Terms of Reference
## Addressing Corruption Risks through Public Debate and the use of EITI Data

## Contents

## 1.   Background

The Extractive Industries Transparency Initiative (EITI) is an international standard for improving transparency and accountability in the extractive sector. EITI implementation has two basic components: transparency and accountability. Transparency is based on the publication of timely information disclosed by the oil, gas and mining companies about their operations and the governance of their revenues from the sector. Accountability is based on the creation of the Multi-Stakeholder Group (MSG) with representatives of government, industry and civil society to oversee the process, which communicates reporting data to EITI and promotes the integration of EITI within broader efforts towards transparency in that country.

Disclosure of information along the value chain of extractive activities and oversight by a multi-stakeholder group of the data being disseminated helps to increase transparency and accountability, identifies governance gaps and reduces the space for corruption and leakage. Thus, the EITI Requirements seek to address areas that have been identified as prone to corruption risks, including licensing, beneficial ownership, SOEs, commodity trading, and revenue collection and management. However, there is a need to document and communicate the contributions the EITI data has in identifying potential corruption risks at the global and national levels.

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To increase transparency and reduce the space for corruption, stakeholder ownership is paramount. National stakeholders and the broader society in EITI implementing countries should be able to engage in all stages of EITI implementation and analyze EITI data to improve the governance of the extractive sector. Therefore, EITI data should comply with the basic requirements of accessibility, openness, and comprehensiveness.

For the above, the EITI International Secretariat, with the support of USAID, seeks a competent and credible consultant or consortium of individuals to develop a project to strengthen the use of data to identify corruption risks, using the NRGI corruption diagnostic tool as a framework in Latin America and the Caribbean.

## 1.1 The role of EITI in fighting corruption

Corruption in the extractive sector can undermine the efforts of resource-rich countries to reduce poverty, diversify their economies, achieve democratic governance and address the climate crisis[1]. The EITI Standard tackles corruption in high-risk areas of the extractive sector by promoting transparency across the whole value chain, highlighting the terms and conditions of extractive activities in EITI implementing countries, as well as the resources generated by these activities and their allocation by government authorities. The EITI Standard helps fighting corruption in several ways.

**EITI reporting exposes country specific-natural resources management practices that are vulnerable to abuse.** Processes exposed through EITI include cases of highly discretionary license awards; off-budget accounts subject to limited oversight; transfers of money or commodities that are not accounted for; subsidiaries that receive money but do little; license holders missing from the tax authority's radar; legal and regulatory provisions that enable corruption; beneficial owners of companies; and, spending by extractive sector actors for purposes unrelated to their mandate.

**EITI reporting exposes suspicious deals and transactions.** For instance, Global Witness and The Guardian used EITI data to raise questions about the structure of a license acquisition deal in Liberia. Indonesian non-governmental organizations (NGOs) used cadastre data of the type published by the EITI to help demonstrate that mining companies were operating outside their allotted area, including in protected forests.

> **Zambia: Identifying gaps and corruption risks**
>
> Zambia's 2018 EITI Report provided detail on an inquiry by the auditor general, which exposed several questionable practices, including the award of mining licenses to unqualified companies, illegal mineral exports, tax evasion and violations of environmental obligations. This investigation was prompted by the findings of Zambia's 2016 Validation Report and the findings resulted in the government cancelling nearly 900 licenses.
>
> Source: Addressing corruption risks through EITI implementation

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[1] Diagnosing corruption in the extractive sector: A tool for research an action. (p.3)

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**EITI Reporting provides anti-corruption actors with valuable contextual information.** When law enforcement, journalists and other actors investigate extractive sector cases, they often struggle to understand industries that are complex, unfamiliar and at times opaque. EITI reports can be essential reading in such scenarios.

**EITI supports discussion, monitoring and civic society advocacy.** When EITI reports reveal concerns related to corruption, the MSG is a place where stakeholders with varying interests can discuss possible remedies, pressure the relevant agency or company to respond, and monitor progress. The EITI can also serve as a champion for civil society and its anti-corruption functions. At the global and country level, the EITI is well placed to encourage civil society advocacy that draws on EITI reports, facilitate cross-stakeholder dialogue about civil society's concerns, and ally with activists and journalists when they confront repression.

