



Terms of Reference

**Independent Administrator for the Fiscal Year 1397-1398 (2017/18-2018/19) EITI Report,
Afghanistan**

Approved by the AEITI MSG on [22nd September 2019]

Table of Contents

| | |
|---|-------------------------------------|
| List of Abbreviations | 2 |
| 1 Background..... | 3 |
| 2 Objectives of the assignment | 5 |
| 3 Scope of services, tasks and expected deliverables | 5 |
| 4 Qualification requirements for Independent Administrators | 16 |
| 5 Reporting requirements and time schedule for deliverables | 17 |
| 6 Client's input and counterpart personnel | 18 |
| Annex 1 – Statement of materiality | Error! Bookmark not defined. |

List of Abbreviations

| Abbreviation | Expansion |
|----------------|---|
| ACD | Afghanistan Customs Department |
| AEITI | Afghanistan Extractive Industries Transparency Initiative |
| ASYCUDA | Automated System for Customs Data |
| CAO | Central Audit Office |
| CSR | Corporate Social Responsibility |
| EITI | Extractive Industries Transparency Initiative |
| FMIS | Financial Management Information System |
| GOIRA | Government of the Islamic Republic of Afghanistan |
| IA | Independent Administrator |
| MCAS | The Mining <i>Cadaster</i> Administration System |
| MoF | Ministry of Finance |
| MoMP | Ministry of Mines and Petroleum |
| MSG | Multi-Stakeholder Group |
| NTRS | Non-Tax Payment System |
| SAO | Supreme Audit Office |
| SIGTAS | Standard Integrated Government Tax Administration System |
| SoEs | State Owned Enterprises |
| TIN | Tax Identification Number |

1 Background

The Extractive Industries Transparency Initiative (EITI) is a **global standard** to promote the open and accountable management of oil, gas and mineral resources. The EITI Standard¹ requires the disclosure of information along the extractive industry value chain from the point of extraction, to how revenues make their way through the government, and how they benefit the public. By doing so, the EITI seeks to strengthen public and corporate governance, promote understanding of natural resource management, and provides the data to inform reforms for greater transparency and accountability in the extractives sector.

The EITI Standard encourages Multi-Stakeholder Groups (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. The requirements for implementing countries are set out in the EITI Standard. Additional information is available via www.eiti.org.

EITI implementation has two core components:

- **Transparency:** oil, gas and mining companies disclose information about their operations, including payments to the government, and the government discloses its receipts and other relevant information on the industry. The figures are reconciled by an Independent Administrator, and published annually alongside other information about the extractive industries in accordance with the EITI Standard.
- **Accountability:** a multi-stakeholder group (MSG) with representatives from government, companies and civil society is established to oversee the process and communicate the findings of the EITI reporting, and promote the integration of EITI into broader transparency efforts in that country.

As required by the EITI Standard (Requirement 4.9.iii), the AEITI MSG has approved these Terms of Reference for the Independent Administrator, drawing on the objectives and agreed scope of AEITI as set out in the AEITI work plan for the year 2019. As also required by the EITI Standard (Requirement 1.4.b) the AEITI MSG's deliberations on these ToRs, and associated matters, are in accordance with the internal governance rules and procedures of the AEITI MSG and the AEITI National Secretariat; These include (i) the Terms of Reference of the AEITI MSG dated April 2019 (ii) the Standard Operating Procedures of the AEITI MSG dated **June 2019** (iii) and the Terms of Reference for the AEITI National Secretariat dated **April 2019**. The EITI also requires an inclusive decision-making process throughout implementation, with each constituency being treated as a partner.

As required by the EITI Standard (Requirement 4.9.b.ii), the Independent Administrator must be perceived by the AEITI MSG to be credible, trustworthy and technically competent. The AEITI MSG and Independent Administrator should also addresses any concerns regarding conflicts of interest. The EITI Report prepared by the Independent Administrator will be submitted to the AEITI MSG for approval, and made publicly available in accordance with Requirement 7.1 of the EITI Standard.

¹ See: <http://eiti.org/document/standard>

These terms of reference include “agreed-upon procedures” for EITI reporting (see section 4 of these ToRs) in accordance with EITI Requirement 4.9.b.iii. The international EITI Board has developed these procedures to promote greater consistency and reliability in EITI reporting. The EITI process should be used to complement, assess, and improve existing reporting and auditing systems. The international EITI Board recommends that the process rely as much as possible on existing procedures and institutions, so that the EITI process draws on, complements and critically evaluates existing data collection and auditing systems. In this way, the EITI process has the potential to generate important recommendations to strengthen other oversight systems.

EITI Implementation in Afghanistan

Afghanistan announced its intent to implement the EITI in March, 2009 and became an EITI Candidate country on February 10, 2010. In the international EITI Board meeting in Oslo, in February 2010, the Government of Islamic Republic of Afghanistan (GOIRA) also requested the donor community to provide immediate technical and financial support for effective implementation of AEITI.

