure for the disposal of excess or aged city-owned property that includes external auditing procedures and/or citizen oversight.

Contracting processes for goods and services need to be better refined to ensure value for money and an even competitive environment

The centralization of bid management within the Procurement Agency is a logical approach, and it reduced overall procurement vulnerabilities as compared to having agencies manage the entire procurement process without any coordinating body. However, the contracting processes within municipal departments and city-owned enterprises are not necessarily uniform and leave the municipality vulnerable to collusion between employees and vendors as well as to deception by vendors. Ensuring that municipal services are provided at the highest quality will require changes to the procurement process beyond those that have already been made including:

- Bid preparation, evaluation and contract management need to be jointly administered by the procurement department as well as the relevant technical department to ensure TORs are adequately detailed but do not encourage collusion.
- Uniform non-cost criteria need to be established by technical experts and verified by procurement specialists (to ensure they do not proscribe all but one supplier) to allow for non-subjective bid evaluation that ensures quality and the best value for money.

Land allocation continues to be a source of citizen concern and distrust in the allocation process

Despite the reconfiguration of the land allocation system within Ulaanbaatar, citizen distrust of the process endures. Civil society representatives indicated that this is predominantly as a result of two observations by citizens: land believed to be public has had private homes built upon it, and the lottery-based system that values all land as equally valuable creates discontent amongst those who perceive they are the “losers.” The public stance that all land being allocated has equal value ignores obvious key differences in location and access to resources leaves the municipality vulnerable to accusations of favoritism. Further, the current allocation process reportedly does not provide an official mechanism for families to have adjacent plots of land. Therefore, it was reported to the assessment team that families resort to an informal trading process. While it was not clear to the assessment team or to IRI how that trading process works, any system that necessitates working outside the established system is likely to have many opportunities for collusion and/or bribery and likely favors those with greater financial resources.

- Conduct an independent, expert-led external review of land allocation policies and procedures, including land valuation.
- Mandate and monitor, with assistance from civil society groups, a formalized system for allocated land sales and trades.
- Post allocation processes and decisions at khoroo buildings and district one-stop shops to make information more clear to those without access to municipal websites.

Developing the *Transparent Ulaanbaatar Action Plan*

The creation of a robust action plan to increase municipal transparency and combat corruption will entail further consultations between the Ulaanbaatar Capital City Governor’s Office, key agencies and civil society. IRI intends to support this process as requested, as such, this memo gives an overview of possible priority areas based on IRI’s expert-led assessment and internal expertise.

It should be noted that some actions have lower resource requirements and are unlikely to necessitate significant legal or legislative action, but there are also longer-range recommendations that will likely need significant resources and effort to achieve. Further, some of the recommendations have a longer time horizon because they are multi-step processes that begin with a technical review of administrative procedures. These reviews could then result in a subsequent range of potential process improvements.

The graphic below provides an illustrative view of how the proposed recommendations contribute to a comprehensive anti-corruption mitigation plan. Combined with initiatives the Ulaanbaatar Capital City Governor’s Office already intended to include in the *Transparent Ulaanbaatar Action Plan* and input gathered from the Transparent Ulaanbaatar Forum³, IRI believes the Mayor and the entire Ulaanbaatar Capital City Governor’s Office can significantly reduce many avenues for corrupt behavior and increase citizen confidence in government.