**EITI advances global norms and practices related to anti-corruption.** Progress made by the EITI spills over into other international anti-corruption efforts. For instance, the multi-stakeholder experience of the EITI has informed anti-corruption efforts in other sectors including construction and fisheries.

## 1.2 NRGI tool for diagnosing corruption risks

On August 2021, the Natural Resource Governance Institute (NRGI) launched a corruption [diagnostic tool](#) to support evidence-based, multi-stakeholder action to address corruption risks in the extractive sector. This tool enables users to identify the forms of corruption most likely to occur and negatively impact a country's extractive industries; diagnose the causes of these forms of corruption; and to build an evidence-based anticorruption action plan, focused on preventing future corruption.

There are several contexts in which the NRGI tool correlates to the EITI Standard. These include when a country decides to sign up to the EITI as part of its anticorruption reforms, when the EITI Validation in a country assesses that the EITI process does not address corruption challenges, or when the EITI MSG in a country decides to analyse in-depth specific areas from the extractive sector prone to corruption risks (for instance, requirement 2.5 on Beneficial Ownership). The process that the tool follows comprises six steps for diagnosing corruption in the mining, oil and gas sectors:



Step 1: At this step, organizations decide the area or intervention: oil and gas, or mining. Organizations predefine a specific commodity for the assessment and formulate the assessment goals.



Step 2: At this step organizations collect and summarize existing information and data about corruption and governance challenges in the sector.

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Step 3: Organizations select the areas to focus the diagnostic on. The areas of focus could include a stage of the extractive sector decision chain, or one of several cross-cutting topics.

Step 4: Organizations conduct in-depth research and analysis about the chosen areas of focus to identify the leading forms of corruption, why they occur and how different actors might help to address them.

Step 5: Prioritize forms of corruption for action. Through a second workshop bringing together a broad range of stakeholders, the user prioritizes for action the forms of corruption identified in Step 4, based on an assessment of their likelihood and impact, and the feasibility of reform

Step 6: Develop an action plan. During the same multi-stakeholder workshop, a plan of action is discussed. The final plan will target the forms of corruption of greatest concern, with clear objectives and action items.

The NRGI tool is designed to be flexible, recognizing the different needs and resources that organizations have. Therefore, organizations could focus their efforts on a specific step, pursuing lighter or deeper processes according to their objectives and desired outcomes.

## 2. Objectives of the assignment

The objective of the assignment is to strengthen EITI implementation using EITI data as a tool for identifying corruption risks. In particular, the project will be developed using the NRGI corruption risk tool and will be focused on a selection of EITI implementing countries of the LAC region. The project will be divided in four sequential phases.

1. Phase one: Project design and engagement plan. The objective of this phase is to design a project based on the NRGI tool that allows citizens to identify corruption risks using EITI data. The design should include engagement efforts that encourage the participation of the broader society. The target audience (participants) of the engagement efforts will include, but is not limited to universities, journalists and civic society organizations. A selection of targeted EITI implementing countries will be made to focus this engagement efforts. This selection will be made by the International Secretariat in conjunction with the consultant.

2. Phase two: Regional capacity building. The objective of this phase is to raise awareness about how the EITI data (all the information required in the EITI Standard) can support the identification of corruption risks in the extractive sector. During this phase, participants are expected to develop their skills for analysing EITI data including identifying corruption risks in

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the extractive sector, building on steps 1 (chose sector and goals) and 3 (select areas of focus) of the NRGI corruption diagnostic tool.

