

Terms of Reference

Contract Transparency Mapping in Liberia's Extractive Sector

The Extractive Industries Transparency Initiative (EITI), together with the Liberia Extractives Transparency Initiative (LEITI) is seeking a consultant to conduct a contract disclosure assessment and mapping exercise. The EITI International Secretariat has agreed to engage the services of the consultant, and the consultant will work with the LEITI team to undertake the tasks assigned in this Terms of Reference.

1. Background

The EITI is a global standard that promotes transparency and accountability in the oil, gas and mining sectors¹. The EITI Standard recommends that multi-stakeholder groups (MSGs) explore innovative approaches to broaden EITI implementation, in order to increase the completeness of the disclosure of information to EITI and public understanding of revenues, legal and contractual terms of the different licenses and permits governing the extractive sector, and to encourage high standards of transparency and accountability in public life, the work of government, and business. The EITI Standard lays down the requirements that implementing countries have to meet.²

Contract transparency is an essential element of natural resource governance. It allows citizens to understand the terms under which the natural resources are being exploited and assess the degree to which the terms of those contracts are being complied with. Contract transparency is a strong tool to combat corruption, build trust among the different participants in the extractive activities, and negotiate fair deals.

The EITI Standard requires implementing countries to disclose any contracts and licenses that are granted, entered into or amended after 1 January 2021 (Requirement 2.4.a). Implementing countries are encouraged to publicly disclose any contracts and licenses that provide the terms attached to the exploitation of oil, gas and minerals. Countries are also required to document the government's policy on disclosure of contracts and licenses that govern the exploration and exploitation of oil, gas and minerals (Requirement 2.4.c).

¹ Additional information is available from <http://www.eiti.org>.

² See https://eiti.org/files/documents/eiti_standard2019_a4_es.pdf

Liberia was admitted as an EITI Candidate country in 2008, and has published EITI data covering 2008-2019. The country has undergone two Validations under the EITI Standard and has been found to have achieved meaningful progress in implementing the EITI Standard, with considerable improvements. Liberia has also made progress on contract transparency over the years. LEITI hosts a contracts and concession library that contains extractive contracts signed by the government. The LEITI Act (2009) mandates LEITI to “promote the public disclosure of contracts and concessions bearing relationship with the extraction of forest and mineral resources.” Accordingly, the LEITI Secretariat in 2012 secured and uploaded to its website for public access, [more than 100 concessions, agreements, contracts, permits, and licenses](#), in respect of the oil, mining, forestry, and agriculture sectors. However, LEITI recognizes that there is limited public engagement on the disclosed contracts due to their complex and legal nature.

Liberia’s third Validation is scheduled to kick off on 1 January 2022. There are opportunities for the country to assess progress on contract transparency. This assignment will result in concrete outcomes on contract and license transparency in the form of a comprehensive mapping exercise and identification of activities to advance the contract transparency agenda.

2. Objectives of the assignment

A consultant will be engaged by the EITI International Secretariat, with support from USAID, to assess Liberia EITI’s compliance with requirement 2.4; this will entail conducting a comprehensive mapping of contracts disclosure, identifying the legal and practical barriers to full contract transparency, and developing a roadmap for strengthening contract disclosure in government systems. The consultant will have three specific objectives, namely;

1. Map the disclosure of oil, mining, forestry, and agriculture licenses in Liberia;
2. Support LEITI in assessing scope of license annexes that are disclosed and the opportunities and challenges in ensuring disclosure; and
3. Develop a roadmap for embedding contract transparency in government and company systems.

The consultant is expected to work with the LEITI national secretariat and MSG, EITI International Secretariat, and other stakeholders as may be determined during the assignment. The consultant will work under the supervision of the EITI Country Manager and report directly to both the Country Manager and the Regional Director. The timeframe for this work will be 20 full working days, December 2021 to February 2022.

4. Scope of assignment

The consultant will be expected to undertake the following tasks:

1. Produce a mapping study that:

- (i) Describes the legal frameworks in Liberia and assesses the extent to which they provide for full contract transparency in the extractive sector;
- (ii) Assess contract transparency disclosures and compliance of Liberia to the requirement 2.4 of the 2019 EITI Standard. This will include assessing the extent to which contract disclosure information under requirement 2.4 is already publicly available in governmental and corporate systems
- (iii) Comprehensively reviews license disclosure in Liberia. This will include producing a list of all active licenses and where they can be accessed;

