



ZAMBIA EITI COUNCIL FEEDBACK ON SECOND VALIDATION

1. License allocations (#2.2)

1.1. List of bidders for block 54

The ministry of Mines and Minerals Development made an advertisement for forty (40) blocks in 2016. To this effect, the Petroleum Technical Committee (PTC) evaluated the bids submitted for Block 54 on 20th to 22nd April 2016. The companies that submitted bids for Block 54 were: Sargas Oil Limited, Mafula Energy Limited and Rhino Resources. The PTC recommended to the Petroleum Committee (PC) the highest scoring bidder, Sargas Oil Limited, for grant of the licence over Block 54. Sargas Oil Limited was invited to apply for a petroleum exploration licence over Block 54 and was eventually granted the licence on 22nd June 2016. The list of bidders for block 54 is available online on the ZEITI website and can be accessed on this link: <http://zambiaeiti.org/wp-content/uploads/2019/08/List-of-bidders-in-the-Petroleum-Sector-in-Zambia-for-block-54-in-2016.pdf>

1.2. The technical and financial criteria for awarding mining licenses

The ministry of mines and minerals development legislation provides for a technical and financial criteria of awarding mining rights. The technical criteria details a process of assessing a prospective applicant on the programme of operations, environmental commitment plan, technical expertise, and a comprehensive statement on mineral deposit. In the case of large scale operations, an approved environmental impact study is a prerequisite in addition to a proposal for the employment and training of citizens of Zambia. The promotion of local business development and a clear environmental management plan is of utmost importance.

In terms of the financial criteria, a demonstration of financial capacity and access to financing of operations is a key criteria when assessing the financial viability of the prospective applicant. A detailed description of how this process is conducted is available the Mines and Minerals Development Regulations available on this link (<http://zambiaeiti.org/wp-content/uploads/2019/07/Draft-General-Regulations.doc>) on the ZEITI website. A hard copy of the all mining related legislation can be obtained from the Government printers at a fee in a hard copy.

The forms depicting the Technical and Financial criteria for awarding various mining rights is available on the ZEITI website and can be accessed through the following links:

1. Artisanal Mining Right Application <http://zambiaeiti.org/wp-content/uploads/2019/08/Artisanal-Mining-Right-Application.docx>
2. Large Scale Mining Licence Application <http://zambiaeiti.org/wp-content/uploads/2019/08/Large-Scale-Mining-Licence-Application.docx>
3. Large Scale Exploration License Application <http://zambiaeiti.org/wp-content/uploads/2019/08/Large-Scale-Exploration-License-Application.docx>
4. Mineral Processing Licence Application <http://zambiaeiti.org/wp-content/uploads/2019/08/Mineral-Processing-Licence-Application.docx>
5. Small Scale Exploration License Application <http://zambiaeiti.org/wp-content/uploads/2019/08/Small-Scale-Exploration-License-Application.docx>

2.0. Policy on contract disclosure (#2.4)

In Zambia, the Government abolished all contracts that were in force under the 2008 Mines and Minerals Development legislation. To this effect, the mining sector is governed by a license regime in the quest to bring a level playing field for all players in the sector.

The Minister of Mines and Minerals Development has provided clarity on the government policy on the disclosure of licenses and associated documents that accompany the awarding of a licence. The minister cited the current on-going work between the Mining Cadastre and the Natural Resource Governance Institute (NRGI) in which all licenses will be published alongside the accompanying documents under a particular license. The full speech by the Minister is available on the ZEITI website and can be accessed on the this link published as **Minister of Mines Speech at EITI Colloquium - Lusaka, Zambia, 25th July 2019** here <http://zambiaeiti.org/wp-content/uploads/2019/08/Minister-of-Mines-Speech-at-EITI-Colloquium-Lusaka-Zambia-25th-July-2019.pdf>

The minister clearly highlights the government's intention to not only publish the licences but also train civil society organisations in the analysis of licences information to contribute towards informed public debate. An MoU between the Government and the Mining Cadastre is attached in the Annex.

3.0. Assessment of data reliability (#4.9)

The overall reconciliation discrepancy was above the agreed materiality deviation (i.e. 1%) due to the lack of responsiveness from reporting entities during the reconciliation exercise.

However, the average gaps noted during the previous ZEITI Reports were relatively low as shown in the table below.

