



GOVERNMENT OF
MONGOLIA

MINISTRY OF ECONOMY
AND DEVELOPMENT

LAW ON PUBLIC-PRIVATE PARTNERSHIP AND REGULATIONS

INTRODUCTION

2024/05/01



» CONTENT


- » I. INTRODUCTION OF LAW ON PUBLIC-PRIVATE PARTNERSHIP
- » II. INTRODUCTION OF REGULATIONS AND PROCEDURES

1

LAW ON PUBLIC-PRIVATE PARTNERSHIP

LAW ON PUBLIC-PRIVATE PARTNERSHIP WAS ENACTED BY THE PARLIAMENT ON 09 DECEMBER 2022. RELEVANT REGULATIONS AND PROCEDURES DRAFTED BY MED AND MoF, WHICH WAS APPROVED BY THE CABINET.

THE LAW ENFORCED FROM 31 DECEMBER 2023.

1. Regulation for conducting comprehensive analysis of PPP project;
2. Regulation for selecting and awarding private partners and consulting services, and template documents
3. Regulation for establishing PPP contract, standard contract template, complete set of contracts and documents;
-  4. Methodology for risk calculation and allocation on PPP;
5. Regulation for reviewing a comprehensive analysis of PPP projects and authorizing establishment of PPP contract and making amendment to the contract;
6. Regulation for implementing, financing, organizing, reporting and monitoring of PPP projects.
7. Regulation for Project development fund
8. Regulation for issuing government support and guarantees for the implementation of PPP projects
9. Regulation for reviewing the comprehensive analysis of a PPP project and granting an approval for establishment of PPP contract, and making amendments



PURPOSE

1.1

The purpose of this law is to create a **favorable legal environment** for the realization of public-private partnership projects in the public infrastructure facility and public services, the promotion of the private sector's participation and investment, and for ensuring the effective **long-term cooperation** based on contracts and sound public and private **risk management** as well as for enforcing the efficient **financial and fiscal management**.

SCOPE

3.1

This law applies to the matters of selection of private partners, awarding and implementation of PPP contracts and selection of projects based on the **planning, development, evaluation, and analysis** for PPP projects to be jointly implemented by the public and private sectors in the field of **public infrastructure facility and public services**.



- *activity pertaining to the defense industry;*
- *all types of bank and financial market services and operations;*
- *for-profit prospecting, exploration, mining and exploitation of minerals other than providing services to the public using the infrastructure of mining industry*

1

“public-private partnership”

a cooperation to effectively and sustainably implement projects for long-term where a private partner provides public infrastructure and public services to the public and public partner for a long period under the PPP contract established with public authority, and optimal allocation of risks between partners is established, and where the PPP payments are financed depending on a type of PPP

2

“public infrastructure”

buildings for public services, roads, railways, cableways, underground and above-ground road facilities, all types of utility networks, facilities with a simple design or engineering structure for prevention from disaster or accident

3

“public service”

“provision of equal, quality and efficient services to the public by the government in accordance with the legislation and norms, for creating a comfortable living environment for its citizens such as electricity, transportation, health, education, culture and other relevant fields

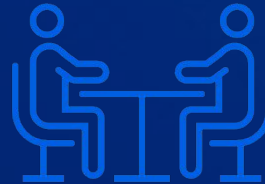
4

“PPP project”

public infrastructure and public service projects composed of activities such as investment from private partner, design, construction of infrastructure facilities, financing, reconstruction, modernization, maintaining, providing public services and management of such services for the purpose of meeting the public needs and requirements

“public partner”

the state central administrative body in charge of respective matter, the state central administrative body in charge of PPP, and other body specified in the PPP contract as stated in article 16 of the law



“private partner”

a legal entity and consortium of legal entities with foreign or domestic investment established under the Company Law and the Investment Law which entered the PPP contract with a public partner for the purpose of implementing a PPP project under the provisions of the law