2. Support LEITI in assessing/establishing scope of disclosure of licenses and contracts including to:

- (i) Support MSG discussions on Liberia's legal regime on contracts and license disclosure and in assessing whether there are deviations from license terms; The consultant will support Liberia's determination of how to approach the disclosure of licenses in accordance with the Board-prescribed procedure for license regimes.
- (ii) Facilitate training for the MSG and other stakeholders on contract disclosure and EITI Requirement 2.4 on contract transparency;
- (iii) Support LEITI in assessing the scope of annexes that should be disclosed;
- (iv) Support LEITI in documenting government's policy and practice on license disclosure; and in identifying the legal and practical barriers to disclosure. This will include supporting the MSG in agreeing an approach to overcoming the gaps including prioritizing activities;
- (v) Develop a policy brief on license disclosure based on (1) and (2) above, assessment of government's policy on disclosure and the identified legal and practical barriers to disclosure.
- (vi) Support LEITI in understanding procedures for amending contracts in Liberia and recommend ways for how Liberia could systematically monitor amendments and disclose amended contracts

3. Develop a Roadmap for Contract Transparency Implementation

- (i) Based on (1) and (2) above, the consultant should suggest a roadmap for improving contract transparency in Liberia and embedding the EITI disclosures in publicly accessible systems;

- (ii) The roadmap should list the actions that are needed to fully embed disclosures in government and company systems as well as the responsible parties to do so. It should also assess the complexity of the proposed solutions identified.. Where significant work is needed to make the data publicly accessible through government systems, the roadmap should suggest a step-by-step approach specifying the information that can be obtained from existing sources, and the information that would need to be partially or fully collected or disclosed through the EITI reporting process.

5. Deliverables and timetable³

The assignment is expected to take 20 consultancy days from December 2021 to February 2022. The proposed schedule is set out below and should be agreed in consultation with LEITI national secretariat. Within six weeks of the commencement date, the consultant shall provide a report to LEITI and the International Secretariat for review and comments. The consultant will be given two more weeks to review the comments, make the amendments necessary and handover the final report. The proposed schedule is set out below:

Carry out a comprehensive review of whether all licences issued are publicly disclosed.	30 December, 2021
Identify contracts and agreements that may be subject to disclosure.	30 December, 2021
Consult with relevant stakeholder and facilitate training for the MSG and other stakeholders on contract disclosure and EITI Requirement 2.4 on contract transparency.	10 January
Support LEITI in assessing the scope of annexes that should be disclosed.	10 January, 2022

³ Subject to confirmation with the consultant.

Support LEITI in documenting government’s policy and practice on license disclosure; and in identifying the legal and practical barriers to disclosure. This will include supporting the MSG in agreeing an approach to overcoming the gaps including prioritising activities.	15 January, 2022
Develop a policy brief on license disclosure based on the mapping, assessment of government’s policy on disclosure and the identified legal and practical barriers to disclosure.	20 January, 2022
First draft mapping study and roadmap for contract transparency implementation	30 January, 2022
Final draft of mapping study	20 February, 2022

6. Consultant requirements

The Consultant will need to demonstrate:

- Technical and financial skills, including knowledge and work on transparency and governance, public finance and financial accountability, and multi-stakeholder dialogue. Preferably, proven experience related to the EITI.
- Knowledge of the legal regime applicable to the oil, gas and mining sectors or other natural resources sectors, preferably in sub-Saharan Africa.
- A demonstrable record of accomplishment in similar work.
- Documentation that proves the consultant has no conflict of interest for developing this task.
- Fluency in English is a requisite.

7. Payment schedule

	Deliverable	Payment
1 st Payment	Upon signing the contract	10%

2 nd Payment	Upon submission of the draft report	40%
3 rd Payment	Upon submission of the final report that is accepted by the EITI International Secretariat.	50%

8. Administrative support

The Secretariat would provide the following support to the project:

- Providing regular oversight and input on technical assistance provided to LEITI, through calls and regular email exchanges.
- Providing the necessary background information and input as needed;
- Any other support required for the project.

Proposals must be delivered by email to skasimova@eiti.org by 17 November 2021.

9. Reference materials:

- The EITI Standard, <http://eiti.org/document/standard>
- The online Guide to implementing the EITI Standard, <https://eiti.org/guide>
- EITI implementation guidance notes issued by the International Secretariat, <https://eiti.org/guidance-notes-standard-terms-of-reference> , in particular the guidance notes on contract transparency. The consultant is advised to contact the EITI International Secretariat for any questions or clarifications related to the EITI Standard and the implementation of the EITI requirements;
- Agreed upon procedure for mainstreamed disclosures, <https://eiti.org/document/agreed-upon-procedure-for-mainstreamed-disclosures>
- Systematic disclosure toolkit, <https://eiti.org/document/systematic-disclosure-toolkit>

LEITI Website <http://www.leiti.org.lr>