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# FACTSHEET

MINERAL LICENSING CORRUPTION  
RISK ASSESSMENT MONGOLIA

Full Report: [www.transparency.mn](http://www.transparency.mn)

## License Allocation Mechanisms

No license applicant should be discriminated against or favoured. This principle is neglected in several points in the design of the main modes of license allocation in Mongolia, First-Come-First-Served for exploration licenses (suspended since the end of 2015) and the license tender (in practice since 2014). As a result, weak spots in these systems can be exploited in corrupt schemes and - arguably more severely - lead to uncertainties which deter quality investment.



**1. Violation of the First-Come-First-Served Principle:** Allegations against the former administrator, the third-party company 'Accense IT Support', include the leak of application details and manipulations of the order of applications. Another weak spot for corruption, albeit less severe, were adjustments to the license shape to avoid overlap, undertaken at the discretion of MRPAM. Major source for uncertainty were high-speed applications submitted through scripts and 'cloned' VPN keys, likely to deter quality investment.



**2. Discretionary local governor's approval:** A lack of legal clauses specific to a license application denial by the aimag governor makes the authority for a veto susceptible to be challenged by MRPAM - a common cause for major delays and incentive for companies to provide corrupt benefits in return for approvals. Conflicting laws create ambiguities over the legitimate decision-maker and consultations with the Citizens' Representative Hural or affected communities are legally non-binding.



**3. Selection of Areas for Tender:** A loophole in the mineral law allows for the MRPAM Geological Division to select any area available for mining to be tendered. Absence of accountability measures allows for discretion in this selection and has led to serious allegations that areas were selected on demand of companies in return for corrupt payments.



**4. Manipulation of Tender Evaluations:** Absence of evaluation criteria for technical bids significantly increases the risk of manipulation. Accountability over the MMHI Tender Committee is low. Analysis of tender announcements exposed frequent omission of key information, further contributing to overall low bidding participation - and to that extent increased risk for collusion among few bidders.

## License Applicants' Obligations

Companies need to provide a well-defined set of documents to apply for a license. The analysis focuses on the three most important documents. The Detailed Environmental Impact Assessment (DEIA) is the key document to specify all environmental obligations, the Final Exploration Report (FER) is the main source for the development of the geological information system, and Community Development Agreements (CDA) shall formalize and enable a wide range of local content provisions.



**5. Approval of Detailed Environmental Impact Assessment:** Minimum standards shall be ensured by requiring the compilation of DEIAs by environmental assessors - a system jeopardized by conflict of interest since the MET Technical Board is both responsible for the accreditation of the assessors and for the approval of their DEIAs. Political staffing, pervasive under-capacity, and limited internal and no external accountability further compromise the MET Technical Board.



**6. Approval of Reserve Deposits:** Limited accountability, political nature of staffing, conflict of interest and under-capacity for assessments compromise the evaluation of Final Exploration Reports by the Minerals Council of Mongolia - and to that extent increase the risk that reserves are either over- or under-valued for corrupt purposes.



**7. Manipulation of Community Development Agreement Negotiations:** Absence of binding inclusion of affected communities or their representatives and no enforcement of disclosure of agreements significantly increase the risk of collusion. Unclear scope of provisions may result in undue benefits for negotiating decision-maker and company.

## Governance Framework

Capacity constraints to govern approximately 3,000 exploration and mining licenses emphasize the importance of robust systems in the form of due diligence, data management and the license cadastre. While impact of corruption is moderate in these systems, shortcomings may jeopardize the efficiency of the overall governance framework, with very severe and long-lasting implications for the sector.



**8. Due Diligence** is the key mechanism to prevent technically and financially ineligible applicants from entering the sector. Requirements are not enforced for license transfers and the award of mining licenses via tender, but otherwise sufficient. The corruption risks derive from the lack of capacity to evaluate evidence provided by companies, and a lack of objective criteria for assessment which renders due diligence mechanisms as largely discretionary.



**9. Data management:** Constraints on the access to data limits the effectiveness of governance and inter-agency cooperation in the public sector. Failure to provide transparent and open access to well-maintained data is likely to increase sector corruption, and can itself be a source of corruption if proprietary information is leaked by officials.



**10. License Cadastre:** While the current cadastre system must be perceived to be effective and to have integrity, potential conflict derives from the ad-hoc integration of Locally Protected Areas which allows a broader range of stakeholders to effectively impede license award or secure undue benefits.



**11. Limited Accessibility of all License Information:** Limited information is available on the cadastre website, but more comprehensive data is available at delay through the EITI Data portal or via the EITI Report. Important information that is not disclosed includes mode of award (FCFS / tender / transfer); a list of all in-valid licenses, the date and reason for invalidation; unsuccessful applications and the reasons for denial. Un-disclosed information can conceal corrupt practices.

## Prevention of Speculation

Speculation, the application for exploration licenses with the intention of selling them later, and, without investing in exploration impedes the development of the mining sector and increases the risk of corruption. Measures for prevention remain largely inefficient and certain license holder rights regarding license transfers facilitate speculation. The disclosure of beneficial owners is another important mechanism which could constrain speculation and many other forms of corruption and financial crimes.



**12. Prevention of License Stockpiling:** Two mechanisms exist to compel companies to invest in exploration: staggered and increasing exploration license fees, and regulations requiring minimum exploration expenditure - both are largely ineffective. Mandatory relinquishment is not enforced. License stockpiling impedes development of the sector, and increases the likelihood of corruption since speculators may be more willing to participate in corrupt practices.



**13. Prevention of Secondary License Trade:** Transferability of mining rights substantially reduces investment risk, but partial license transfers, low transfer fees, sporadic due diligence, and transfers from day of award facilitate speculation on licenses at the expense of the government. Effectively, speculators can broker licenses on more attractive terms than the state.



**14. Non-disclosure of Beneficial Owners:** Mongolia does not enforce the disclosure of Beneficial Ownership (BO), the natural persons who truly own, control, or benefit from a company. Non-disclosure of BO could be used to conceal many types of corruption and financial crime