Aligned with international best practice, AEITI was established to help promote the efficient and effective management of extractive resources in the country. It operates in accordance with the EITI principles and criteria, such as transparency, inclusiveness and openness in the management of extractive resources, which are viewed as engines for sustainable growth and national development.

Since then, the AEITI has been implementing the EITI Standard through a Multi Stakeholder Group (AEITI MSG) comprised of representatives from civil society, the private sector and government ministries. The AEITI MSG is responsible for steering the AEITI process, including with regard to establishing data reporting templates, establishing an annual workplan for AEITI, and aligning the work of AEITI with national priorities. The AEITI MSG is chaired by the Minister, Ministry of Mines and Petroleum (MoMP). The AEITI Secretariat, housed within MoMP, is an agency that provides administrative and operational leadership for the implementation of AEITI.

Following the publication of five AEITI Reports, Afghanistan was temporarily suspended from the EITI in January 2019 as a result of “inadequate progress” in implementing the 2016 EITI Standard, following its EITI ‘Validation’. A number of corrective actions were identified,² which the AEITI had to implement in order to reverse the suspension. EITI Validation examines the implementing country’s compliance under the EITI Standard as on date of commencement of Validation. As Afghanistan’s EITI Validation had first commenced in November 2017, a number of achievements that were made by AEITI following this date, could not be reflected in the previous validation outcomes.

Innovative steps taken towards restoring Afghanistan’s compliance with EITI include, but are not limited to: (i) ongoing revision of the legal framework to facilitate improved data disclosure and use, (ii) initiating collection and disclosure of Beneficial Ownership (BO) and Politically Exposed Persons (PEP) as a part of licensing requirements, (iii) establishment of a Cadastral System (MCAS) and Non-tax payment collection system (NTRS) at the MoMP at the federal level, with ongoing roll-out in pilot provinces, (iv) systematized online data disclosures through the Afghanistan

² See: <https://eiti.org/document/afghanistan-validation-2017>

Transparency Portal (<https://afghanistan.revenuedev.org/dashboard>), (v) periodic online data disclosures through the MoMP website (<https://momp.gov.af/>), and (vi) ongoing efforts to link the national tax systems (SIGTAS), customs revenue system (ASYCUDA), and the MCAS and/or NTRS systems.

The AEITI MSG's objective's and ongoing work, have been elaborated in the AEITI Work Plan, available on AEITI's website below at:

<http://aeiti.af/Content/Media/Documents/2019Workplan20190406215201914821822553325325.xlsx>

Objectives of the assignment

On behalf of GOIRA and the AEITI MSG, the AEITI seeks a competent and credible firm, free from conflicts of interest, to provide Independent Administrator services in accordance with the EITI Standard. The objective of the assignment is to:

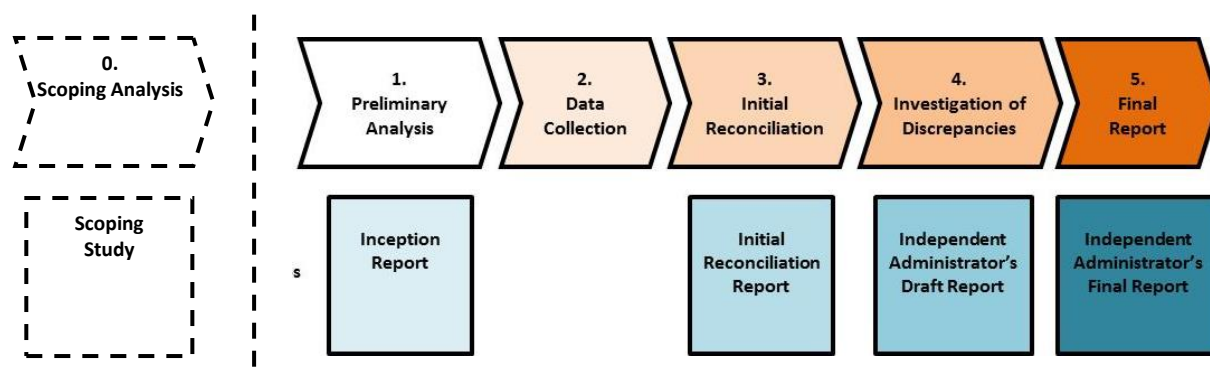
- 2.1. Produce a limited scoping study to inform the MSG's decision on the scope of the seventh AEITI Report for the Fiscal Year 1397-1398 (2017/18-2018/19);
- 2.2. Produce the seventh EITI Report for the Fiscal Year 1397-1398 (2017/18-2018/19), in accordance with the EITI Standard 2019, and Section 3 of these ToRs; and
- 2.3. While fulfilling the above two objectives, ensure maximum impact of AEITI implementation, including by reviewing progress against the corrective actions and recommendations from the previous reports.

2 Scope of services, tasks and expected deliverables

The work of the Independent Administrator has five conceptual phases (see figure 1), preceded by a limited scoping phase. These phases may at times overlap. The five phases of EITI reporting will also be preceded by limited scoping work to be undertaken by the Independent Administrator (phase 0 in the figure), with the guidance of the AEITI MSG, AEITI National Secretariat, or other relevant staff/consultants to be identified by the MoMP.

