
Terms of Reference: Consultancy for beneficial ownership, contract transparency, and feasibility study of systematic disclosure in Kazakhstan

The Extractive Industries Transparency Initiative (EITI) is seeking a consultant to produce a study for the EITI MSG of Kazakhstan that aims to support government and MSGs in the country to implement beneficial ownership, contract transparency, and systematic disclosure of information required by EITI Standard. The EITI International Secretariat has agreed to engage the services of the consultant to undertake the tasks assigned in these Terms of Reference.

1. Background

The EITI is a global standard that promotes transparency and accountability in the oil, gas and mining sectors. Countries implementing the EITI draw on revenues from oil, gas and minerals to meet the energy and development needs of their citizens. Additional information is available from <http://www.eiti.org>.

Kazakhstan EITI implementation and current status of work on contract transparency and beneficial ownership

Contract transparency

Kazakhstan has limited progress in oil and gas contract transparency due to confidentiality clauses included in the extractive agreements. The Ministry of Industry and Infrastructure Development plans to send letters to the companies to ask for consent for oil and gas contract disclosures and to scan and structurally download mining contracts to the ministerial website. The next Validation of Kazakhstan is rescheduled for 1 April 2024 with Requirement 2.4 of EITI Standard on contract disclosure to be assessed.

Beneficial ownership

The Ministry of Industry and Infrastructural Development, responsible for the EITI implementation, provides partial disclosures of beneficial owners of the mining companies on its website, however the beneficial ownership information of the oil and gas sector remains inaccessible

2. Objectives and scope of assignment

A consultant will be hired to support the government and the EITI MSG in capacity building on beneficial ownership information for all extractive companies in accordance with Requirement 2.5 of the EITI Standard, in disclosing contracts in accordance with Requirement 2.4 of the EITI Standard and preparing feasibility study related to publishing information required by EITI Standard. The consultant will undertake the following activities:

1. Produce a study on actual practice on contract transparency in Kazakhstan and practical recommendations to enable disclosure.
 - a. Conduct stakeholder consultations with government, civil society and companies to document current state of play of contract disclosure in Kazakhstan for the oil, gas and mining sector
 - b. Provide an overview in the study of the legal and policy framework for contract disclosure in Kazakhstan
 - c. Document all legal and practical barriers for full contract disclosure and adherence to all aspects of Requirement 2.4 of the EITI Standard
 - d. Map key stakeholders including champions, saboteurs, enablers and approving authorities that should be engaged to enable contract disclosure
 - e. Provide recommendations to address all legal and practical barriers to contract disclosure
 - f. Conduct a workshop with the MSG and agencies to develop a roadmap to implement the recommendations
2. Support the government in publishing contracts and organising the contract database in the responsible ministerial departments.
 - a. Scope all mining and oil and gas contracts in Kazakhstan
 - b. Develop a list of all active mining and oil and gas contracts
 - c. Design a contracts data base and portal for contract disclosure following global best practices
 - d. Provide technical and administrative support to the relevant ministries on the creation and maintenance of this data base
 - e. Draft a manual and provide capacity building activities to MSG and ministry personnel on tracking amendments, new contracts and updating the data based and contracts portal
 - f. Provide administrative support in scanning and uploading all extractive contracts in the designated portal
3. Produce a feasibility study on systematic disclosure including practical recommendations to ensure comprehensive routine disclosure of data by government and companies
 - a. Document the current status of public online disclosure of EITI data in each relevant agency and company within the scope of EITI reporting in Kazakhstan

- b. Consult with stakeholders to document barriers and challenges with publishing extractives data online in accordance with EITI requirements
 - c. Conduct consultations with key agencies on the feasibility of publishing all EITI data in government and company portals, identifying opportunities and leverage points from ongoing reforms
 - d. Support the MSG in filling up the EITI's transparency template to evaluate current state of play of mainstreamed extractives data in Kazakhstan
 - e. Provide actionable recommendations with timelines to agencies and ministries to enable full systematic disclosure of data
 - f. Conduct a workshop with the MSG to develop a roadmap for implementation of recommendations for systematic disclosure
4. Support for capacity building event led by the International Secretariat on beneficial ownership transparency
- a. Conduct a perception survey and consultations on existing demand for beneficial ownership data use in Kazakhstan
 - b. Provide coordination support to the International Secretariat in organizing workshop on BO data use for the following stakeholders:
 - i. Government agencies- licensing and tax authorities, law enforcement agencies
 - ii. Journalists and civil society
 - c. Provide technical inputs in designing the workshop
 - d. Support in conducting the workshop

3. Deliverables and timetable

The assignment is expected to take 60 consultancy days between 1 July – 31 November. The proposed schedule is set out below

Study on actual practice on contract transparency in Kazakhstan and practical recommendations to enable disclosure.	First draft: 30 August Second draft: 15 September Final draft with roadmap: 30 September
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<p>Support the government in publishing contracts and organising the contract database in the responsible ministerial departments.</p>	<p>Scoping and list of all contracts: 15 September</p> <p>Design of database and portal: 15 September</p> <p>Administrative support for publication of contracts: September 30</p> <p>Trainings for personnel: September</p> <p>Manual for tracking amendments, annexes, maintenance of data base: September</p> <p>First draft: 15 September</p> <p>Final draft: 30 September</p>
<p>Produce a feasibility study on systematic disclosure including practical recommendations to ensure comprehensive routine disclosure of data by government and companies.</p>	<p>Support for transparency template: August-September</p> <p>First draft of study: 30 September</p> <p>Second draft of study: 15 October</p> <p>Workshop: 30 October</p> <p>Final workshop output/roadmap: 15 November</p>

Support for beneficial ownership capacity building activities	<p>Pereception survey and consultations: 15 August - 30 August</p> <p>Coordination support: 1 September-15 September</p> <p>Inputs to workshop: 30 September</p> <p>Support in conducting workshop: November</p>
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4. *Consultant's qualifications*

The consultant should be a prominent firm, organisation or individual(s) that the EITI International Secretariat considers to be credible, trustworthy and technically competent.

The consultant must demonstrate:

- Experience in carrying out consultancy services in the oil and gas, and mining sector, specifically those relating to governance and transparency issues in Kazakhstan
- Familiarity with EITI requirements and previous experience engaging with key stakeholders in the extractive sector
- Legal expertise, particularly in beneficial ownership and contract disclosure as well as general legal frameworks on transparency and data disclosure in Kazakhstan
- Previous experience of accomplished projects with governmental agencies in Central Asia
- Excellent oral and written communication skills in English and Russian

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.

1. Administrative support

The Secretariat would provide the following support to the project:

- Providing regular oversight and input to the development of the report, through regular calls and email exchanges;
- Providing the necessary background information and input as needed;
- Any other support required for the project.