Transparent Ulaanbaatar Action Plan

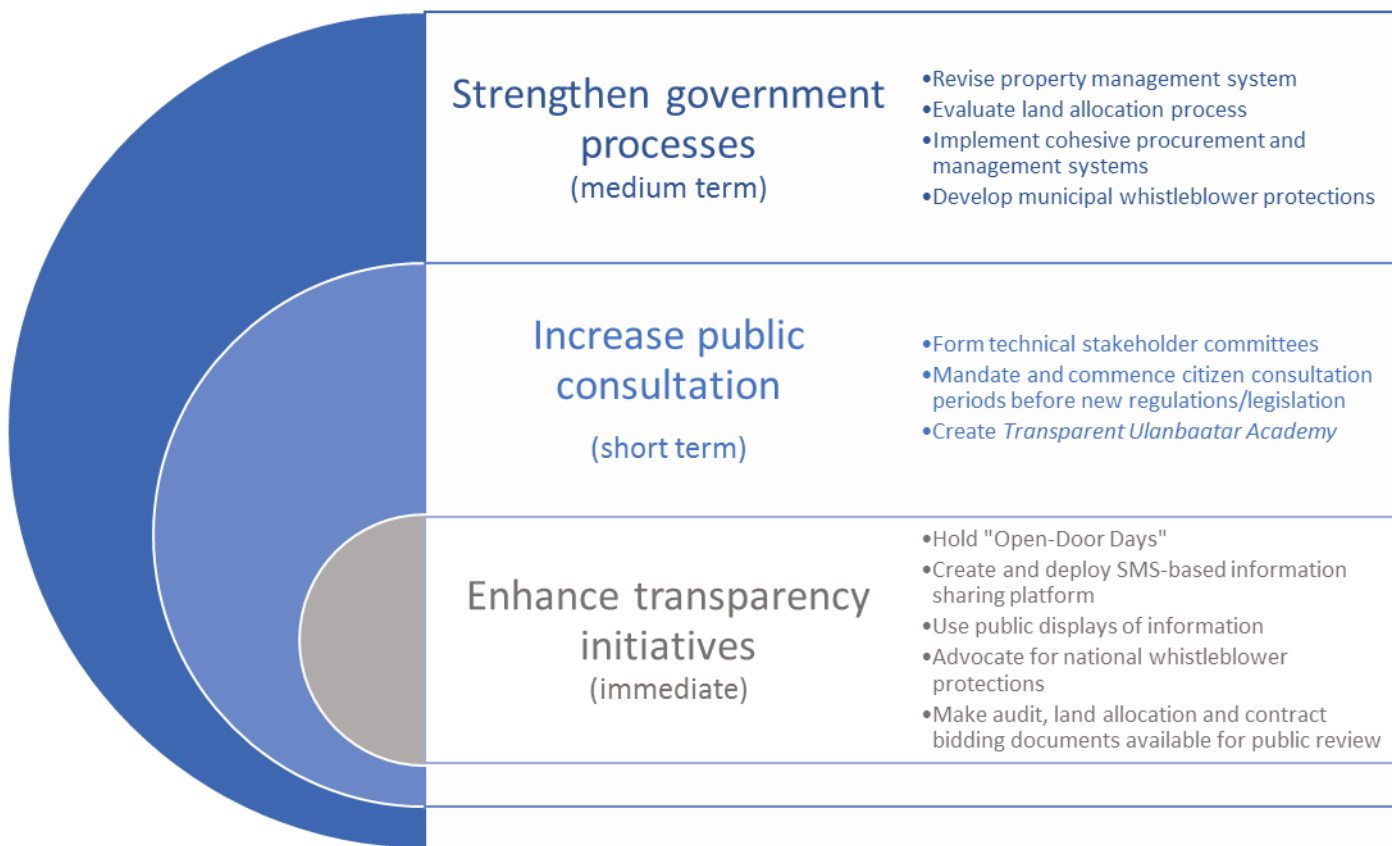


Figure 2: Linking recommendations into a comprehensive Action Plan

While the recommendations contained herein are not exhaustive, they would make significant progress towards a transparent government that provides information to its economically disadvantaged and more affluent citizens in an equal manner and seek to allocate resources and provide services to citizens in a value-conscious but cost-effective manner.

To support a plan such as this, IRI is prepared to collaborate with the Ulaanbaatar Capital City Governor’s Office on a range of the recommendations outlined above. IRI also intends to work with civil society groups in order to enhance the quality of engagement between their

³ Co-hosted by the Ulaanbaatar Capital City Governor’s Office, the Independent Authority Against Corruption of Mongolia and IRI on October 6 and 7, 2014 in Ulaanbaatar.

organizations and municipal government, especially regarding budget evaluation. It has been noted by municipal employees and by civil society itself that greater capacity, especially regarding financial literacy, is needed both for civil society representatives and citizens. IRI will seek to collaborate with relevant civil society groups to increase their understanding of municipal decision-making processes and comprehension of government information, ultimately seeking to enable closer and more productive collaboration.

Status Update: December 2014

Based upon consultations with IRI and other supporting organizations, the Ulaanbaatar Capital City Governor’s Office has outlined eight objectives that frame its five-year anti-corruption resolution, which is expected to be voted upon by the Citizens’ Representative Khural (City Council) by the end of the calendar year. In it, the city makes clear its commitment to addressing key vulnerabilities outlined by the Institute, paving the way for future collaboration between IRI, Ulaanbaatar-based civil society organizations and the Capital City Governor’s Office.

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