The Independent Administrator's responsibilities in each phase are elaborated below.

Figure 1 – Overview of the EITI Reporting process and deliverables



3.1. Phase 0 – Limited Scoping

Objective: Scoping work aims to identify what the EITI Report should cover in order to meet the requirements of the EITI Standard. Scoping sets the basis for producing a timely, comprehensive, reliable and comprehensible EITI Report. It commonly involves analysing (i) the availability, and initial quality of data types to be reported under the EITI Standard, (ii) reviewing the types of assurances that are needed for ensuring that the data submitted by reporting entities is credible, (iii) determining which revenue streams from oil, gas and mining are significant, and (iv) consequently, which ‘material’ companies and government entities should be required to report. It is also an opportunity for the AEITI MSG to consider the feasibility of extending the scope of EITI reporting beyond the minimum requirements in order to address the objectives outlined in the AEITI workplan, and GoIRA’s national priorities. Scoping may also investigate likely gaps or issues that may be particularly challenging to include in the AEITI Report with a view to identify options, solutions, and recommendations for an appropriate reporting methodology for consideration by the AEITI MSG.

For the purpose of this report, the Independent Administrator is expected to review past scoping studies and AEITI reports and provide updated information for the year under review that will help the MSG fill in Annex 1 of these terms of reference.

Besides the above mentioned tasks, the Independent Administrator is expected to undertake the following tasks during the limited scoping phase:

- (i) The IA to do an overview of the sector and provide options for MSG to choose threshold and sample and number of companies to be covered and to investigate which revenue streams could be investigated and reconciled and present the information before the MSG to help them make a decision.
- (ii) Consult the summary data template 2.0 and provide an updated analysis of the availability, and adequacy, of the data pertaining to each dataset required to be reported under the EITI Standard, 2019, in Afghanistan;
- (iii) Prepare a brief on illegal mining as stipulated in this ToR in table 1.
- (iv) Consult the summary data template 2.0 and provide an updated initial overview of the data availability, data gaps, and provide a methodology to collect and report the required data in the future phases in a timely manner. This includes:

- a. Assessing data types directly disclosed online from the AEITI summary data template (to be shared by the AEITI MSG with the IA), relevant official websites,³ and other documents mentioned in Annex 1 of these ToRs;
 - b. Assessing progress against the corrective actions recommended for Afghanistan in its previous EITI validation, examining the data gaps identified from previous AEITI reports which still might exist, and to identify a methodology to address them through the seventh AEITI Reporting process given the above available data;
 - c. To identify, suggest and agree with the AEITI MSG, on the IA's needs and future steps for effective production of the 7th AEITI Report. This might include (i) support required/ focal points with regard to data reporting governmental departments or companies, (ii) needs regarding high-level and cross-governmental support, (iii) discussions and confirmations on specifics of the annual AEITI workplans, strategy documents, etc.
- (i) the data types that will be linked in the inception report and/or 7th AEITI Report to direct online disclosures;
 - (ii) relevant definitions of data types, such that their disclosure is to the level of detail required under the EITI Standard, 2019, while also minimizing compliance costs and adhering to or leveraging existing national legal and regulatory definitions (eg: definition of 'beneficial ownership', 'project' etc);
 - (iii) the overview of the revenue streams that should be reported by project, classifying the revenue streams that are levied and reportable on a license/contract basis, and the revenue streams that are levied and reportable only on a company basis;
 - (iv) provide and an overview of the sector, and provide options for AEITI MSG to choose the appropriate materiality thresholds for revenue streams and companies, to be covered in the future reporting phases.

In undertaking the above the Independent Administrator is expected to consult the EITI's guidance note on project level reporting, and to make use of the template definitions in the guidance note⁴.

The said limited scoping study shall:

- (i) Contain collated necessary information related to the management of the extractive sector in line with the MSG's objectives and workplan, and the EITI's requirements (EITI Requirement 2, 3, 4, 5 and 6);
- (ii) Propose options for strengthening existing systematized disclosure of information to ensure accessibility, reliability and complementarity with existing government and company systems (EITI Requirement 7.2.c and the EITI Open data policy⁵);
- (iii) Identify the total government revenue from the extractive sector to document a recommended definition of materiality and coverage for the EITI reconciliation (EITI Requirement 4, 4.1.d and 4.1.a);

³ This includes: Afghanistan National Transparency Portal (<https://afghanistan.revenuedev.org/dashboard>), new website of the MoMP (<https://momp.gov.af/>), and website of AEITI (www.aeiti.af)

⁴ https://eiti.org/sites/default/files/documents/reporting_template_for_project-level_reporting_option_1.xlsx
https://eiti.org/sites/default/files/documents/reporting_template_for_project-level_reporting_option_2.xlsx

⁴ https://eiti.org/sites/default/files/documents/guidance_note_28_on_project-level_reporting_final.pdf

⁵ EITI Open data policy available in the EITI Standard at <https://eiti.org/document/standard>