(ZMW'Bn)

N°	Period covered	Government Revenues	Companies Payments	Discrepancy in value	Discrepancy in %
1	2008	1.72	1.74	-0.02	-1.15%
2	2009	2.57	2.60	-0.03	-1.15%
3	2010	3.79	3.79	0.00	0.00%
4	2011	7.72	7.67	0.05	0.65%
5	2012	7.79	7.70	0.09	1.17%
6	2013	8.02	7.64	0.38	4.97%
7	2014	9.51	9.49	0.02	0.21%
8	2015	8.95	8.97	-0.02	-0.22%
	Average	6.26	6.20	0.06	0.95%

The ZEC also deliberated on the draft validation report. The ZEC resolved that the IA should issue a comprehensive statement on data quality and the discrepancy in accordance with requirement 4.9 in the 2016 EITI Standard. In the absence of such a statement, the ZEC further resolved to request the Office of the Auditor General (OAG) to follow up on the discrepancy of the 2016 ZEITI report and also ascertain the reliability of the data that was provided during the production of the ZEITI report.

The ZEC affirmed its decision to rely on a management sign off for a templates from the mining companies because the majority of the companies that were reconciled are listed companies. This is because the ZEC observed that the source of the discrepancy was not as a result of the poor data quality but mainly due to the following two reasons listed here below:

1. Most of the companies did not have enough time to address the IA requests and to comply with the assurance procedure agreed initially. This is attested by the fact that 99, 99% of discrepancies is due to payments not declared by companies;
2. Most of the companies selected in the reconciliation scope are publicly listed or are wholly-owned subsidiary of a publicly listed company which are already publishing their audited financial statements/annual reports and are subject to strict scrutiny by market authorities.

The **assessment** by the IA is available on the ZEITI website and can be accessed on this link <http://zambiaeiti.org/wp-content/uploads/2019/08/Commentary-on-Data-Quality-for-the-2016-ZEITI-Report.docx>

The Minutes of the ZEC meeting which was held on 11 July 2019 are also attached in the email for your reference.

Annex 1

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE MINISTRY OF MINES AND MINERALS DEVELOPMENT
AND
THE NATURAL RESOURCE GOVERNANCE INSTITUTE

ON
MAINSTREAMING EXTRACTIVES LICENSING TRANSPARENCY

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made this day of 2018.

BETWEEN

The MINISTRY OF MINES AND MINERALS DEVELOPMENT herein referred to as (**MMMD**) whose head office is located at the 12th Floor, New Government Complex, Kamwala, Nasser Road Lusaka, Zambia, on one part; and

The NATURAL RESOURCE GOVERNANCE INSTITUTE herein referred to as (**NRGI**) ... indicate address of NRGI...on the other part.

WHEREAS

- a) MMMD** in its efforts to mainstream transparency in extractives licensing intends to establish a web based platform to make public information relating to extractives licenses and is considering options related to beneficial ownership information.
- b)** The objective is for these disclosures to contribute to “mainstreamed” transparency in line with the Zambia Extractive Industries Transparency Initiative (ZEITI) objectives, and to help increase informed analysis and monitoring of the mining sector by policymakers, civil society, and investors.
- c) NRGI** will provide technical advice on initial data collection and storage to MMMD on the establishment of the web-based platform for publication of extractives license documents and train MMMD staff on administering data collection, storage and publication, and will provide technical advice on options for beneficial ownership data collection and screening.

1. PURPOSE

The purpose of this MOU is to outline activities to be undertaken and to set out the respective roles and responsibilities of the parties in relation to the establishment of a web based platform for dissemination of extractive licensing information.

2. DURATION

Subject to the provisions hereof, this MOU shall be valid for the period required to implement agreed activities by the parties.

Notwithstanding the above clause, the Parties shall endeavour to undertake all activities within a period of nine (9) months. This MOU may also be extended at-will by both parties upon consultation and mutual agreement.

3. EFFECTIVE DATE

The effective date of this MOU shall be the day it is signed by the parties to it. Any party wishing to withdraw from the MOU shall notify the other party in writing stating the reason for withdrawal

4. GENERAL COOPERATION

The Parties from the date hereof until the termination of this MOU agree to:

- a) Uphold the principles of enhancing transparency and accountability;
- b) Consult and collaborate with stakeholders such as the Zambia Extractive Industries Transparency Initiative (ZEITI) to enhance user-relevant transparency and accountability in Zambia's extractives industry. The parties acknowledge EITI's open data policy¹ and guidance on mainstreaming as well as systematic disclosure²;
- c) Pilot the publication of 10 mining licenses and explore opportunities for public engagement and monitoring of licensing.
- d) Engage local CSO networks to facilitate their analysis of newly available license information.
- e) Explore options for incorporating beneficial ownership transparency into mining licensing processes, in line with EITI requirements, as well as options for utilizing beneficial ownership information to screen for basic conflict of interest risks during mining licensing.
- f) Arrange monthly project progress updates.

