



Terms of Reference  
Technical Consultant for Extractives Integrity Study

## 1. Background

The [Extractive Industries Transparency Initiative](#) (EITI) is an international multi-stakeholder initiative that promotes a global standard for the open, accountable, and good governance of oil, gas, and mineral resources. Each member country works to implement the [EITI Standard](#), which requires a multi-stakeholder group (MSG) to oversee the EITI process and publish timely, relevant, and comprehensive data and information on the extractives either in an annual country report, or, whenever feasible, through systematic disclosure in publicly accessible platforms or portals. Required EITI disclosures include beneficial ownership, exploration, production, export, revenue, employment, and social and environmental data, among other useful information. The EITI Standard encourages MSGs to explore innovative approaches to extending EITI implementation to increase the comprehensiveness of EITI reporting and public understanding of revenues and encourage high standards of transparency and accountability in public life, government operations, and in business.

### 1.1 EITI implementation in the Philippines

The Philippines committed to implement the EITI through [Executive Order No. 79](#) (EO 79), series of 2012, and operationalized this commitment through [Executive Order No. 147](#), series of 2013 (EO 147). EO 147 formally created the [Philippine EITI](#), its Multi-stakeholder Group (MSG), and the National Secretariat. Early stakeholder consultations helped the MSG formulate the following implementation goals that are linked to EITI principles and reflective of national priorities for the extractive industries:

- a. Show the direct and indirect contribution of extractives to national development
- b. Improve public understanding of the management of natural resources and public availability of data
- c. Strengthen government systems for natural resource management
- d. Create opportunities for dialogue and constructive engagement in natural resource management in order to build trust and reduce conflict among stakeholders
- e. Pursue and strengthen the extractive sector's contribution to sustainable development

Mining contractors are required to participate in the EITI process by virtue of [DENR Department Administrative Order No. 2017-07](#). Non-compliant contractors risk having their Environmental Compliance Certificate, and Mineral Ore Export Permit cancelled/suspended.

[The MSG](#) is composed of representatives from the government, namely the Department of Finance—where the National Secretariat is lodged—Department of Environment and Natural Resources, Department of Energy, Department of the Interior and Local Government, and Union of Local Authorities of the Philippines. The extractive industries are represented by members of the Chamber of Mines of the Philippines, and the Petroleum Association of the Philippines. The

civil society is mainly represented by *Bantay Kita* – Publish What You Pay Philippines, a broad coalition of civil society organizations advocating transparency and accountability.

The activities to implement the initiative in the country are undertaken under several programs agreed by the MSG for a particular year. Information on the programs, specific activities, and MSG priorities for 2021 are contained in the approved [PH-EITI work plan](#).

Since its implementation, the Philippine EITI has published and submitted to the EITI International [six country reports](#), covering fiscal years 2012 to 2018. The publication of a seventh report is underway, and the production of an eight report has already commenced.

### *1.2 Anti-corruption, integrity, and the NRGi tool for diagnosing corruption risks*

In developing its work plan for 2021, the PH-EITI considered the results of its previous subnational stakeholder engagement activities, one of which was the Open Government Partnership co-creation consultations that inquired about the specific public service that the PH-EITI delivers. In these consultations, the PH-EITI was seen as a program for fighting corruption in the extractives through data and information disclosures. About the same period, the EITI International Board announced that it was including anti-corruption as one of its strategic priorities. Keen to pursue an impactful implementation of EITI in the country, the Philippine MSG aligned with the EITI International and made anti-corruption one of its priorities for 2021. The inclusion of anti-corruption activities in the work plan also encourages more data and information analyses as opposed to mere data disclosures. For brevity and better messaging, it was proposed to dub the new subprogram, “Integrity”.

Specific activities under the new Integrity subprogram include the adoption and implementation of the Natural Resource Governance Institute’s (NRGI) tool for diagnosing corruption risks. It is lumped with activities meant for meeting requirements on contract (EITI requirement 2.4) and beneficial ownership (EITI Requirement 2.5) transparency. The idea is to look deeper into current disclosures using the NRGi tool, identify risks of corruption in specific stages of the extractives value chain, and develop recommendations to address these risks.

## **2. Objectives of the assignment**

For and on behalf of the Philippine government and the PH-EITI MSG, the Department of Finance seeks a competent individual, free from any conflict of interest, to serve as a consultant for an Extractives Integrity Study and render technical research, analysis, and writing services to achieve the following objectives:

1. Using the NRGi tool for diagnosing corruption risks, assess the state of the extractives sector in the Philippines and identify areas of extractives decision chain stages (ie., decision to extract, licensing and contracting; operations; revenue collection; revenue management) and the supply chain which may be prone to corruption;
2. Identify the forms of corruption that may most likely occur and negatively impact the extractive industries;
3. Build an action plan that will help reinforce the integrity of the sector and prevent, if not eliminate, risks of corruption in the extractives.