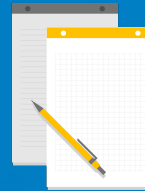
**public
interest**



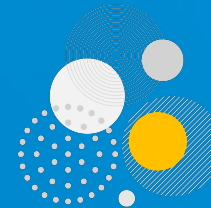
**Quality,
accessibility**



**Governance,
Risk**



**Integrity,
transparent,
fair**



**Fiscal
impact,
monitoring**



**Long-term,
sustainable**



**green
development**

**Satisfy public
and user
interest,
based on their
demand and
need**

**Enhance
public service
quality, fiscal
and financial
management**

**Clear
responsibilities of
stakeholders,
optimal risk
allocation,
performance-based
funding**

**Fair
competition-base
d procurement,
transparent
procedure**

**Fiscal impact
consideration,
consistent
monitoring of
financing**

**Support private
sector
investment and
participation,
increase
economic benefit**

**Climate change
consideration,
introduce
environmentally
friendly
technology and
support green
development**



» PPP LAW STAKEHOLDERS

PARLIAMENT

- to discuss and approve PPP goals and activities.
- to discuss the reports on implementation and performance of PPP projects together with the consolidated budget performance report
- monitor the implementation and issue directives

CABINET

- to approve projects to be implemented as PPP
- to approve sectors and directions for PPP
- to decide government guarantee
- to authorize permission to establish PPP contract

MoF

- to review fiscal impact assessment
- to conclude fiscal impact and risk analysis
- to provide permission to comprehensive analysis and making PPP contract
- to facilitate fiscal funding in accordance with PPP contract scheme

PPP CENTER

- to assess suitability of the PPP project proposal
- to provide professional support to PPP parties
- to conduct preliminary evaluation, comprehensive analysis, feasibility studies, risk assessment together with relevant stakeholders

AUDIT

- to conduct annual audit to Project development fund,
- to carry out audit on planning, procurement and implementation of the PPP project

MED

- to oversee PPP law implementation
- to confirm preliminary evaluation,
- to reflect into policy documents,
- to conduct comprehensive analysis, procurement and establishment of a PPP contract
- to sign into PPP contract with line ministry
- to monitor implementation and report to the cabinet

LINE MINISTRIES

- to initiate PPP project proposal
- to conduct preliminary evaluation
- to receive proposals from subnational government and private sector
- to participate in project development process
- to sign PPP contract and monitor implementation
- to report performance of the contract to MED

SUBNATIONAL

- to initiate local PPP projects and have discussed at citizen's representative council
- to ensure PPP project implementation in the local territory concerned
- to support PPP partners
- to monitor implementation of the PPP project;

FUNDING SCHEME

1 User pays



project costs funded with user fees, charges or project income

2 Government payment



project costs are paid from the state budget as reflected in the PPP contract

3 Hybrid





Mix of user fee and government payment


CONTRACT TYPES


▪ design, develop budget, build, operate and transfer	DBFOM
▪ build, operate and transfer	BOT
▪ build, transfer and operate	BTO
▪ build, lease, operate and transfer	BROT
▪ build, own, operate and transfer	BOOT
▪ lease in or lease out for providing public services	
▪ operate and maintain	
▪ renovate, operate, use, operate and transfer	ROOT
▪ implementation of management	
▪ other variations of PPP contract identified from the comprehensive analysis of the project	


» GENERAL REQUIREMENTS


- 

identified as suitable to be implemented as PPP in the public infrastructure and public service area based on evaluation, analysis and research
- 

in line with the long-term, medium and short-term development policies, regional development policies, and the medium-term fiscal framework
- 

high priority on development, and comply with the types and schemes of PPP
- 

improve quality and accessibility of public services through private investment, and introduce innovation and new technologies
- 

support green economic development, aim to mitigate climate change, and no negative impact to environment
- 

potential interested investors and financiers through market study and a competitive bidding could be held