¹ <https://eiti.org/document/eiti-open-data-policy>

² <https://eiti.org/systematic-disclosure>

5. MMMD'S OBLIGATIONS

MMMD will implement the Project Plan jointly developed by MMMD and NRGi as set out in the schedule and undertake the following:

- a) Collate and scan the required license documents;
- b) Provide dedicated staff to work on the scanning and metadata recording tasks;
- c) Provide the required infrastructure relating to bandwidth, scanners and computers;
- d) Arrange at least two meetings with local civil society actors to promote civil society engagement around the published license documents in order to encourage the usage of information provided in the licenses.
- e) Engage with the Environmental Management Agency to retrieve the required environmental commitment and environmental impact assessment documents;
- f) Create a link to the country site on the MMD website, and make best efforts to assume hosting of the site by December 31st 2018. NRGi may extend the hosting support beyond this date if NRGi and MMD agree to an extension of the Project Plan;
- g) Work with ZEITI to pursue options for the published license documents to advance EITI "mainstreaming";
- h) Acknowledge that NRGi's ability to engage on work in Zambia is subject to funding and institutional policy changes;
- i) Updating the country site with new license documents after this initial pilot.

6. NRGi OBLIGATIONS

NRGi shall support the implementation of the Project Plan as jointly developed by MMMD and NRGi as set out in the schedule and undertake the following activities:

- a) Develop a pilot Zambia country site for the hosting of 10 mining licenses and associated documents.
- b) Provide one country site administration training for Government officials in Lusaka.
- c) Provide remote country site support for the duration of 2018 at an estimated 2 hours per week.
- d) Cover country site hosting costs for the duration of 2018.
- e) Assist with the configuration and linking of the site to the MMMD website.

- f) Provide technical guidance on document, entry of metadata, scanning methodology and file naming.

7. CONFIDENTIALITY

The Parties shall, except with prior written consent of the other Party, which consent shall not be unreasonably withheld, keep private and confidential the details of this MOU and will not disclose any original or copy thereof to any third Party except:

- a) To its employees, advisers or consultants for the purpose of its business who shall be under a similar obligation of confidentiality;
- b) To Government or Governmental or regulatory authority empowered to receive such disclosure.
- c) MMMD shall independently publish and manage continuous, timely, and open format license publication. All license documents published under this partnership will be published as open data.

8. AMENDMENT

Subject to any clause, any part of the MOU may be amended or waived only with the written consent of the Parties and any such amendment or waiver shall be binding on all Parties.

9. NON BINDING

This MOU is not intended to create or give rise to any legally binding obligations upon either party. The parties to this MOU share a common vision of engagement based on participation, transparency, accountability, inclusion, fairness and trust.

10. DISPUTE RESOLUTION

Disagreements arising from the implementation of this MOU shall be resolved through dialogue and consultation during monthly project meetings.

11. NOTICES

For NRGI, Ms. Edna Osei should be contacted for information regarding changes, extensions, termination, questions, and other administrative matters.

For MMMD, _____ should be contacted for information regarding changes, extensions, termination, questions, and other administrative matters.

IN WITNESS WHEREOF, the authorized representatives of the parties have signed this Memorandum of Understanding in two (2) originals of equal content and validity.

THIS MOU IS MADE THIS DAY OF 2018

SIGNED BY:

Name:

Title:

..... FOR MMMD

Name:

Title:

..... FOR NRG I

SCHEDULE

The list of documents that will be published is noted in below table.

Relationship	Document Type	Custodian
Main	License Certificate	Mining Cadastre Office
Associated	Programme of Operations	Mining Cadastre Office
Associated	Proposal For Employment and Training of Citizens	Mining Cadastre Office
Associated	Proposal for Promotion of Local Business Development	Mining Cadastre Office
Associated	Environmental Commitment	Environmental Management Agency
Associated	Environmental Impact Assessment	Environmental Management Agency

The project plan includes the following:

N r	Task	Responsibilit y	Month
1	Select and scan 10 sample large scale mining license documents for the onsite training (priority 1)	MMMD	April 2018
2	Implement country staging site	NRGI	April 2018
3	Onsite training	NRGI & MMMD	May 2018
4	Publish priority 1 license documents	MMMD	May - June 2018
5	Select and scan the remaining large scale mining license documents (priority 2)	MMMD	July - September 2018
6	Publish priority 2 license documents	MMMD	July - October 2018
7	Pilot country site go-live	NRGI & MMMD	October 2018 (or earlier)
8	MMMD/CSO meetings to disseminate mining license documents, stimulate site use and gain feedback	MMMD	November 2018
9	Provide limited remote pilot country site support	NRGI	May – December 2018