

# Inquiry from EITI Germany regarding requirement 4.1 and 4.6

For decision

For discussion

For information

## Summary:

The Implementation Committee recommends that the Board agrees that the approach outlined by the MSG in Germany to requirement 4.1 and 4.6 is in line with the EITI Standard.

## Supporting documentation

Request from D-EITI MSG available [here](#).

## Has the EITI competence for any proposed actions been considered?

Guiding implementation is an EITI competence

## Financial implications of any actions

Not applicable.

## Document history

Submitted to the Implementation Committee	2 June 2018
Implementation Committee recommendation	7 June 2018
Submitted to the EITI Board	14 June 2018

# INQUIRY FROM EITI GERMANY REGARDING REQUIREMENT 4.1 AND 4.6

---

## Contents

<b>1. Recommendation.....</b>	<b>2</b>
<b>2. Background.....</b>	<b>2</b>
<b>3. Assessment of the request .....</b>	<b>3</b>
<b>4. Conclusion .....</b>	<b>4</b>
<b>Annex 1 – Request from the D-EITI MSG.....</b>	<b>4</b>

## 1. Recommendation

The Implementation Committee recommends that the Board agrees the following:

*The EITI Board confirms that the proposal from the multi-stakeholder group in Germany on the materiality threshold for local business taxes is in line with the EITI requirements 4.1 and 4.6 of the EITI Standard.*

## 2. Background

On 3 May 2018, the EITI Chair received a request (see Annex 1) for clarification on requirements 4.1 and 4.6 from EITI Germany (D-EITI). The request relates to whether a materiality threshold of €2 million for local business taxes is in line with the EITI requirements 4.1 and 4.6.

Requirement 4.6 states that:

*It is required that the multi-stakeholder group establish whether direct payments, within the scope of the agreed benefit streams, from companies to subnational government entities are material. Where material, the multi-stakeholder group is required to ensure that company payments to subnational government entities and the receipt of these payments are disclosed and reconciled in the EITI Report.*

The D-EITI MSG has agreed that local business taxes are a material revenue stream. For 2016, Local business taxes were the second largest revenues stream. Requirement 4.1 therefore requires “a comprehensive reconciliation of [material] government revenues and company payments” (Requirement 4.1.c). It further states that “All government entities receiving material revenues are required to comprehensively disclose these revenues in accordance with the agreed scope” (ib id). In

addition, “Unless there are significant practical barriers, the government is additionally required to provide aggregate information about the amount of total revenues received from each of the benefit streams agreed in the scope of the EITI Report, including revenues that fall below agreed materiality thresholds” (Requirement 4.1.d).

### 3. Assessment of the request

The usual approach to defining materiality (of sub-national payments, and payments more generally) involves establishing a clear threshold for what constitutes a material payment. This is usually done in one of two ways:

1. Set an aggregate payment threshold based on the total payments made by a company. For example: “Any company making total payments (within the scope of the agreed material revenue streams) in excess of \$50 000 is considered material and should report all payments regardless of the size of the individual payments”
2. Set disaggregated payment thresholds—this approach employs the same rationale as above, but sets different thresholds for each of the material revenue streams. For example: “Any company paying corporate taxes greater than \$10000 or royalties greater than \$5000 or dividends greater than \$10 000, or license fees greater than \$1000 is required to report” The MSG should establish whether the entities that meet this test should disclose all payments, or just the payments that are material<sup>1</sup>.

The request from D-EITI adopts the second approach. The MSG has agreed a materiality threshold of EUR €100,000 (in line with the EU-Accounting Directive). However, the MSG argues that reconciliation of local business taxes at EUR 100,000 is not feasible. As outlined in the request from the MSG, there are 11,192 communities in Germany. Local business tax is paid to any community (or communities for a shared area) in which an extractive company runs an operating facility. Companies disclose these payments in accordance with the German transposition of the EU-Accounting Directive. However, data collection from local communities is challenging due to the large number of municipalities and strong privacy protections which require a waiver letter from each company for each municipality in which they operate. A comprehensive reconciliation of the local business tax reported by companies for the D-EITI “Report for 2016” would involve more than 240 communities. Reconciling all payments disclosed by companies would be prohibitively expensive.

<sup>1</sup> Guidance note 13 on defining materiality, reporting thresholds and reporting entities

[https://eiti.org/sites/default/files/documents/guidance\\_note\\_13\\_on\\_defining\\_materiality\\_2016.pdf](https://eiti.org/sites/default/files/documents/guidance_note_13_on_defining_materiality_2016.pdf)

The MSG considered a number of options for addressing this issue. One option was maintaining the EUR 100 000 threshold, while reconciling only a sample of payments. The MSG preferred a higher threshold, which would focus on reconciling the largest payments. The MSG therefore proposes a higher materiality threshold for reconciling local business taxes of EUR 2 million. This is expected to cover approximately 50% of local business taxes. The proposal has the full support of the MSG.

#### 4. Conclusion

In the Secretariat's view, the proposal from the D-EITI is in line with the EITI Standard and reasonable given the circumstances. The EITI Standard provides considerable flexibility to MSGs on how to define materiality. *Disaggregated* payment thresholds is an accepted (albeit atypical) approach. It is noteworthy that the approach ensures comprehensive disclosure by companies, and a cost-effective approach to reconciliation that focusses on the largest payments. The proposal has the full support of the MSG after extensive discussion. The MSG would have the opportunity to review and revise the thresholds for each reporting cycle.

#### Annex 1 – Request from the D-EITI MSG

Available [here](#).