»SPECIFIC REQUIREMENTS

- ✓ identified need and requirements based on measurable project objectives
- ✓ identified need and requirements based on measurable project objectives
- ✓ legal, social and environmental impact analysis conducted and verified
- ✓ satisfy that the public service provided under the PPP project should meet the requirements of the relevant standards
- ✓ determined technical requirements, project inputs and deliverables, and expected results
- ✓ identified project activities, works and scope to be executed by PPP contract
- ✓ identified licenses and permits required for the project activities
- ✓ assessed the project risks and have determined risk mitigation measures
- ✓ identified the types and forms of government support required for the project implementation

» SPECIFIC REQUIREMENTS

- ✓ MoF shall have reviewed the fiscal impact and risk assessment
- ✓ reflected issues on monitoring and evaluation of operations, implementation and performance of a private sector partner
- ✓ mutual consent on main terms prior to establishing a PPP contract by conducting negotiation
- ✓ determined the total cost
- ✓ for the public needs and its fees shall be commensurate with the market prices and be able to be registrable
- ✓ environmentally friendly technologies must be introduced



A project that does not meet the requirements set out in this law is prohibited to be implemented as PPP



» PPP LAW PROCEDURE

ТӨР, ХУВИЙН ХЭВШЛИЙН ТҮНШЛЭЛ



2 INTRODUCTION OF REGULATIONS



GOVERNMENT RESOLUTION

DOCUMENTS

404 Regulations and procedures

1. Regulation for conducting comprehensive analysis of PPP project
2. Regulation for selecting and awarding private partners and consulting services, and template documents
3. Regulation for establishing PPP contract, standard contract template, complete set of contracts and documents
4. Methodology for risk calculation and allocation on PPP
5. Regulation for implementing, financing, organizing, reporting and monitoring of PPP projects

405 Project development fund

6. Regulation for Project development fund

406 Dispute resolution council

7. Members of the Dispute resolution council and operational regulation

474 Government support

8. Regulation for granting government support and government guarantee set forth in this law for implementing PPP projects"