3. Phase three: Use of data. The objective of this phase is to use evidence from the EITI data or lack thereof to identify forms of corruption or malpractices most likely to occur in different areas of the mining and hydrocarbon sectors. These areas could include, but are not limited to licensing and contracting, operations, revenue collection, revenue management and oversight of State-Owned Enterprises (SOE's). Participants are expected to put in practice their skills and the knowledge acquired in phase two, building on steps 2 (review existing data) and 4 (diagnose corruption) of the NRGI corruption diagnostic tool. For the purpose of this project, this evidence and information gaps will be captured in questions labelled *Preguntas EITI.*

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

The consultant will co-design this project with relevant EITI staff members, including the LAC regional team. The lead contact at the EITI International Secretariat will be the Regional Director for LAC. The work is broken down in four phases that are completed sequentially. To achieve the foregoing, the consultant will be required to develop the following specific tasks:

1. Phase one: Project design and engagement plan.

   o <u>Project design</u>. The consultant will co-design with the EITI IS staff members a detailed plan for the development of the four phases of the project. The project plan should outline the scope, focus, steps and timing to complete the objectives of the project outlined in section 2 of this document.

   o <u>Target audience</u>. Based on his/her expertise, the consultant will recommend the specific target audience that could participate in the project, emphasizing the participation of journalists, universities, think-tanks and civil society organizations. Participation in this project could be individually or in multidisciplinary teams, and the consultant should be able to advice on this, based on the objectives of the project outlined in section 2 of this document. The consultant will engage with the EITI staff in this process.

   o <u>Engagement plan</u>. The consultant will develop an engagement plan per the description made in phase one above, to ensure proper understanding of the project and attract well qualified participants and partner institutions. The consultant will support the EITI International Secretariat in preparing communication material, promoting the project, organizing briefing sessions, reaching out and following-up possible participants.

2. Phase two: Regional capacity building

   o <u>Workshop design</u>. The consultant will co-design with regional partners, organizations and the EITI staff a two-day workshop focused on the use of EITI data including the NRGI tool for addressing corruption risks. The consultant should be able to advise on delivery methods, resources and databases that participants could use in phase three of the project. The EITI data could include but is not limited to the information provided by the EITI Reports and the EITI Standard including systematically disclosed information through EITI portals and other means. The main goal of the workshop is to elicit questions that based on EITI data, address or highlight corruption risks or malpractices (as stated in objective of phase three, these questions are to be labelled *Preguntas EITI).*

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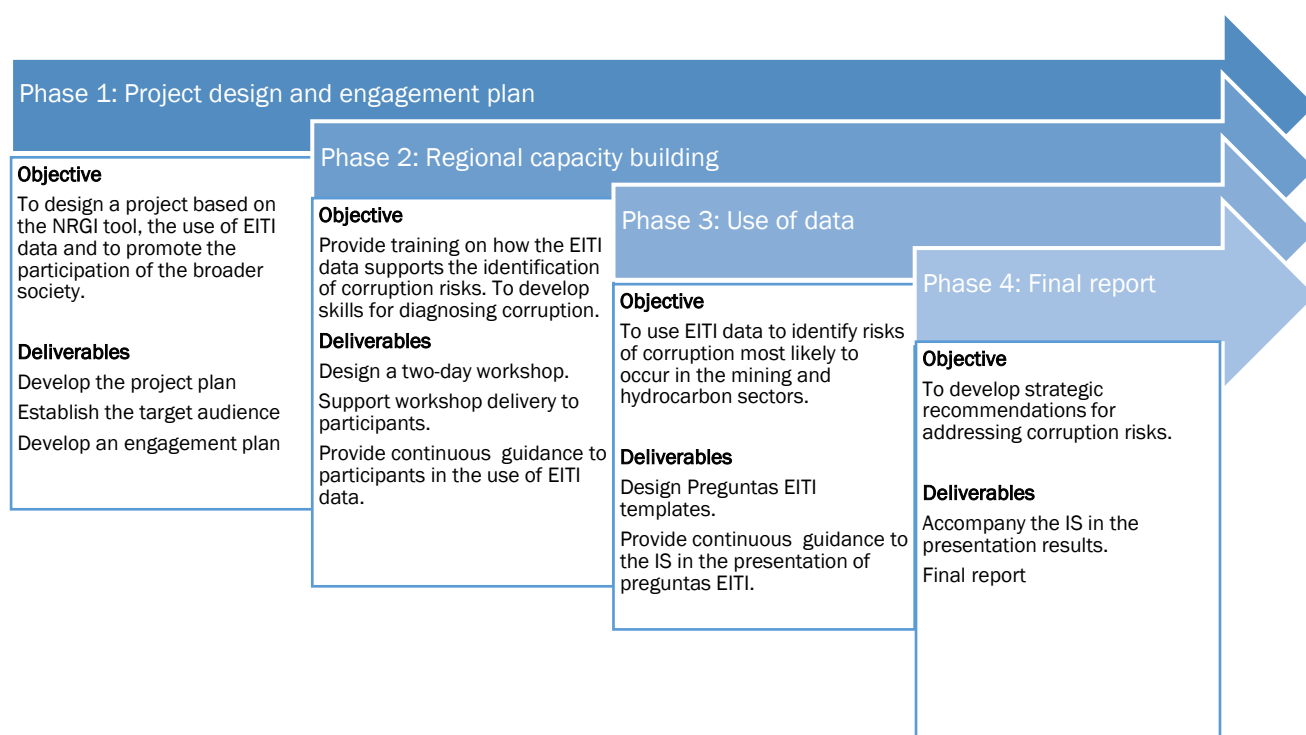Address: Rådhusgata 26, 0151 Oslo, Norway • www.eiti.org