### 3. Scope of services, tasks and expected deliverables

#### 3.1. The study should contain:

- a. An executive summary of the complete report.
- b. A description of the entire extractives value chain (feasibility studies, exploration, stakeholder consultations, awarding of contract and license, operations, rehabilitation, abandonment, et cetera) in the Philippines, specifically, the decision-making stages, including revenue management where decisions on revenue allocation/spending are made.
- c. A definition of corruption, an overview of corruption typology, and a discussion of why extractives sector corruption, including its impacts, is considered a problem and urgent matter.
- d. A discussion of the legal and regulatory framework for fighting corruption in the Philippines, specifically in the extractives sector, including a survey of related legal and administrative provisions and agencies responsible, and an overview of related reforms and opportunities that the EITI could leverage in furthering anti-corruption work in the Philippine extractive industries.
- e. A discussion of the NRG tool for diagnosing corruption risks, specifically, its six-step assessment process, and its use in the Philippine context, including any adjustment to fit country goals and needs.
- f. A description of the sector or commodity that the MSG decided to focus on following the implementation of the **first step** of the NRG tool. The consultant is to co-facilitate the MSG discussion of the matter.
- g. A summary report on data review and desk research that were implemented to examine existing data on corruption and governance in the chosen sector in pursuit of the **second step** of the NRG tool.
- h. A matrix for selecting focus areas from the extractives decision chain or cross-cutting themes for analysis pursuant to the **third step** of the NRG tool. The consultant is to co-facilitate a multi-stakeholder workshop to develop the matrix.
- i. A diagnostic report specific to the Philippine context on the forms of corruption, risk factors, causes, and potential solutions found during interviews, focus group discussions, and desk research pursuant to the **fourth step** of the NRG tool.
- j. A matrix showing an assessment of the likelihood of corruption in the Philippine context in identified focus areas, impact, and feasibility for reform, with the goal of determining actions to be prioritized. The consultant is to co-facilitate a workshop towards this purpose pursuant to the **fifth step** of the NRG tool.

- k. An action plan to address corruption risks in the Philippine context identified in the study pursuant to the **final step** of the NRG tool. The action plan should identify the role of the MSG in plan implementation. It should also name responsible entities for each action step and demonstrate how the civil society and other stakeholders could participate in implementing actions to address corruption risks.
- l. Recommendations on how the EITI process in the Philippine context could be leveraged to curb corruption risks and provide useful data for monitoring corrupt activities.
- m. Recommendations for the monitoring of results and impact of EITI's anti-corruption work in the Philippine extractive industries.

*3.2. To achieve the foregoing, the Consultant is expected to perform the following tasks:*

- a. Prepare and submit an inception report containing a proposed and detailed outline of the narrative or write-up, and a description of the approach and technical research methodology to be employed;
- b. Perform desk research, review of related literature, and facilitate meetings and consultations as identified in the preceding section or as necessary, including with civil society organizations and other anti-corruption actors to identify needed data for their anti-corruption efforts;
- c. Study the NRG tool for diagnosing corruption risk, including its workbooks and annexes;
- d. Submit, for MSG and EITI review and comment, the required output/s for each of the six steps of the NRG tool before moving forward to the next step in the assessment process;
- e. Submit a draft consolidated report and present the key findings to the MSG;
- f. Write the final copy of the study, incorporating MSG and EITI comments and inputs;
- g. Turn over to PH-EITI any raw and processed data and information;
- h. Cover all relevant costs incurred in the conduct of the study;
- i. Perform other tasks related to those outlined in this TOR that are necessary for the completion of the study.

#### **4. Qualification requirements**

The Technical Consultant for the Extractive Industries Integrity Study should be credible, trustworthy and technically competent. Short-listed persons shall be assessed based on the following criteria/requirements:

- Background in law, public policy, public finance, natural resource governance, investigative journalism, economics, or related fields, preferably with post-graduate degree or education;

- At least ten (10) years of relevant work experience;
- Previous work experience in writing and research on anti-corruption and natural resource governance;
- Previous work experience in conducting interviews, and facilitating focus group discussions and stakeholder consultations;
- Knowledge of the legal and regulatory framework for the extractive industries and anti-corruption laws in the Philippines;
- Knowledge of the Extractive Industries Transparency Initiative (EITI); and
- Proficiency in written English, especially in technical writing.

## 5. Budget, duration, and schedule of deliverables and payment

The assignment is expected to take 30 consultancy days, commencing in January 2022. The assignment is expected to be completed by 30 June 2022. The proposed schedule is set out below:

Milestone	Objective	Output
Submission of an inception report	To establish work plan and set expectations of deliverables	Inception report with work plan indicating the scope, approach, methodology, and proposed outline of the report
Implementation of Steps 1, 2, and 3 of the NRG tool and the submission of the related outputs	To gather data and information as bases for the next steps of the assessment process	Highlights of meetings and consultations conducted; Required Steps 2 and 3 outputs
Implementation of Steps 4, 5, and 6 of the NRG tool and the submission of a full draft report and presentation of key findings	To diagnose corruption risks and develop an action plan	A draft report and presentation of the key findings to the MSG
Submission of final copy of the report with executive summary	To wrap up the project and identify other areas for consistent improvement	A final report with executive summary

## 6. Support to be provided by PH-EITI

The Consultant shall, on a regular basis, coordinate with and report to the PH-EITI Secretariat through the latter’s designated representative/s on all matters pertaining to the implementation of the Project. The EITI International, likewise, retains an oversight of the project and should be included in updates and discussions throughout project implementation.

The PH-EITI Secretariat will provide the Consultant with the following support:

- Coordination with the members of the PH-EITI MSG;
- Coordination with reporting entities to facilitate the Consultant’s work; and
- Provision of relevant reference materials and information on EITI.

## 7. Administrative arrangements

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.

Proposals must be delivered by email to [skasimova@eiti.org](mailto:skasimova@eiti.org) by 27 January 2022. The criteria for assessing the technical proposals are as follows:

Criteria	Weighting
Experience of the Consultant relevant to the Assignment	10%
Adequacy and quality of the proposed methodology, and work plan in responding to the Terms of Reference (TORs)	50%
Key Experts’ qualifications and competence based on the Qualification requirements (see section 5 above)	40%

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.*

## 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;