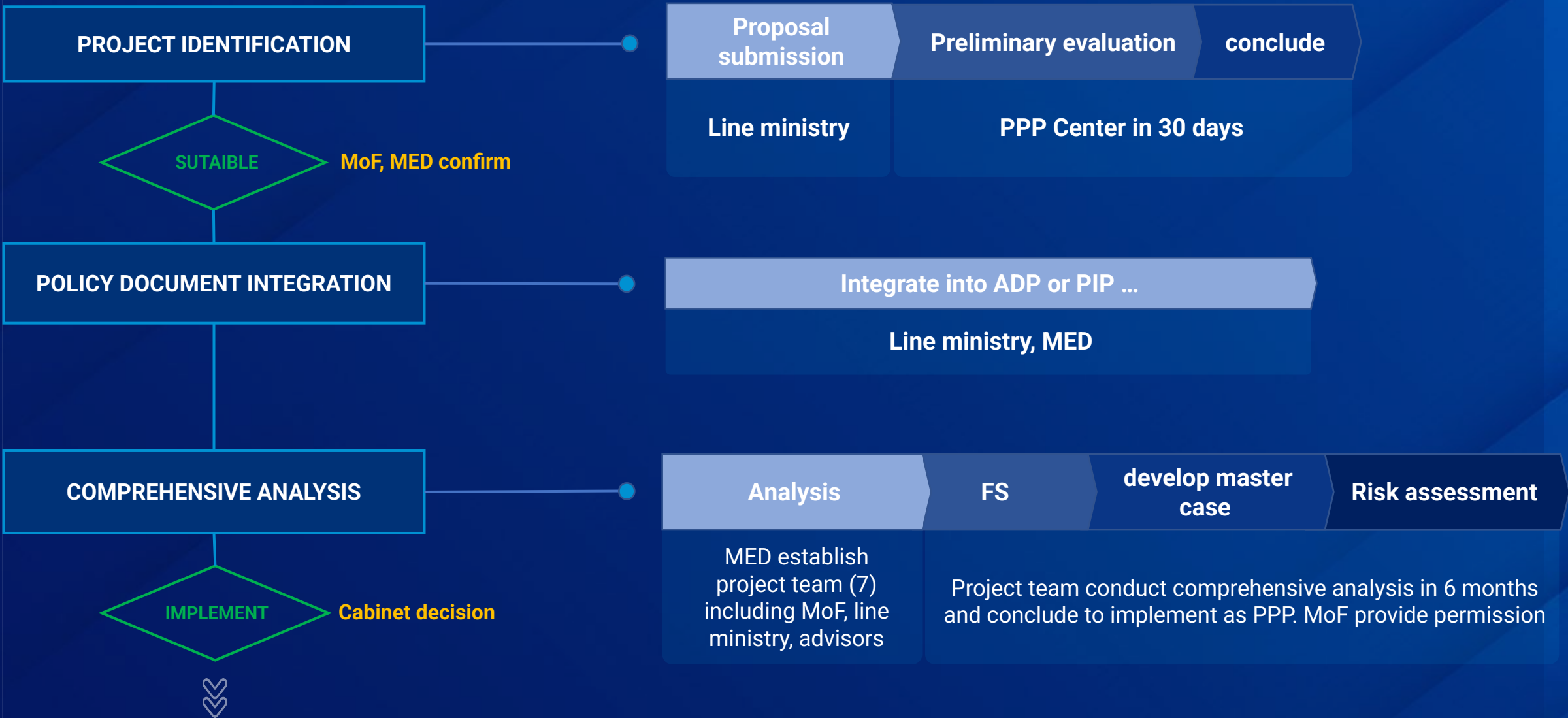
475 Approval regulation

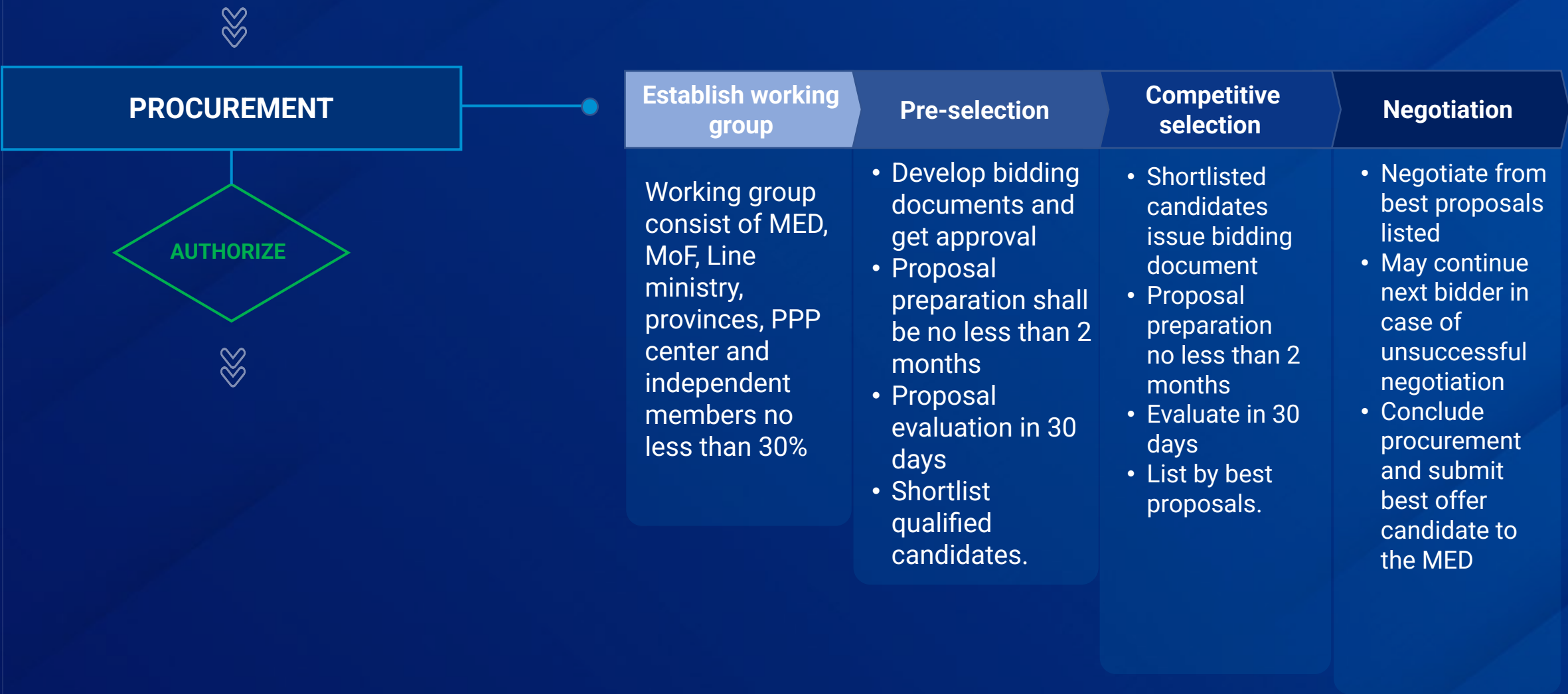
9. Regulation for reviewing a comprehensive analysis of PPP projects and authorizing establishment of PPP contract and making amendment to the contract