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- o Workshop delivery and follow-up. With the support of the regional partners and the EITI staff, the consultant will coordinate the two-day workshop assuring the engagement of participants during sessions. After the two-day workshop, the consultant will provide continuous coaching and guidance to participants to select the scope, goals and resources needed in stage three of this project. When providing coaching and guidance, the consultant should build on steps 1 and 3 of the NRGI tool.

- o Guidance in the use of data. The consultant will be responsible of providing technical guidance to participants in developing their *Preguntas EITI*. Technical guidance could be provided using regular on-line meetings or any other methodology suggested by the consultant after the workshop. When needed, the consultant will work with the EITI staff as a liaison between participants and stakeholders to direct questions, provide feedback and enrich the *Preguntas EITI*. To provide proper guidance to participants, the consultant is expected to co-design a set of templates that participants could use to develop their *Preguntas EITI*. The templates should guide participants through the process of using EITI data to address corruption risks and should be framed on the NRGI tool. When developing these templates, the consultant is expected to build on the NRGI tool areas (licensing and contracting, operations, revenue collection, revenue management and State-Owned Enterprises or adaptation of these four areas to other areas) and the steps 2 and 4 of the NRGI tool.

- o Presentation of *Preguntas EITI*. The consultant will be responsible for providing continuous guidance to the participants on the best format to present their *Preguntas EITI*. When providing coaching and feedback, the consultant is expected to build on steps 5 and 6 of the NRGI tool.

3. Phase three: Use of Data

- o Building on work and knowledge from phases 1 and 2 and the guidance received from the consultant, participants are expected to develop targeted questions that raise or address corruption risks and malpractices in the extractive sector. Each participant must present these questions (*Preguntas EITI*) to all their peers and the International Secretariat in a public presentation. The consultant should support and guide the International Secretariat in the preparation of this phase.

The consultant is required to document in a summary report the process, findings and outcomes of this project to be approved by the International Secretariat.

*Figure 1. Overview of phases and deliverables*

**Phase 1: Project design and engagement plan**

**Objective**
To design a project based on the NRGI tool, the use of EITI data and to promote the participation of the broader society.

**Deliverables**
Develop the project plan
Establish the target audience
Develop an engagement plan

**Phase 2: Regional capacity building**

**Objective**
Provide training on how the EITI data supports the identification of corruption risks. To develop skills for diagnosing corruption.

**Deliverables**
Design a two-day workshop.
Support workshop delivery to participants.
Provide continuous guidance to participants in the use of EITI data.

**Phase 3: Use of data**

**Objective**
To use EITI data to identify risks of corruption most likely to occur in the mining and hydrocarbon sectors.

**Deliverables**
Design Preguntas EITI templates.
Provide continuous guidance to the IS in the presentation of preguntas EITI.