- (iv) Suggest the payments and revenues streams to be reported and reconciled, including appropriate materiality thresholds and the levels of disaggregation where applicable (EITI Requirement 4.1.a, 4.1.b and 4.7);
- (v) List the companies, state-owned enterprises (SoEs) and government entities expected to participate in the report according to a suggested materiality (EITI Requirement 4.1.c.);
- (vi) Identify additional benefit streams from the extractive sector that should be disclosed (EITI Requirements 4.2, 4.3, 4.4, 4.5 and 4.6);
- (vii) Consider revenue allocations and expenditure that should be disclosed under the EITI (EITI Requirement 5 and 6);
- (viii) Assess the reliability of available data, including reviewing current auditing practices and the assurances to be provided by the reporting entities (EITI Requirement 4.9); and
- (ix) Identify any barriers to disclosure of the requisite information and propose options for addressing them.

3.2. Phase 1 – Preliminary analysis and inception report

Objective: The purpose of the inception phase is to confirm that the scope of the AEITI reporting process has been clearly defined, including the reporting templates, data collection procedures, and the schedule for publishing the AEITI Report. As the IA would have already performed the detailed scoping work, the inception phase will not be extensive, and will focus on delivering further detail in accordance with the prior agreements with the AEITI MSG. The inception report thus ensures that there is a mutual understanding between the MSG and the Independent Administrator of the scope of the EITI Report and the work to be carried out.

The Independent Administrator is expected to undertake the following tasks during the inception phase:

- (i) Review the comprehensiveness of the payments and revenues to be covered in the EITI Report;
- (ii) Reviewing the comprehensiveness of the companies and government entities that are required to report as agreed in the scoping study;
- (iii) Examine the audit and assurance procedures in companies and government entities participating in the EITI reporting process. This includes examining the relevant laws and regulations, any reforms that are planned or underway, and whether these procedures are in line with international standards. It is recommended that the EITI Report includes a summary of the findings, otherwise the MSG should make the results of the review of audit and assurance practices publicly available elsewhere; and
- (iv) Produce the draft reporting templates based on the agreements arrived at in the limited scoping stage. Sample templates are available from the international EITI secretariat. It is recommended that the templates also include a provision requiring companies to report “any other material payments to government entities” above an agreed threshold.
- (v) Draft reporting templates, drawing on the model reporting templates for project level reporting developed by the international EITI Secretariat; and

On the basis of the above points in sub-section 3.2 of these TORs, the IA is expected to produce a draft inception report that:

- (i) Includes a statement of materiality confirming the MSG's decisions on the payments and revenues to be covered in the EITI Report, including:
 - The definition of materiality and thresholds, and the resulting revenue streams to be included in accordance with Requirement 4.1(b).
 - The sale of the state's share of production or other revenues collected in-kind in accordance with Requirement 4.2.
 - The coverage of infrastructure provisions and barter arrangements in accordance with Requirement 4.3.
 - The coverage of social expenditure in accordance with Requirement 6.1.
 - The coverage of transportation revenues in accordance with Requirement 4.4.
 - Disclosure and reconciliation of payments to and from state owned enterprises in accordance with Requirement 4.6.
 - The materiality and inclusion of direct sub-national payments in accordance with Requirement 4.5.
 - The materiality and inclusion of sub-national transfers in accordance with Requirement 5.2.
 - The level and type of disaggregation of the EITI Report in accordance with Requirement 4.7.
 - [Any other aspects as agreed by the MSG].
- (ii) Includes a statement of materiality (annex 1) confirming the MSG's decisions on the companies and government entities that are required to report, including:
 - The companies, including SOEs, that make material payments to the state and will be required to report in accordance with Requirement 4.1(c).
 - The government entities, including any SOEs and sub-national government entities, that receive material payments and will be required to report in accordance with Requirement 4.1(c-d), 4.5 and 4.6.
 - Any barriers to full government disclosure 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)).
- (iii) Includes a definition of the term 'project' and an overview of the revenue streams to be reported by project, confirming the MSG's decision that the financial data should be disaggregated by project where levied by project.
- (iv) Confirms the reporting templates based on the agreed benefit streams to be reported, the reporting entities, and the definition of project as agreed by the AEITI MSG. The IA in collaboration with the National Secretariat will draft the templates for MSG's approval. It is recommended that the templates include a provision requiring companies to report "any other material payments to government entities" and non-government entities (including landowner entities – other than for the provision of goods and services, including employment) listed above an agreed threshold. The IA should confirm any procedures or provisions relating to safeguarding confidential information. [The IA should also develop guidance to the reporting entities on how to complete the reporting templates, and provide training to reporting entities.]
- (v) Based on the examination of the audit and assurance procedures in companies and government entities participating in the EITI reporting process as above, confirms what information participating companies and government entities are required to provide to the Independent Administrator in order to assure the credibility of the data in accordance with Requirement 4.9.