» PPP REGULATIONS COMPREHENSIVE ANALYSIS

ТӨР, ХУВИЙН ХЭВШЛИЙН ТҮНШЛЭЛ

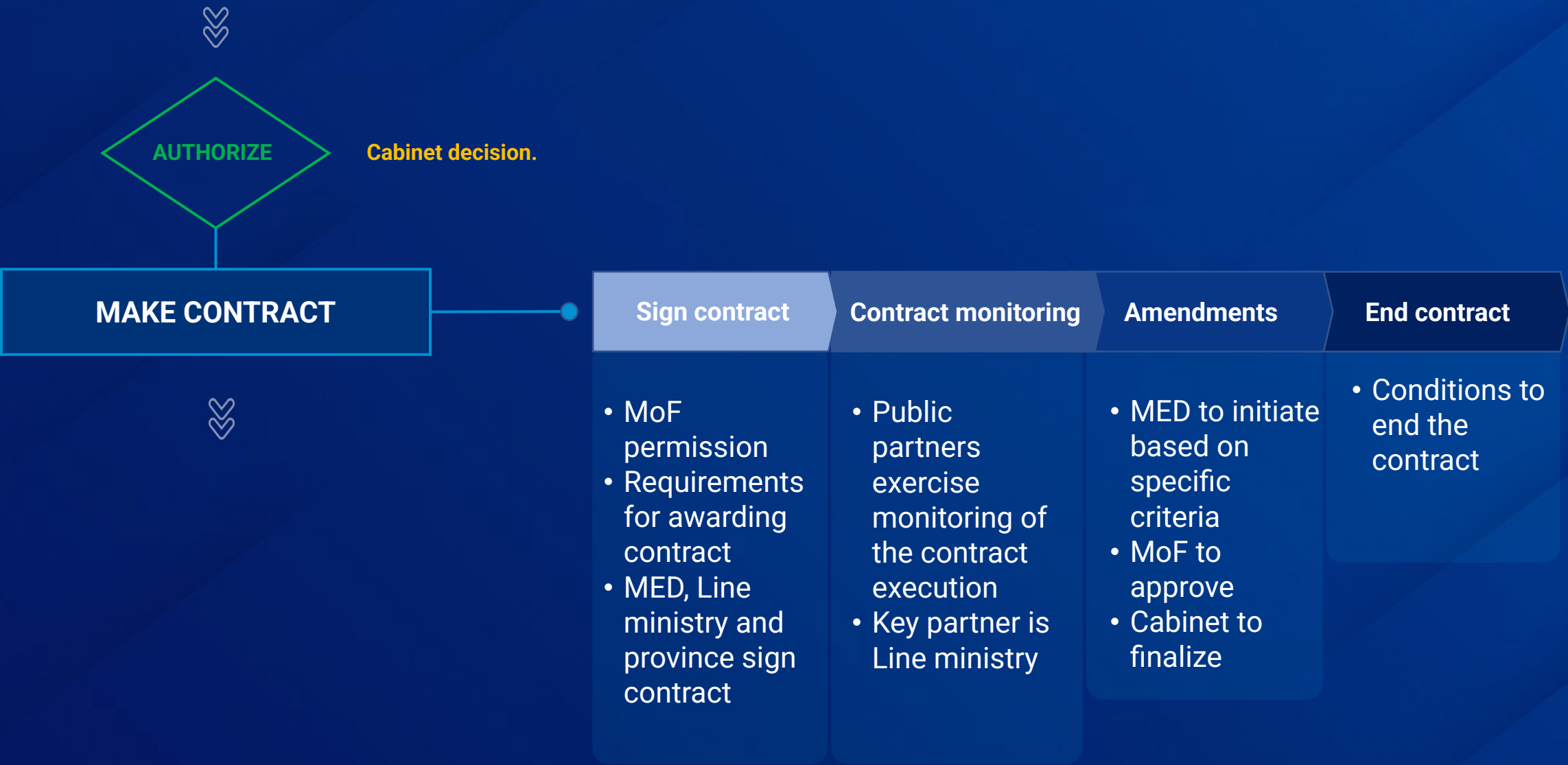






» PPP REGULATIONS CONTRACTING

ТӨР, ХУВИЙН ХЭВШЛИЙН ТҮНШЛЭЛ



» PPP REGULATIONS IMPLEMENTATION





» PPP REGULATIONS RISK ASSESSMENT

COMPREHENSIVE ANALYSIS

Methodology to assess and allocate risks

Identify

- Generalized in 10 category

Prioritize

- Risk level = Probability * Impact

Mitigate

- Plan mitigation measure

Allocate

- Public or private partner

Identify

prioritize

mitigate

allocate

Эрсдэлийн ангилал	Нэр	Тодорхойлолт	Магадлал	Нөлөөлөл	Эрсдэлийн түвшин	Бууруулах арга хэмжээ	Хуваарилалт	Төрийн дэмжлэг үзүүлэх боломж	Гэрээнд тусгах санал
Барилга угсралт /жишээ/	Барилгын материалын үнэ өсөх	Инфляц, хилийн хориг зэрэг шалтгаанаар барилгын материалын үнэ өсөх, барилгын угсралтын зардал өсөх	Их /4/	Их /4/	Их /16/	Тогтвортой үнийн бэлтгэн нийлүүлэлт худалдан авалт, төсөвт өртөгт оруулан тооцох	Ихэвчлэн Хувийн хэвшилд хуваарилдаг	Зарим зохицуулалт	Хувийн хэвшлийн тооцоо судалгаанд туссан байх, аливаа эрсдэлийг даах заалт гэрээнд туссан байх