**Phase 4: Final report**

**Objective**
To develop strategic recommendations for addressing corruption risks.

**Deliverables**
Accompany the IS in the presentation results.
Final report

## 4. Qualification requirements

The Consultant or consortium of individuals leading the project *Addressing corruption risks through public debate and the use of data* should be credible, trustworthy and technically competent. Short-listed persons shall be assessed based on the following criteria/requirements:

- o Academic or professional background in law, public policy, public finance, natural resource governance, investigative journalism, economics, political science, public administration or related fields, preferably with post-graduate education.
- o At least three (5) years of relevant work experience in these areas.
- o Previous work experience in writing and researching on anti-corruption.
- o Previous work experience in organizing events.
- o General understanding of Latin American and Caribbean social context.
- o General knowledge of the regulatory framework for the extractive industries and anti-corruption laws in the Latin American and Caribbean region.
- o Knowledge of the Extractive Industries Transparency Initiative (EITI) and the EITI Standard.
- o Proficiency in written English and Spanish.

## 5. Duration and schedule of deliverables

The assignment is expected to take up to 30 consultancy days, commencing on last week of June 2022. The assignment is expected to be completed by 15 September 2022. The proposed

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schedule is set out below:

| Activity | Estimated date | Tentative consultancy days |
| --- | --- | --- |
| Call for proposals | 9 – 23 June (2 weeks) | - |
| Finalisation of contract | 24 June – 1 July (1 week) | - |
| Phase one | 5 – 19 July (2 weeks) | 8 |
| Phase two | 20 July– 20 August (4 weeks) | 14 |
| Phase three | 21 August– 15 September (3 weeks) | 8 |

Any written materials produced in relation to this project should be produced in Spanish and in line with the EITI branding and templates, which will be provided to the Consultant. Materials should comply with the EITI Style Guide and the EITI communications design principles, set out below.
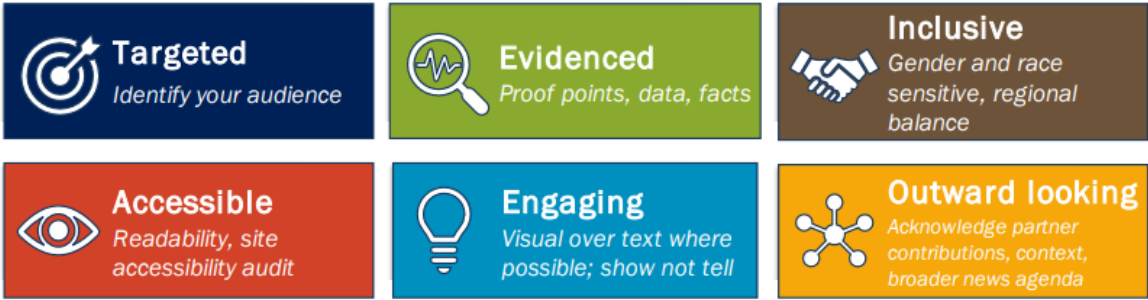


Written materials should also, where appropriate, acknowledge USAID as the donor supporting this work. Acknowledgements of USAID's contribution will be undertaken in conjunction with the EITI Communications team in line with USAID's guidelines.

## 6. Support to be provided by the International Secretariat

The Consultant shall, on a regular basis, coordinate with and report to the Regional Director for LAC at the EITI Secretariat on all matters pertaining to the implementation of the Project. The EITI International Secretariat, likewise, retains an oversight of the project and should be included in updates and discussions throughout project implementation. The Regional Direction for LAC at the EITI International Secretariat will provide the Consultant with the following support:

- Coordination with partner organizations and local stakeholders to facilitate the Consultant's work.
- Continuous feedback on the achievement of objectives.
- 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:

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- A **Technical Proposal**, outlining: (a) the experience of the consultant/s, (b) the proposed methodology and work plan for achieving the objectives and tasked described in 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 by COB CEST 26 June 2022.