The Independent Administrator should exercise judgement and apply appropriate international professional standards in developing a procedure that provide a sufficient basis for a comprehensive and reliable EITI Report. The Independent Administrator should employ his /her professional judgement to determine the extent to which reliance can be placed on the existing controls and audit frameworks of the companies and governments. Where deemed necessary by the Independent Administrator and the multi-stakeholder group, assurances may include:

- (i) Requesting sign-off from a senior company or government official from each reporting entity attesting that the completed reporting form is a complete and accurate record.
- (ii) Requesting a confirmation letter from the companies' external auditor that confirms that the information they have submitted is comprehensive and consistent with their audited financial statements. The MSG may decide to phase in any such procedure so that the confirmation letter may be integrated into the usual work programme of the company's auditor. Where some companies are not required by law to have an external auditor and therefore cannot provide such assurance, this should be clearly identified, and any reforms that are planned or underway should be noted.
- (iii) Where relevant and practicable, requesting that government reporting entities obtain a certification of the accuracy of the government's disclosures from their external auditor or equivalent.

The inception report should document the options considered and the rationale for the assurances to be provided.

The IA should also confirm the procedures for integrating and analysing non-revenue information in the EITI Report. The inception report should incorporate table 1 below, confirming the division of labour between the Independent Administrator, the MSG or other actors in compiling this data, and how the information should be sourced and attributed.

Table 1 – Non-revenue information to be provided in the EITI Report

| Non-revenue information to be provided in the EITI Report | Work to be undertaken by the Independent Administrator⁶ | Work to be undertaken by the AEITI MSG/AEITI NS |
|---|--|--|
| Legal framework and fiscal regime in accordance with EITI Requirement 2.1. | To prepare a draft review of legal framework and fiscal regime. | Approval of the draft review by AEITI MSG, and MoMP and MoF through the AEITI NS |
| An overview of the extractive industries, including any significant exploration activities in accordance with EITI Requirement 3.1. | To provide an overview of the extractive industries, including any significant exploration activities in accordance with EITI Requirement 3.1. | AEITI MSG to give its approval on the information in the process with regard to exploration activities in sector |

⁶ Data sources for the IA include: (i) AEITI summary data reporting template 2.0, (ii) websites of MoMP, Afghanistan National Transparency Portal and AEITI, (iii) and documents cited in Annex 1. Where information is not available from these sources outreach to relevant GoIRA ministries and departments will be required through the AEITI NS.

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| Information about the contribution of the extractive industries to the economy in accordance with EITI Requirement 6.3. | The IA to collect information about the contribution of the extractive industries to the economy in the accordance with EITI requirement 6.3 but this will be subject to the MSG | AEITI NS to assist IA if the later needs any assistance |
| Production and export data in accordance with EITI Requirement 3.2 and 3.3 | IA to collect all information on production and export data available within the relevant government departments in accordance with EITI requirement 3.2 | The data to be crossed checked with AEITI MSG, and MoMP and MoF through the AEITI NS |
| Information regarding state participation in the extractive industries in accordance with EITI Requirement 2.6 and 6.2. ⁷ | IA to collect Information regarding state participation in the extractive industries in accordance with EITI Requirement 2.6 and 6.2.5 | The MSG to decide on whether the collected data is acceptable or not |
| Information about the distribution of revenues from the extractive industries in accordance with EITI Requirement 5.1. | IA to collect information about the distribution of revenues from the extractive industries in accordance with EITI Requirement 5.1. | MSG to review and decide on the information |
| Any further information requested by the MSG on revenue management and expenditures in accordance with EITI Requirement 5.3. | IA to collect any relevant information requested by the MSG during the duration of the development of the report which can add quality to the report on revenue management and expenditures in accordance with EITI requirement 5.3 | MSG to analyse the information and data and to approve of the collected information |
| Information about license holders in accordance with EITI Requirement 2.3 ⁸ , and the allocation of licenses in accordance with EITI Requirement 2.2. ⁹ | IA to review all contracts available within the MoMP and to collect information about the license holders and lincense allocation in accordance with EITI requirement 2.3 and 2.2 respectively | MSG to decide on whether all the contracts information have been reviewed by the IA and also to give its approval on the information collected on the license holders and license allocation |
| Any information requested by the MSG on beneficial ownership (BO) in accordance with EITI Requirement 2.5 | For the purpose of this report, the Independent Administrator should: <ul style="list-style-type: none"> Propose a definition of BO for adoption by the AEITI MSG¹⁰, based on existing legal definitions for BO under Afghanistan's laws, and the | For the purpose of this report, the MSG will: <ul style="list-style-type: none"> Consider and agree the recommendations by the IA with regards to the definition of BO, the details to be disclosed |

⁷ Guidance Note 18: SOE participation in EITI Reporting, https://eiti.org/files/GN/Guidance_note_18_SOEs_EN.pdf

⁸ Guidance Note 3: Licence Registers, <https://eiti.org/guidance-notes-and-standard-terms-reference#GN3>

⁹ Guidance Note 4: Licence Allocations, <https://eiti.org/guidance-notes-and-standard-terms-reference#GN4>

