



**Opening
Extractives**

Unlocking the benefits
of ownership data

Terms of Reference

Supporting Mongolia EITI on beneficial ownership transparency through Opening Extractives

1. Background

1.1 The EITI

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 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.

1.2. EITI implementation in Mongolia

Mongolia committed to implement EITI in April 2006 and eventually joined in September 2007. EITI implementation in the country is administered by the Mongolia Multi-Stakeholder Group (MSG), also known as the National Council, which is chaired by the Minister of Mining and Heavy Industry (MMHI). The MSG is comprised of representatives from the government, industry, and civil society.

The activities to implement EITI in the country are undertaken under several program objectives agreed by the MSG for a particular year. Information on the program objectives, specific activities, and MSG priorities for 2022 are contained in the approved Mongolia EITI workplan.

Jointly implemented by the EITI and Open Ownership





Opening Extractives

Unlocking the benefits
of ownership data

Since its implementation, the Mongolia EITI has published and submitted 15 reports to the EITI covering fiscal years 2006 to 2020. The latest report was published on 31 December 2021.

1.3. Beneficial ownership transparency

The identity of the real owners – the ‘beneficial owners’ – of the companies that have obtained rights to extract oil, gas and minerals is often unknown, hidden by a chain of unaccountable corporate entities. This problem also affects other sectors and often helps to feed corruption and tax evasion. People who live in resource-rich countries are at particular risk of losing out as extractive assets are too often misallocated for corrupt reasons. Hidden ownership also poses problems for honest companies because they don’t know who they are doing business with. Publishing the real owners will help ensure that there is a level playing field for all companies and allow them to know who they are doing business with. To address the foregoing, the EITI, under its [Requirement 2.5](#), requires EITI implementing countries to request, and corporate entities that apply for or hold a participating interest in a license or contract for the exploration or production of oil, gas, or mineral resources to publicly disclose beneficial ownership information. Disclosure should include the name of beneficial owners, their nationality, country of residence, level of ownership and details about how ownership or control is exerted, and if applicable, the identification of beneficial owners who are also politically exposed persons (PEPs). The EITI Standard defines a beneficial owner as a natural person who directly or indirectly ultimately owns or controls a corporate entity.

In addition, the EITI Standard recommends the disclosure of a beneficial owner’s national identity number, date of birth, residential or service address, and means of contact. It is further recommended to maintain a register of beneficial owners of these corporate entities. The EITI Standard also requires the disclosure of legal owners and their share of ownership.

Once published, law enforcers, civil society and others have a responsibility to scrutinize the information and take action to hold to account those who misuse anonymous companies.

1.4. Progress of extractives BO disclosure in Mongolia

In 2017, the government approved a National Anti-Corruption programme (Resolution No. 114), which provides for a plan to disclose beneficial owners in accordance with the EITI Standards. The government has adopted beneficial ownership reforms in various laws

Jointly implemented by the EITI and Open Ownership





Opening Extractives

Unlocking the benefits
of ownership data

including the Law on State Registration of Legal Entities (2018 amendment), the Law on Minerals, and the Law on Combating Money Laundering and Terrorist Financing. The government's commitment to improve beneficial ownership transparency is further stipulated under the Open Government Partnership National Action Plan for 2021-2023. The most recent legislative enactment is the Public Information Disclosure Act which allows the public to access data, including beneficial ownership data, from all sectors. The law became effective on 1 May 2022 and the mechanisms for public access to such data are expected to come out as the country formulates implementing rules for the law.

EITI Mongolia currently publishes some beneficial ownership information through EITI Reports and on its [website](#), however disclosures are not comprehensive. The country has an EITI beneficial ownership roadmap which outlines how the country intends to disclose the beneficial owners of the companies operating in the extractives sector in line with [Requirement 2.5](#) of the EITI Standard.

In 2021, Mongolia became a participating country in [Opening Extractives](#), a global five-year programme delivered by the EITI and [Open Ownership](#) to improve the availability and use of beneficial ownership data. In May 2022, the country officially launched the Opening Extractives programme in a hybrid event that gathered more than 30 participants from the Ministry of Mining and Heavy Industry, General Department of Taxation, Mongolian National Audit Office, Publish What You Pay Coalition, Transparency International, among other government agencies, companies, and civil society groups.

1.5. Challenges in implementing EITI's requirement on BO transparency

While Mongolia has legal provisions related to beneficial ownership transparency, it needs to accelerate its implementation to improve the transparency of ownership in the extractive industries. The country needs to address the challenges experienced arising from the amendments to the Law on State Registration of Legal Entities in 2018 to ensure systematic government collection of beneficial ownership data. Among these relate to the need to identify a clear department to lead on the government side, the need to address the granularity of disclosures of both legal and beneficial ownership data, the need to achieve clarity on the different definitions and thresholds for disclosure, and the need to consider more prohibitive sanctions for non-reporting of beneficial ownership data. Based on Mongolia's EITI workplan for 2022, there is also the need to improve the capacity of state organizations engaged in the collection of the information and verification of beneficial

Jointly implemented by the EITI and Open Ownership





Opening Extractives

Unlocking the benefits
of ownership data

owners, as well as the need to improve public perception and awareness of beneficial ownership data.