Proposals will be assessed following the below criteria:

- Experience of the Consultant relevant to the Assignment

- Adequacy and quality of the proposed methodology, and work plan in responding to the Terms of Reference (TORs)

- Key Experts' qualifications and competence based on the Qualification requirements (see section 4 above)

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 x T% + Sf x 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.*

## 8. 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. 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.

- EITI guidance note on addressing corruption risks through EITI Implementation. https://eiti.org/files/documents/eiti_gn_addressing_corruptoin_risks.pdf

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- NRGI tool for diagnosing corruption in the extractive sector.
  https://resourcegovernance.org/sites/default/files/documents/diagnosing_corruption_in_the_extractive_sector_a_tool_for_research_and_action.pdf

- Discussion paper: The EITI's Role in Fighting Corruption.
  https://eiti.org/files/documents/eiti_global_conference_discussion_paper_-_eitis_role_in_fighting_corruption_1.pdf

## Annex A: Illustrative list of related initiatives led by partner organizations

| Organization | Initiative |
|---|---|
| USAID | Initiative: Anti-corruption Datathon<br>Country: Peru<br>Year: 2021<br><br>USAID in partnership with Data Science is organizing a Datathon focused on using data science and artificial intelligence to solve current challenges related to corruption in contracting and procurement of public infrastructure. The requirements for the technological solution should describe the level of innovation, applicability, sustainability and scalability to be implemented in the public sector. |
| NRGI | Initiative: National oil-company hackathon<br>Country: Global<br>Year: 2019<br><br>NRGI run an online hackathon using a selection of open data from their National Oil Company Database. The objective of the hackathon was to find 1) Trends in the national oil companies' dataset regarding energy transition; and 2) trends in the evolution of economic success of national oil companies over time. The winner developed a platform to understand how National Oil Companies deliver value to their countries. |
| Social TIC | Initiative: Datathon about prison system<br>Country: Mexico<br>Year: 2019<br><br>A group of social organization in Mexico organized a datathon about the national prison system. The objective was to analyze and visualize open data aiming to promote transparency and accountability in the Mexican prison system. The initiatives were focused on maternity in prison, torture and whistleblowing, minors in prison and the impact of corruption in the prison system. The winning team developed a platform for monitoring human rights in Mexican prisons. |
| OGP | Initiative: OGP Toolbox<br>Country: France<br>Year: 2017<br><br>OGP organized a series of events, sprints, hackathons and workshops that concluded in a three-day global hackathon to launch international collaborations around digital solutions to improve democracy. The outcome of this project was the OGP Toolbox, a collaborative |

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| | platform that gathers digital tools (Open data portals, public consultation platforms, tools to monitor and co-create the law, discussion forums, civic tech solutions, online platforms to follow the implementation of national action plans) to improve transparency and democracy. |
| OECD | Initiative: Hackathon on public integrity<br>Country: Greece<br>Year: 2017<br><br>The OECD in partnership with the Greek General Secretariat against Corruption (GSAC), the Harokopion University and the Greek Open Technologies Alliance (GFOSS) organized a Hackathon in which students, academia, start-ups, software developers, and other participants interested in making an impact in society in the area of anti-corruption, engaged in collaborative computer programming. |
| Ethos | Initiative: Anti-corruption Hackathon<br>Country: Mexico<br>Year: 2017<br><br>The Mexican thinktank ETHOS organized an anticorruption hackathon focused on developing a tool that supports to fight the impact of corruption in the country. Participants developed their proposals focusing on anonymous reporting, monitoring of public infrastructure and procurement and public transactions. The winner developed a tool that facilitates the process of visiting prosecution offices, and allows citizens to evaluate the services. |
| IFC | D2D Program<br><br> |
| IMF | Anticorruption Challenge |

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| | JOINING THE DOTS WITH PUBLIC OFFICIALS: CROSS-MATCHING BENEFICIAL OWNERSHIP AND FINANCIAL DISCLOSURES DATA TO IDENTIFY RED FLAGS<br><br><br><br>The project team is developing a dynamic tool capable of incorporating different datasets and integrating them into the system's automated forms of data collection and learning programming logic (machine learning). In this way, within a gradual curve of complexity, their system will be able to identify new risks of corruption by taking into account the rules of analysis and patterns of the red flags already detected and registered in the database's historic records. | |
| MIM |  | |