¹⁰ <https://drive.google.com/open?id=0B7UljQS1EKz4SIRPZzdWRXFRG8>

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| | <p>EITI Standard.</p> <ul style="list-style-type: none"> Propose the details to be disclosed about the identity of the beneficial owners.¹¹ This should include whether the beneficial owners are politically exposed persons (PEPs), drawing on existing definitions of PEPs and asset declarations if available. Propose an approach for assuring the BO data assurance for adoption by the MSG and MoMP¹². Reflect the MSG's decisions on the definition of BO, the details to be disclosed about the identity of the beneficial owners, and the data assurance process in the EITI's model BO template¹³. Wherever possible, build upon the existing BO data available with the MoMP/GoIRA. Support the MoMP by developing guidelines to reporting companies on how to identify their beneficial owners and complete the reporting template. Distribute the BO template to the companies included in the scope of the EITI Report, collect any additional data that does not exist with MoMP/GoIRA, follow up on any missing or incomplete submissions, and perform spot-check comparisons of data reported by companies and available with MoMP in order to ensure data veracity. Compile the data in an open data format (xlsx or cvs)¹⁴. Present the findings in the EITI Report, as well as facilitate its publication in applicable governmental websites, noting for each of the companies in the scope of the report: the name of the BOs of each company, details about their identity, and information | <p>about the identity of the BO, and the approach for BO data assurance.</p> <ul style="list-style-type: none"> Provide information on the government's policy and multi-stakeholder group's discussion on disclosure of beneficial ownership. |
|--|--|---|

¹¹ <https://drive.google.com/file/d/0B7UljQS1EKz4dEpjQ0VVdzNFcTg/view?usp=sharing>

¹² <https://drive.google.com/open?id=0B7UljQS1EKz4ZVhjX0pKeWF3NVk>

¹³ Template beneficial ownership declaration, <https://eiti.org/files/Template-beneficial-ownership-declaration-form.doc>

¹⁴ An open data standard for beneficial ownership reporting is being developed. Please be in touch with the EITI International Secretariat for further information.

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| | <p>about how ownership is exerted. Where legal owners have been disclosed, this should be clearly distinguished from beneficial ownership.</p> <ul style="list-style-type: none"> • Provide comments on the comprehensiveness and reliability of the BO information, and present recommendations for improving beneficial ownership reporting in the future. | |
| Any information requested by the MSG on contracts in accordance with EITI Requirement 2.4 ¹⁵ | IA to provide and list information on contracts requested by the MSG | MSG to assist |
| Illegal Mining | Prepare a brief note on illegal mining activities in the sector through key informant interviews, government documents, media and civil society's sources | MSG to assist in providing information to IA on illegal mining |

- For the purpose of project-level reporting, propose:
 - 1) A definition of the term “project” that is consistent with relevant national laws and systems as well as international norms;
 - 2) Produce an overview of the revenue streams that should be reported by project, classifying the revenue streams that are levied on a license/contract basis and should be reported as such as well as the revenue streams that are levied on a company basis and should be reported as such; and
 - 3) Draft corresponding reporting templates, drawing on the model reporting templates for project level reporting developed by the EITI.
 - 4) IA to conduct an assessment of previous Validation and AEITI reports’ recommendations implementation status.
 - 5) The IA to do an overview of the sector and provide options for MSG to choose threshold and sample and number of companies to be covered and to investigate which revenue streams could be investigated and reconciled and present the information before the MSG to help them make a decision.

In undertaking the above the Independent Administrator is expected to consult the EITI’s guidance note on project level reporting, and to make use of the template definitions in the guidance note¹.
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3.3. Phase 2 – Data collection

Objective: The purpose of the second phase of work is to collect the data for the seventh AEITI Report in accordance with the scope confirmed in the Inception Report. The AEITI MSG and AEITI NS will provide contact details for the reporting entities and assist the Independent Administrator in ensuring that all reporting entities participate fully.

¹⁵ Guidance Note 7: Contract Transparency, <https://eiti.org/guidance-notes-and-standard-terms-reference#GN7>

The Independent Administrator is expected to undertake the following tasks during the data collection phase:

- 2.1 Distribute the reporting templates and collect the completed forms and associated supporting documentation directly from the participating reporting entities, as well as any contextual or other information that the AEITI MSG has tasked the Independent Administrator to collect as provided in these ToRs.
- 2.2 Seek support from the government, as required, for contact details for the reporting entities and assists the Independent Administrator in ensuring that all reporting entities participate fully.

Note: The local representative of the firm/company must be fully aware of the EITI roles and must have close coordination with the AEITI Secretariat

3.3. Phase 3 – initial reconciliation

Objective: The purpose of this phase is to complete an initial compilation and reconciliation of the contextual information and revenue data with a view to identify any gaps or discrepancies to be further investigated.