1.6. The Opening Extractives programme

The [Opening Extractives programme](#) is aiming to transform the availability and use of beneficial ownership data for effective governance in the extractive sector. It will provide sustained support for over five years to over ten countries seeking to bring data on company ownership into the public domain. The programme is being implemented by EITI and Open Ownership with support from the BHP Foundation. The programme started in February 2021, and was officially launched on 8 September 2021 in London, where the implementers announced the list of participating countries that include Mongolia.

2. Objectives of the assignment

The Mongolia EITI MSG, through the EITI International Secretariat, seeks a technical consultant, free from any conflict of interest, to render project management, stakeholder engagement, and research and writing services to achieve the following objectives:

- a. Build public awareness on the relevance and practical use of the beneficial ownership information of extractive companies;
- b. Systematically disclose companies' beneficial ownership information either through interim measures or through long-term legal or regulatory reforms;
- c. Fulfill the country's commitments to EITI and Open Government Partnership through the implementation and completion of requirements, plans, and programs on beneficial ownership transparency including enabling public access to data; and
- d. Build stakeholder capacity to verify and utilize beneficial ownership data for research, advocacy, policy reform, and other purposes.

3. Scope of services, tasks, and deliverables

The technical consultant shall perform the following tasks:

1. Sustaining political commitment and stakeholder engagement for BOT reform

Jointly implemented by the EITI and Open Ownership





Opening Extractives

Unlocking the benefits
of ownership data

- a. Lead all necessary coordination with local stakeholders, as well as with the Opening Extractives team and other international partners for all BO related activities, especially those identified in the approved Opening Extractives engagement plan for Mongolia;
- b. Support the MSG in ensuring Mongolia's compliance with Requirement 2.5 of the EITI Standard by working with government, industry, and civil society stakeholders in publicly disclosing extractive companies' beneficial ownership information either through long-term legal, regulatory, or institutional reforms, or through interim measures such as securing beneficial ownership data from extractive companies and other measures related to the implementation of the beneficial ownership provisions of the new Public Information Disclosure Act;
- c. Working with the Opening Extractives team, consistently engage companies and government agencies to publicly disclose and use beneficial ownership information for their internal procedures, and ensure aligned and coordinated efforts on beneficial ownership transparency;

2. Technical assistance, capacity building and awareness raising on BOT

- d. Identify and implement actions to mainstream public disclosure of BO information pursuant to the government's OGP commitment and EITI's requirement on systematic disclosure;
- e. Provide coordination support to the Opening Extractives technical lead in engaging with relevant government agencies, and providing logistical support for work related to the review and revision of BO reporting templates based on model declaration form and improvement of company register;
- f. Organize and lead, in coordination with the Opening Extractives team, in designing and facilitating workshops and capacity-building activities to utilize, verify, and analyze beneficial ownership data, including information on politically exposed persons or PEPs;

Jointly implemented by the EITI and Open Ownership





Opening Extractives

Unlocking the benefits
of ownership data

- g. Lead advocacy efforts, including the drafting of relevant rules or policies or comments to existing draft rules or policies, such as those relating to the Public Information Disclosure Act, to institutionalize extractives beneficial ownership disclosure;

3. Monitoring, evaluating, and reporting. Within the first three weeks of engagement, submit an inception report that will demonstrate the review and understanding of the assignment, including current progress in BO transparency, and contain a detailed timetable, and outline strategies for executing the Opening Extractives engagement plan;

- h. Contribute to the production of the annual EITI country report by providing input to the contextual information on beneficial ownership transparency in Mongolia;
- i. Monitor, record, and evaluate progress, best practices, and gaps and challenges in beneficial ownership transparency with the view of improving and strengthening implementation;
- j. Starting the second month of engagement, submit to the MSG and the Opening Extractives team monthly progress reports, including documentations of meetings, orientations, and stakeholder engagement activities done within a specific month;
- k. Contribute to the development of the MSG's annual work plan by identifying priority beneficial ownership transparency related activities for implementation;
- l. Produce a policy note on beneficial ownership transparency before the end of the contract;
- m. Towards the end of the contract, turn over or submit to Mongolia EITI all documents and data related to beneficial ownership transparency, such as reference materials and supporting documents, including contact details of resource persons, if any;
- n. Submit, along with the final monthly progress report, an executive summary recapping the status of BO transparency in Mongolia and outlining any lessons learned and recommendations; and

Jointly implemented by the EITI and Open Ownership





Opening Extractives

Unlocking the benefits
of ownership data

- o. Perform other tasks related to those outlined in this TOR that are necessary for the implementation of beneficial ownership transparency and Opening Extractives programme in Mongolia.

4. Qualification requirements

The technical consultant should be credible, trustworthy and technically competent. Candidates will be assessed based on the following criteria/requirements:

- Substantial work experience in any of the following sectors: anti-corruption, governance, transparency and/or accountability, natural resource governance, preferably with post-graduate degree or education; -
- Skills and experience in project management, and research and technical writing;
- Experience in stakeholder engagement and advocacy work, especially with government entities;
- Fluent in English and Mongolian languages, proficiency in oral and written communications; and
- Understanding of corporate ownership, data transparency, and resource governance issues, preferably with knowledge of Extractive Industries Transparency Initiative.

5. Budget and duration

The consultant shall be engaged for a period of 6 months, from **mid-July 2022 to December 31, 2022** for a total maximum number of 90 days for the period, with the possibility of extending the contract to subsequent years dependent on funding.

Jointly implemented by the EITI and Open Ownership

