

## Terms of Reference

### Disclosure Mapping in South Africa's Extractive Industries

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The Extractive Industries Transparency Initiative (EITI), is seeking a consultant to conduct a disclosure assessment and mapping exercise in the South Africa . The EITI International Secretariat has agreed to engage the services of the consultant to undertake the tasks assigned in the Terms of Reference.

#### 1. Background

The EITI is a global standard that promotes transparency and accountability in the oil, gas and mining sectors. Additional information is available from <http://www.eiti.org>.

The EITI is planning to step up its outreach efforts to South Africa to prepare the country for a potential candidature application. The EITI International Secretariat has engaged in preliminary discussions with various stakeholders in South Africa on the prospects for EITI implementation in the country. While there is considerable interest in exploring the opportunities for EITI implementation in South Africa, some stakeholders have indicated the need for a clear indication of the areas in which EITI would add value. There are perceptions that South Africa already discloses significant information in the extractive sector. These disclosures are required by law, regulatory institutions, stock exchange listing requirements and various voluntary initiatives. There is therefore, a need to map the current disclosures and assess the extent to which the EITI implementation could complement current disclosures or address existing gaps in transparency and accountability.

The EITI Standard requires implementing countries to disclose information across the extractives value chain, from legal and policy framework, the issuance of mining rights, production data, export data, the collection and allocation of extractives related revenues, and the social and environmental impacts of extractives among other areas. The assignment is expected to result in a high-level assessment of the policy and practice of extractive industry related disclosures in South Africa and the clear identification of the areas of overlap and value add that would come with EITI implementation. The second phase of the assignment is a more detailed examination of the highest potential areas for value add, which will be assessed in conjunction with the EITI outreach team.

#### 2. Objectives

A consultant will be engaged by the EITI International Secretariat and will have three specific objectives, namely;

1. Present a high-level mapping of the range of current disclosures in South Africa's extractive industry (mining, oil and gas) which are also present in the EITI Standard, and identify the existing platforms for dialogue around those disclosures. In particular, the assignment will map licences/mining, oil and gas related disclosures, production and export data disclosures, financial related disclosures and social and environmental related disclosures that are reflected as required or encouraged in the EITI Standard.
2. Identify a priority list of gaps within the current disclosure and dialogue practices, to be refined in conjunction with the EITI outreach team.
3. Elaborate priority opportunities for EITI to address these issues or add value within the extractives transparency ecosystem in South Africa, providing a more detailed analysis of the disclosures and systems required to meet the EITI Standard in these areas.

The consultant is expected to primarily work with the EITI International Secretariat, and other stakeholders as may be determined in the course of the assignment. The consultant would work under the supervision of the Regional Director, Anglophone and Lusophone Africa, and the EITI Communications Director.

### 3. Scope of assignment

The consultant will be expected to undertake the following tasks:

#### 1. Map the current disclosures in South Africa's extractive industries

- (i) Carry out a comprehensive review of the policy and existing practice with respect to the disclosure of information in South Africa's extractive industry. This will include disclosure policy and practice across key nodes of the extractives value chain i.e. licence allocations, contracts disclosure, beneficial ownership disclosure, production and export data, revenue/payments collection, revenue allocation, social and environmental impacts.
- (ii) Identify the bases/source for disclosures in South Africa's extractive industry. This will entail identifying the laws and initiatives that provide for disclosures. These could include among others, JSE related disclosures, King Code, GRI related disclosures, Promotion of Access to Information Act, Companies Act, the Mineral and Petroleum resources Development Act, the Mining Charter, certain disclosures under the Employment Equity Act and industry association related disclosures.
- (iii) Assess the scale/coverage of disclosures in the extractive sector. The assignment is expected to include a broad assessment the number of companies disclosing comprehensive information in the extractive sector.
- (iv) Document any planned reforms that would support enhanced disclosures or transparency and accountability in the extractive sector.
- (v) Assess the extent to which extractive industry disclosures in South Africa are systematically disclosed online, publicly accessible and subjected to dialogue space and to analysis by different stakeholders

