

## **Terms of Reference for consultant supporting Sierra Leone EITI on Beneficial Ownership (BO) Transparency**

---

The EITI International Secretariat is seeking to strengthen its support to Sierra Leone on beneficial ownership transparency. To enhance its current support, the Secretariat is seeking a consultant to enhance EITI's implementation support to Sierra Leone on beneficial ownership. This will entail supporting the EITI multi-stakeholder group in Sierra Leone, key government agencies like Corporate Affairs Commission (CAC), National Minerals Agency (NMA) in facilitating policy discussions and improving disclosures of Beneficial Ownership (BO) information. The objective is to help company disclosures, move towards systematic disclosure of data on beneficial ownership and build capacity among SLEITI stakeholders in collecting, disclosing, and analysing the BO information.

### **1. Background**

In 2008, Sierra Leone became a member of the Extractive Industries Transparency Initiative (EITI). The EITI is a global standard with an international multi-stakeholder initiative that aims to promote natural resource transparency and accountability through the disclosure of government and company information and data-with emphasis initially on revenues and payments respectively, and later across the decision chain

As a tripartite body comprising companies, civil society and government representatives, the Sierra Leone Extractive Industries Transparency Initiative (SLEITI) is placed under the Office of the Vice President, which governance arrangement is intended to sustain the required political will and effective supervision of the implementation of EITI requirements.

In 2016, the EITI announced that all EITI compliant countries must implement an obligatory Beneficial Ownership Disclosure regime by 1<sup>st</sup> January 2020. Soon after, the Sierra Leone EITI Secretariat commenced activities aimed at ensuring that it meets this requirement. A comprehensive legislative and institutional review was conducted to determine the state of preparedness of Sierra Leone in meeting the BO disclosure deadline. A draft roadmap was produced to guide activities towards the fulfillment of this. At a Beneficial Ownership Disclosure Conference in Dakar, Senegal in October and November 2018, H.E. President Julius Maada Bio made a commitment that Sierra Leone will meet EITI's obligatory beneficial ownership disclosure requirement by the 1<sup>st</sup> January 2020 deadline. A BO Disclosure Technical Working Group comprising senior officials from relevant MDAs was constituted to lead processes that will result in Sierra Leone's timely compliance with the BO disclosure standard.

Corporate Affairs Commission (CAC) was subsequently identified as the key agency assigned the responsibility of hosting the BO register given its role as the custodian of the Register of Companies. However, without it being a legal requirement, it emerged that companies would find it taxing to provide detailed Beneficial Ownership information. With this in mind, CAC

dedicated a whole section in the National Corporate Governance Code on beneficial ownership and encouraging companies to adopt this section as part of their guiding principles/ internal guidelines. Disclosure, it was agreed, will be on a COMPLY OR EXPLAIN BASIS.

Requirement 2.5 of the 2019 EITI Standard requires that implementing countries maintain a publicly available register of the beneficial owners of the corporate entity (es) that apply for or hold a participating interest in an exploration or production oil, gas or mining license or contract, including the identity (es) of their beneficial owner(s), the level of ownership and details about how ownership or control is exerted. Also, as of January 1, 2021, all implementing countries are required to develop and publish a comprehensive BO Register.

The consultancy will focus on beneficial ownership disclosure of natural persons with shareholdings on the operations of the extractive company with five percent (5%) or more shares in each company in the mining sector. Disclosure should include persons of control with xx% voting rights and disclosure of stakes held by the government through the State-owned Enterprises (SOEs). Information about the identity of the beneficial owner shall include the name of the beneficial owner, the nationality, and the country of residence, as well as the identity of any politically exposed persons. For publicly listed companies, including wholly owned subsidiaries, disclosure shall include the name of the stock exchange and a link to the stock exchange filings where they are listed.

## 2. Objectives of the assignment

SLEITI is seeking a consultant to support their work with CAC, NMA, FIU, BSL, NRA and other stakeholders on the implementation of Beneficial Ownership Transparency by developing Beneficial Ownership Registry for the Mining, Oil & Gas sectors with a long term plan for extending the registry to all areas of business.

1. Mapping of the existing CAC/NMA processes, existing BO data collected through reporting process, and the current BO data with the licensing authorities.
2. Review the existing BO legal and institutional review report and build on the findings such as identification of key gaps in the extractive and non-extractive sector legislation, to supports the implementation of EITI requirement 2.5.
3. Stakeholder mapping and engagement to align stakeholder's data fields in their registries to identify legal and institutional obstacles to BO implementation.
4. Review and update of BO template that will be used in designing the portal for the collection of Beneficial Ownership (BO) information

The SLEITI MSG owns the TORs and report of this assignment, while the International Secretariat will undertake the administrative part of the procurement including the signing of the contract. The timeframe for this work including procurement of consultant would be 15<sup>th</sup> February 2021.