- 3.1 The Independent Administrator should compile a database with the payment and revenue data provided by the reporting entities, **disaggregated by project in accordance with the MSG's definition.**
- 3.2 The Independent Administrator should comprehensively reconcile the information disclosed by the reporting entities, identifying any discrepancies (including offsetting discrepancies) in accordance with the agreed scope and any other gaps in the information provided (e.g. assurances).
- 3.3 **The Independent Administrator should identify any discrepancies above the agreed margin of error established in agreement with the MSG**
- 3.4 **MSG and the Independent Administrator may fix and agree an acceptable margin of error in determining which, discrepancies should be further identified and investigated. The decision on acceptable margin needs to be recorded in the minute of the MSG meeting and/or Independent Administrator's communications with the MSG.**

Phase 4 – investigation of discrepancies and draft EITI Report

Objective: The purpose of this phase is to investigate any discrepancies identified in the initial reconciliation, and to produce a draft EITI Report that compiles the contextual information, reconciles financial data and explains any discrepancies above the margin of error determined by the MSG, where applicable.

- 4.1 The Independent Administrator should contact the reporting entities to clarify the causes of any significant discrepancies or other gaps in the reported data, and to collect additional data from the reporting entities concerned.
- 4.2 The Independent Administrator should submit a draft EITI Report to the MSG for comment that comprehensively reconciles the information disclosed by the reporting entities, identifying any discrepancies, and reports on contextual and other information requested by the MSG. The financial data should be disaggregated **by project in accordance with the MSG's definition.** The draft EITI Report should:
 - a) describe the methodology adopted for the reconciliation of company payments and government revenues, and demonstrate the application of international professional standards.

- b) include a description of all revenue streams, related materiality definitions and thresholds (Requirement 4.1).
 - c) include an assessment from the Independent Administrator on the comprehensiveness and reliability of the (financial) data presented, including an informative summary of the work performed by the Independent Administrator and the limitations of the assessment provided.
 - d) indicate the coverage of the reconciliation exercise, based on the government's disclosure of total revenues as per Requirement 4.1(d).
 - e) include an assessment of whether all companies and government entities within the agreed scope of the EITI reporting process provided the requested information. Any gaps or weaknesses in reporting to the Independent Administrator must be disclosed in the EITI Report, including naming any entities that failed to comply with the agreed procedures, and an assessment of whether this is likely to have had material impact on the comprehensiveness of the report.
 - f) document whether the participating companies and government entities had their financial statements audited in the financial year(s) covered by the EITI Report. Any gaps or weaknesses must be disclosed. Where audited financial statements are publicly available, it is recommended that the EITI Report advises readers on how to access this information.
 - g) include non-revenue information as per Requirement 2,3,5 and 6 and other information requested by the MSG. The contextual information should be clearly sourced in accordance with the procedures agreed by the Independent Administrator and the MSG.
- 4.3 Where previous EITI Reports have recommended corrective actions and reforms, the Independent Administrator should comment on the progress in implementing those measures. *The Independent Administrator should make recommendations for strengthening the reporting process in the future, including any recommendations regarding audit practices and reforms needed to bring them in line with international standards, and where appropriate, recommendations for other extractive sector reforms related to strengthening the impact of implementation of the EITI on natural resource governance. The Independent Administrator is encouraged to collaborate with the MSG in formulating such recommendations.*
- 4.4 The Independent Administrator is encouraged to make recommendations on strengthening the template Terms of Reference for Independent Administrator services in accordance with the EITI Standard for the attention of the EITI Board.

Phase 5 – final EITI Report

Objective: The purpose of this phase is to ensure that any comments by the MSG on the draft report have been considered and incorporated in the final EITI Report.

- 5.1 The Independent Administrator will submit the EITI Report upon approval to the MSG. The MSG will endorse the report prior to its publication and will oversee its publication. Where stakeholders other than the Independent Administrator decide to include additional comments in, or opinions on, the EITI Report, the authorship should be clearly indicated.
- 5.2 *The final EITI Report must be translated to Pashto and Dari Languages.*
- 5.3 The Independent Administrator should produce electronic data files¹⁶ that can be published together with the final Report.

¹⁶ The files can be in CSV or Excel format and should contain the tables and figures from the print report. In accordance with requirement 7.1.c, the multi-stakeholder group is required to make the EITI Report available in an open data format (xlsx or csv) online.

- 5.4 Following approval by the MSG, the Independent Administrator is mandated to submit summary data from the EITI Report electronically to the International Secretariat according to the standardised reporting format available from the International Secretariat¹⁷.
- 5.5 The Independent Administrator shall take appropriate measures to ensure that the report is comprehensible. This includes ensuring that the report has high levels of readability, legibility and usability. The MSG may wish to request that the report be edited by a professional copy-editor and/or be designed by a professional graphical designer.
- 5.6 The MSG may request that the Independent Administrator submit to the national secretariat all data gathered during reconciliation available, including the contact information of all institutions contacted during the reporting process.

Qualification requirements for Independent Administrators

The reconciliation of company payments and government revenues must be undertaken by an Independent Administrator applying international professional standards (requirement 4.9). It is a requirement that the Independent Administrator is perceived by the MSG to be credible, trustworthy and technically competent (ibid). Bidders must follow (and show how they will apply) the appropriate professional standards for the reconciliation / agreed-upon-procedures work in preparing their report.