## 2. Identify gaps within the South Africa extractives disclosure landscape vis-à-vis the EITI Standard and the EITI implementation process

- (i) Identify the EITI disclosure requirements that are not covered in current transparency efforts by the industry.
- (ii) Determine if there spaces for structured dialogued between stakeholders (government, industry, civil society/communities) as set out in the EITI process.
- (iii) Determine if there is coordinated regulatory oversight of the extractive sector in South Africa bringing together agencies such as DMRE, the revenue authority and others.

## 4. Deliverables and timetable

The assignment is expected to take up to 25 consultancy days from September to October 2022. A proposed schedule is set out below and should be agreed and finalised in consultation with the EITI International Secretariat.

Inception meeting to agree and finalise on scope of the assignment	2 days after contract signing.
Scoping report	1 week after contract signing
Map the current disclosures in South Africa's extractive industries	2 weeks after contract signing
Identify gaps within the South Africa extractives disclosure landscape vis-à-vis the EITI Standard and the EITI implementation process	3 weeks after contract signing
Draft report and presentation to the EITI International Secretariat.	4 weeks after contract signing
Final report and presentation to the EITI International Secretariat.	5 weeks after contract signing

## 5. Consultant's qualifications

The consultant should be a prominent firm or individual(s) that has a track-record in doing similar work, is credible, trustworthy and technically competent.

### The consultant must demonstrate:

- Experience and knowledge of South Africa's extractive industry.

- Experience of similar jobs in the past.
- Prior experience of EITI is not necessary but would be advantageous.

To ensure quality and independence in the undertaking, the consultant must, in their technical and financial proposals, disclose any potential or actual conflicts of interest, together with a comment about how they may be avoided.

## 6. Administrative support

The Secretariat would provide the following support to the project:

- Providing regular oversight and input on technical assistance;
- Providing the necessary background information and input as needed;
- Any other support required for the project.

## 7. Procurement procedure

Proposals must be delivered by email to [skasimova@eiti.org](mailto:skasimova@eiti.org) by close of Friday 2 September 2022.

A consultant will be selected following a quality and cost-based selection procedure. Consultants should submit:

- A **Technical Proposal**, outlining: (a) the experience of the consultant/s, (b) the proposed methodology and work plan in response to the Terms of Reference (TORs) and (c) the key experts' qualifications and competence. The Technical Proposal should not include any financial information. Technical proposals containing material financial information shall be declared non-responsive.
- A **Financial Proposal**, clearly indicating a lump sum financial proposal of all costs associated, with applicable taxes. The daily rate for the consultant fees should be clearly indicated. The Financial Proposal should be sent as a password protected PDF file. The passwords should not be sent. The passwords will be requested following the assessment of the technical proposals.

The criteria for assessing the technical proposals are as follows:

- Experience of the Consultant relevant to the Assignment
- Adequacy and quality of the proposed methodology, and work plan in responding to the Terms of Reference (TORs)
- Key Experts' qualifications and competence based on the Qualification requirements (see section 5 above)

The weights given to the Technical (T) and Financial (P) Proposals are:

T = 70%

P = 30%

Proposals will be ranked according to their combined technical (St) and financial (Sf) scores using the weights (T = the weight given to the Technical Proposal; P = the weight given to the Financial Proposal; T + P = 1) as following:  $S = St \times T\% + Sf \times P\%$ .

Contract negotiations will be held with the highest ranked consultant. If contract negotiations are unsuccessful, negotiations will be held with the next highest ranked consultant.

*\*When preparing your proposal, please be sure to include a section on potential conflicts of interest in the technical proposal. This section should identify any areas of work, including past, present or future consultancies related to the EITI, which might pose a conflict of interest. Please also describe strategies that you intend to use to minimize those risks.*