



**Opening
Extractives**

Unlocking the benefits
of ownership data

Terms of Reference

Supporting EITI Argentina 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 Argentina

Argentina was accepted as an EITI member country in February 2019. EITI implementation in the country is administered by Argentina's Multi-Stakeholder Group (MSG), which is chaired by the Mining and Energy Secretariats. The MSG is comprised of representatives from the government, industry, and civil society. The activities to implement EITI in the country are included under several program objectives agreed by the MSG for a particular year.

Since its implementation, EITI Argentina has published and submitted two reports to the EITI covering fiscal years 2018 and 2019. The latest report was published in December 2021. Argentina's [EITI Reports](#) have included a series of recommendations to improve EITI implementation in the country. Since the publication of the first EITI Report, several actions have been put in place, such as the launching of a systematically disclosed portal with mining information, called SIACAM. The [EITI Argentina portal](#) includes updated data

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Opening Extractives

Unlocking the benefits
of ownership data

on production (disaggregated by company and project), exports and economic contribution of the sector.

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.

To address the foregoing, the EITI Standard, under [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. 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 provides sustained support for over five years to over ten countries seeking to bring data on company ownership into the public domain. The programme combines political and technical

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Opening Extractives

Unlocking the benefits
of ownership data

engagement with participating countries to implement reforms on beneficial ownership disclosure in the extractive sector. 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 Argentina.

1.4. Progress of extractives BO disclosure in Argentina

The National Government has made commitments in international forums to collecting beneficial ownership information from foreign companies and those involved in property purchase and public contracting (UK 2016 Anti-Corruption Summit), and to advance transparency in the extractives (2019 OGP NAP). While there is a legal and regulatory framework for beneficial ownership data collection by government entities, this framework does not yet extend to the public disclosure of this information. Through Resolution 4697 enacted in April 2020, the AFIP now requires beneficial ownership information to be reported by a wide range of companies not limited to the extractive industries, although it contains no provisions for the public disclosure of this information.

In 2021, Argentina became a participating country in the Opening Extractives programme. In March 2022, Opening Extractives published a [scoping study](#) to assess the status of beneficial ownership transparency in Argentina, including legal and institutional aspects with regards to the implementation of Requirement 2.5 of the EITI Standard. This report included specific recommendations for short-, medium- and long-term action to advance on beneficial ownership transparency.

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

The MSG has undertaken some efforts to collect and disclose beneficial ownership information through EITI reporting but only eight out of the 39 material mining, oil and gas companies reported this information. It has also published a list of material extractive companies that are subsidiaries of publicly listed companies, with references to their related regulatory filings. Beneficial ownership information on the companies bidding for offshore oil and gas deposits in the period under review is not available. Indeed, it remains unclear based on EITI documents and stakeholders consulted whether beneficial ownership information has been requested from all companies holding and applying for extractive licenses since January 2020. The General Justice Implementation agency (IGJ or 'Implementación General de Justicia') maintains a register of legal owners for all

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Opening Extractives

Unlocking the benefits
of ownership data

commercial companies with their headquarters in Buenos Aires. Information on legal persons is available upon request (and [limited information](#) is published in open data), and beneficial ownership information is also mandated to be collected from all commercial companies, though beneficial ownership information is not publicly disclosed due to fiscal secrecy laws. For these reasons, among others, [EITI's latest validation](#) assesses Requirement 2.5 as “partly met”.

2. Objectives of the assignment

The Argentina EITI MSG, through the EITI International Secretariat, seeks an individual consultant with technical expertise, free from any conflict of interest, to support the Opening Extractives programme by rendering project management, stakeholder engagement, and facilitation 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 through the implementation and completion of requirements, plans, and programs on beneficial ownership transparency including enabling public access to data;
- d. Build stakeholder capacity to submit, verify and utilise beneficial ownership data for research, advocacy, policy reform, and other purposes;
- e. Support in the coordination and preparations for regional peer exchange activities and events in the margins of the EITI Board to be held in March 2023, and in the lead up to EITI's Global Conference to be held in June 2023.

3. Scope of services, tasks, and deliverables

The technical consultant shall perform the following tasks:

1. Strengthen institutional commitment and stakeholder engagement for BOT reform

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Opening Extractives

Unlocking the benefits
of ownership data

- a. Undertake all necessary coordination with local stakeholders, as well as with the Opening Extractives team and other international partners for all beneficial ownership-related activities in Argentina;
- b. Support the MSG in developing and publishing a 2023 roadmap for implementation of the Opening Extractives programme;
- c. Working with the Opening Extractives team, consistently encourage 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;
- d. Support Argentina's EITI National Coordinator in their outreach efforts to provincial governments, focused on beneficial ownership transparency.

2. Technical assistance, capacity building and peer exchange on BOT

- a. Support the MSG in ensuring Argentina's compliance with Requirement 2.5 of the EITI Standard and international standards such as the Open Ownership principles, 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 recommendations specified in the scoping study;
- b. Provide coordination support to the Opening Extractives technical lead in engaging with relevant government agencies at the national and subnational level, and providing support for technical work related, for example, to the review and revision of BO reporting templates based on model declaration form and improvement of company register;
- c. Organise 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;

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Opening Extractives

Unlocking the benefits
of ownership data

- d. Support in the organisation of peer exchange activities with other countries in the region in the margins of the EITI Board to be held in March 2023, and in the lead up to EITI's Global Conference to be held in June 2023.

3. Monitoring, evaluating, and reporting.

- a. Within the first three weeks of engagement, submit an inception report that will demonstrate the review and understanding of the assignment, contain a detailed timetable, and outline strategies for finalising the Opening Extractives engagement plan based on feedback from stakeholders, and other activities planned by the Opening Extractives team, as well as with the broader EITI Adapted Implementation approach;
- b. Submit to Opening Extractives team monthly progress reports, including documentations of meetings, orientations, and stakeholder engagement activities done within a specific month;
- c. 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 Argentina.

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, and democratic strengthening, 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 Spanish 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.

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Opening Extractives

Unlocking the benefits
of ownership data

- The consultant should be based in Argentina

5. Budget and duration

The consultant shall be engaged for a period of 12 months, from **December 2022 to 30 November 2023** for a total maximum number of 110 days for the period, with the possibility of extending the contract to subsequent years depending on availability of funds.

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