The Independent Administrator will need to demonstrate:

1. Expertise and experience in the oil, gas and mining sectors in [Afghanistan or any other EITI countries is desirable](#).
2. A minimum of 3 years Expertise in accounting, auditing and financial analysis.
3. A track record in similar work. Previous experience in EITI reporting is not required, but would be advantageous.
4. [Shall have adequate staff and resources to devote to the task in the field or sub-contract a qualified and reliable company for the fieldwork. The sub-contractor shall have full knowledge of EITI, speaks local languages and have strong auditing and accounting background, knowledge and education. The IA shall have the proof of the qualification of the local representative to be shared with the MSG as requested.](#)
5. The assignment is open to all local as well as international firms including joint-ventures

In order to ensure the quality and independence of the exercise, Independent Administrators are required, in their proposal, to disclose any actual or potential conflicts of interest, together with commentary on how any such conflict can be avoided.

3 Qualification requirements of Key staff

¹⁷ The latest version of the summary data template can be found at: <https://eiti.org/document/eiti-summary-data-template>

Key experts qualification details

| S.N. | Position | Qualification | Years of experience |
|------|----------------------------------|----------------------------|---|
| 1 | Key Expert- 1 (Project Director) | Master Finance or relevant | 10 years in the field of finance / audit related project management |
| 2 | Key Expert -2 (EITI Expert) | Chartered Accountant | 10 years of experience in the field of accounting |
| 3 | Key Expert -3 (Researcher) | Master Finance or relevant | 5 years of experience in the field of finance |
| 4 | Key Expert -4 (Auditor) | Chartered Accountant | 5 years of experience in the field of audit / finance |
| 5 | Key Expert -5 (Financial Expert) | Master in Finance | 5 years of experience in the field of finance |

4 Reporting requirements and time schedule for deliverables

The assignment is expected to commence immediately [following the completion of procurement process](#), culminating in the finalisation of the EITI Report by [the given date in the below table](#). The proposed schedule is set out below:

| | |
|--|---|
| Signing of contract | When Procurement Process is Completed |
| Phase 0: Limited Scoping study | The Scoping Study should be completed with 14 days of signing of the contract |
| Phase 1: Preliminary analysis | To be commenced immediately after 14 days which is the timeline for the scoping study to be completed |
| => Inception report | Complete Inception report within 3 weeks from limited scoping report and share it with MSG for Review and Approval (MSG may approve it within one week) |
| Phase 2: Data collection | Collection of data to be completed within 20 days from finalization of drat inception report |
| Phase 3: Initial reconciliation | Initial reconciliation to be completed within 15 days from data collection |
| Phase 4: Investigation of discrepancies | Resolve discrepancies within 15 Days from |

| | |
|--|--|
| | data collection |
| => Draft report - sharing the draft with MSG and Incorporating MSG's Comments/Feedback | Finalize drat report within 15 Days from resolving discrepancies and to be shared with MSG for a period of one week, after which the IA will have 15 days to incorporate those changes as suggested by the MSG |
| Phase 5: Final report | Submit the final report after 15 days of receiving the MSG's comments/feedback and incorporating them |

[Add any additional information regarding other deliverables requested by the MSG, including translations, trainings and whether the Independent Administrator should also be tasked with delivering a Summary report]

The schedule of payments shall be as follows:

- 10 % of the completion of Inception Report
- 30 % of the completion of data collection
- 60 % of the completion and approval of the reconciliation report by MSG

5 Client's input and counterpart personnel

[Add information about reporting lines, support to the Independent Administrator during the assignment, other logistical and administrative arrangements.]

[Other comments]

[The MSG may include additional commentary on the assignment not addressed above]

Annex 1 – Supporting documentation

Documentation on governance arrangements and tax policies in the extractive industries, including relevant legislation & regulations

- [\[Income tax law\]](#) • [Customs Law](#) • [\[Tax manual\]](#) • [Tax administration law](#) • [\[Procurement law\]](#) • [Sub-national Governance law](#) • [Public revenues and expenditure laws](#) • [\[Mineral and Hydrocarbon law and regulation\]](#), [Mining Law](#)

EITI workplans & other documents

[AEITI Country Work Plan and Action Plan, Summary Data Template 2.0](#)

[Scoping Study Report for Integrating Transparency into Extractives \(Oil, Gas and Mining\) Governance in Afghanistan](#) (*Sridar Padmanabhan Kannan, World Bank, 2019*)

Findings from preliminary scoping work

- [Previous AEITI Reports](#)

Previous EITI Reports

- [AEITI 1st ,2nd , 3rd , 4th, 5th and 6th EITI Reports](#)

Commentary on previous EITI Reports

- [\[1st & 2nd Resolving discrepancy report\]](#)

Validation Reports

- [Previous EITI Validation Reports](#)

Other relevant documentation (e.g. annual activity reports)

- [\[...\]](#)
- [\[...\]](#)