### 3. Scope of assignment

The consultant will be expected to develop a Beneficial Ownership Registry for the Mining, and Oil & Gas sectors in line with EITI Requirement 2.5, and will specifically undertake the following tasks:

1. **Mapping of existing CAC/NMA/PD processes:** The consultant shall map the existing business processes (administrative processes) within the Business Registry, which will include methods for the collection, processing and publication of current company data. The consultant shall further map the current collection of BO data with the licensing authorities. The outcome shall feed into the consultant's work with the Business Registry to determine how the BO data could be collected, reviewed and documented.
2. **Stakeholder Mapping and Engagement:** The Consultant shall map and engage the relevant stakeholders (i.e. Corporate Affairs Commission(CAC), National Minerals Agency(NMA), Ministry of Mines and Mineral Resources, Petroleum Directorate, National Revenue Authority(NRA), Financial Intelligence Unit (FIU), and Ministry of Finance (MoF) to (a) consult and align the data fields in their registries with the Beneficial Ownership registry and to (b) identify any legal and institutional obstacles in aligning the processes and outlining practical solutions to overcoming these barriers. In undertaking this work, the consultant should:
  - a. Map stakeholders to ensure the list provided above is all encompassing
  - b. Hold bilateral meetings with CAC, NMA, NRA, MMR, FIU, BSL, PD and MoF to review their processes and establish clear information sharing pathways.
  - c. Compile existing data and processes to determine the level of data collection required and identify any institutional barriers to collecting the data which the proposed BO legislation or regulation could address.
  - d. Capacity building on data analysis. Organise a capacity-building event on the use and analysis of BO data for government and civil society stakeholders, together with key partners in the country.
3. Review the findings and recommendations of the 2017 report on legal and institutional frameworks of BO disclosure in Sierra Leone and highlight progress made in BO implementation. Where gaps exist, the consultant shall make recommendations on closing those gaps.
4. **Review and update of template for the collection of Beneficial Ownership (BO) information:** The consultant shall review the BO declaration form shared by SLEITI secretariat to ensure it captures comprehensively the identity (ies) of all declarable beneficial owner(s), all relevant methods of control and any information required of declaring or declarable legal entities or arrangements, in line with but not limited to the EITI requirement 2.5. In undertaking this work, the consultant should:
  - a. take into account existing information and templates being submitted by companies through the EITI reporting process.
  - b. Ensure that the MSG approves the reporting template

- c. Ensure the template includes a provision for attestation by a senior person(s) of the declaring company,
  - d. Ensure that the template allows records in the beneficial ownership portal to be created and updated using a method identified by the Consultant
5. **Inter-agency coordination, data collection, and sharing:** Support SLEITI in convening and coordinating government actors involved in the collection, verification, and disclosure of BO data. The consultant will:
- a. Support SLEITI in facilitating regular discussions and coordination meetings with key stakeholders involved in collection, verification, and disclosures of BO data (Corporate Affairs Commission (CAC), National Minerals Agency, Ministry of Mines, Ministry of Finance, Chamber of Mines, Petroleum Directorate, National Investment Board, National Revenue Authority and Financial Intelligence Unit.
  - b. Based on consultation with key stakeholders above, update and document existing business processes for the Corporate Affairs Commission.
  - c. Based on the updated business processes, support SLEITI and Corporate Affairs Commission in ensuring that they request all required data points from all identified corporate entities in the Extractive Sector, including identification of PEPs where statutory obligations allow for this.
  - d. Work with SLEITI and Corporate Affairs Commission to put in place BO data assurances, facilitate discussion with stakeholders to agree whether the assurances are adequate or should be revised and that beneficial ownership data collection is streamlined and integrated with the license application process for the extractive sector.
  - e. Based on the mapping of the data with the licensing authorities, work with SLEITI to ensure that the relevant government agencies integrate requests for BO information from the company into the license application process for both mining and petroleum.
  - f. In consultation with relevant governing bodies, assess and document gaps or weaknesses in the disclosure of beneficial ownership information and agree on an approach to overcoming the gaps and weaknesses, including prioritising activities and identifying resources.
  - g. Ensure that the other agencies can access the BO information so that it can inform their business processes.
6. **Support SLEITI and CAC/NMA in technical capacity building and transfer of expert knowledge in the field:**
- a. A gap analysis of the CAC/NMA staff capacity in maintaining and managing a BO register and the level of their IT skills.
  - b. The consultant shall provide technical assistance on the user-focused design of digital services and building a team within the CAC/NMA to manage this.

- c. Train the team to manage the BO register independent of consultant after a year of support
  - d. Accessing technical assistance and training on working to verify beneficial ownership data.
7. The consultant shall work with SLEITI to undertake an initial paper-based BO disclosure based on reviewed BO declaration forms for the upcoming validation.
8. **Report and Roadmap for phase two:** The consultant shall provide a report with clear recommendations in the form of a roadmap that will help in guiding the scope of work in phase two.

## Deliverables and timetable

The assignment is expected to take 6 weeks and commence on **xxx** and be completed by **xxx**. Within four (4) weeks of the commencement date, the Consultant shall provide report to SLEITI for the review and comment by the MSG and Corporate Affairs Commission. The Consultant will be given one (1) week to review the comments, make the required amendments, and handover the final report to SLEITI and Corporate Affairs Commission.

Mapping of CAC/NMA Business Processes	TBC
Stakeholder mapping and Engagement	TBC
Review of the legal and institutional review report and update	TBC
Review and update of the BO template	TBC
Final report and road map for phase two	TBC