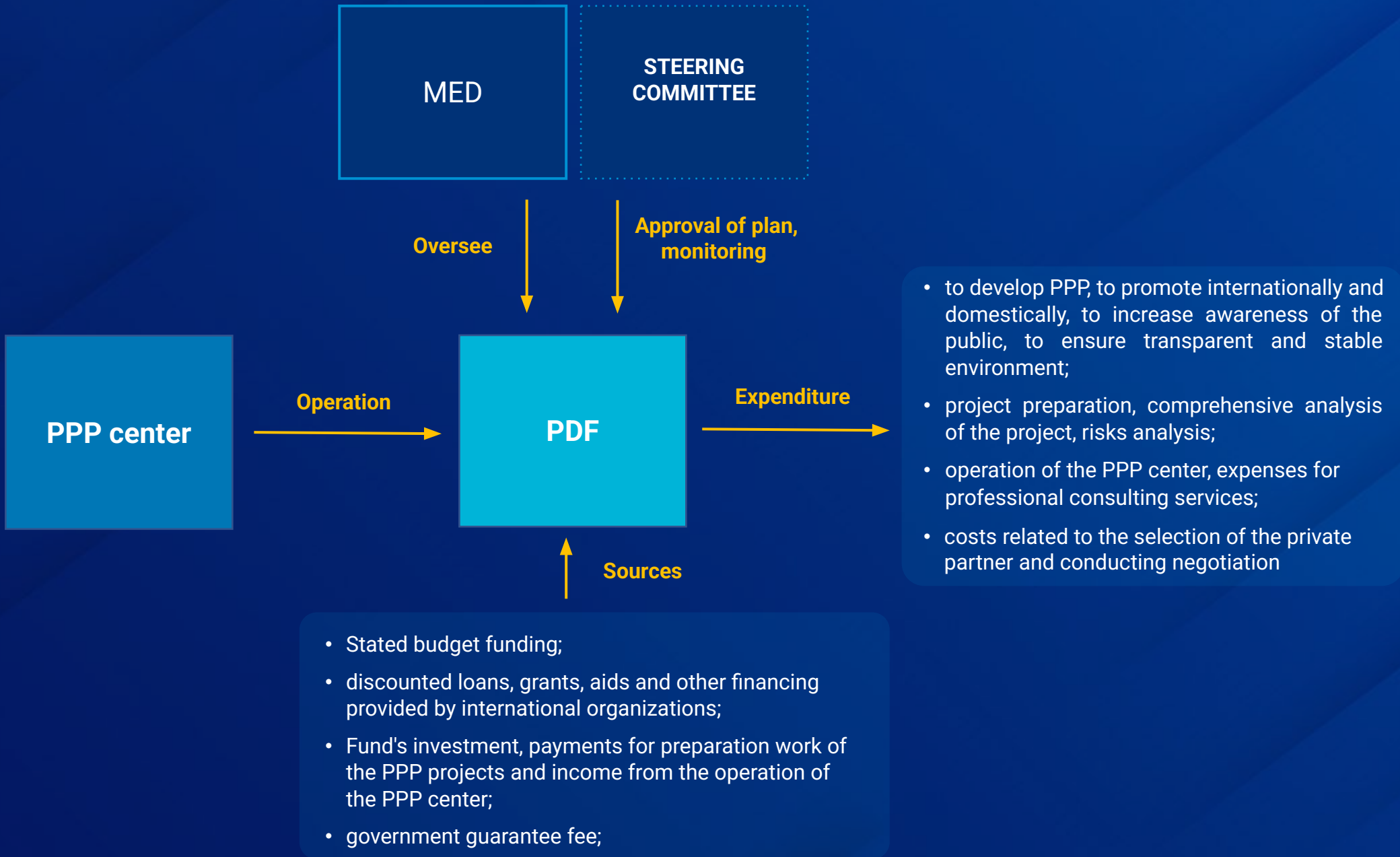
PROCUREMENT

DISPUTE RESOLUTION COUNCIL

Composition

- Head of unit responsible for Internal control at the state central administrative body in charge of PPP matter
- Head of unit responsible for legislation at the state central administrative body in charge of financial and fiscal matters
- Head of unit responsible for finance and investment at the state central administrative body in charge of legal matter
- Chairman of the Mongolian National Chamber of Commerce and Industry /as consulted/
- Officer of unit responsible for Internal control at the state central administrative body in charge of PPP matter

The Council shall resolve the complaint within 20 workdays.





МОНГОЛ УЛСЫН
ЗАСГИЙН ГАЗАР

ЭДИЙН ЗАСАГ,
ХӨГЖЛИЙН ЯАМ

THANK YOU



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