Terms of Reference for Consultant supporting the implementation of the Opening Extractives programme in Indonesia

Introduction

Opening Extractives (OE) is a programme jointly implemented by the Extractives Industry Transparency Initiative (EITI) and Open Ownership (OO) (collectively referred to as the "OE Team") to enhance beneficial ownership transparency in the extractive sector. We are seeking an individual Consultant or a reputable firm based in Indonesia, preferably Jakarta, to support the implementation of beneficial ownership transparency commitments in Indonesia. This will entail supporting the OE Team and the national EITI Multi-stakeholder Working Groups (MSG) with the implementation of the OE programme. The objective is to strengthen beneficial ownership (BO) transparency in Indonesia through technical assistance and capacity building to government ministries and other stakeholders, with a focus on BO data verification and the use of BO data in integrity checks of extractive companies applying for, holding or transferring licenses.

Background

Requirement 2.5 of the 2023 EITI Standard requires implementing countries to request BO information of reporting companies to be publicly disclosed. In addition, companies should publicly disclose the beneficial owners of corporate entities 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. As of 1 January 2020, all implementing countries are recommended to develop and publish a comprehensive BO Registry. The newly published 2023 EITI Standard has reinforced the connection between licensing and beneficial ownership information, helping ensure that licenses are granted to transparent and accountable entities. Under Requirement 2.2, EITI implementing countries are encouraged to link publicly available license registers to government platforms containing information about legal and beneficial owners of oil, gas and mining companies. This linkage can help regulators analyse who is behind the legal entities applying for, holding or transferring licenses, as one of the key tools for integrity screening of companies.

The OE 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 11 countries seeking to bring data on company ownership into the public domain, and to use this information for better natural resource governance. The programme combines political and technical 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 and USAID.

The programme started in February 2021, and was officially launched on 8 September 2021 in London. Indonesia has been participating in the OE programme since 2021 and has taken part in activities such as learning and exchange between extractive companies and the training of government officials on use of BO data for licencing screening. Indonesia took part in a global peer exchange in November 2023 that aimed to build capacity of actors in how to actively use beneficial ownership data for integrity screening in the licensing process.

One of the key objectives for Phase 2 of the programme, which started in July 2023, is to deepen the initiative's work in integrating the use of BO data in processes for the application, award and holding of extractives licenses and contracts, to mitigate governance risks through the energy transition. The scope of this ToR is directly linked to this new area of work under the programme.

Indonesia

In Indonesia, BO data is collected by the Ministry of Human Rights and Law (MLHR) at the point of company registration. The ESDM also requires BO data to be submitted with license applications which is then verified against the MLHR's BO register. In 2023, a workshop organised by the OE team on strengthening BO data use for license screening and approval provided a venue for license authority representatives to better understand the challenges of BO data collection and how it could be better used in the licensing process. It also provided an opportunity to demonstrate how agencies can detect red flags in varied aspects of BO data collection and licensing. The country also took part in a global exchange to learn on best practice on this subject. Government agencies identify next steps to take this work forward in 2024.

Indonesia is the top global producer of nickel, a critical mineral to the energy transition. Demand for nickel is anticipated to rise, and using BO data in the licensing process will ensure Indonesia can attract legitimate investors. Drawing from the experience to date, the OE programme has identified scope for a focused stream of work to ensure compliance with Requirements 2.2 and 2.5 of the EITI Standard and to enhance the use of BO data in license and permit screening at the national and local levels. The consultancy will focus on executing these activities, with the following details.

Objectives of the assignment

The Opening Extractives programme is seeking a Consultant to support their work focusing on improving the collection and use of BO data within extractive licenses and contract awards, strengthening compliance and verification of BO data in the extractive sector and identifying opportunities to embed the use of BO data as one of the key tools agencies can use to screen license applications.

Scope of work

- Facilitate efforts and provide technical assistance toward building institutional processes at ESDM to embed BO data in the screening of licenses:
    - Provide recommendations on how ESDM could embed BO data use in their license screening procedures, including that collected by MLHR.

    - Develop recommendations to resolve any gaps in data collected by MLHR and ESDM and its verification.
    - Contribute to the conceptualisation and delivery of training on how to use BO data for license screening, including verifying beneficial ownership data of foreign companies.

Deliverables and timeline

The assignment is expected to commence in July 2024, for a maximum of 20 non-consecutive days between July and December 2024. The Consultant is expected to provide periodic reports of progress against tasks, including achievements, challenges, recommendations, and action points. The Consultant will report to EITI's Country Manager for Indonesia, and indirectly to the OE Programme Manager.

The Consultant is expected to work closely with the Indonesia-EITI national secretariat on the monitoring, evaluation and learning (MEL) aspects and with the Open Ownership Regional Manager for Asia, and other Open Ownership experts as required, on the technical aspects of the OE programme.

The proposed schedule is set out below and should be agreed in consultation with the national secretariat. This schedule may be revised at regular intervals based on the progress of the programme.

Task	Timeframe
Signing of contract	July 2024
Deliver consultations and working sessions with technical staff of ESDM in charge of licensing processes and provide technical assistance in order to embed BO into the process flow of integrity screening for licensing	August-November 2024
Analysis of BO data collected by ESDM and MLHR, including assessment of interoperability and remaining gaps in compliance with Requirement 2.5	July-August 2024
Final report and recommendations	December 2024

Qualifications

The Consultant should be credible, trustworthy, and technically competent.

Shortlisted persons will be assessed based on the following criteria/requirements:

- Background in law, public policy, public finance, natural resource governance, investigative journalism, economics, or related fields, preferably with post-graduate degree or education;
- Good understanding of the due diligence process in public procurement, especially in oil, gas and mining licensing awards;
- Understanding of the governance and transparency space in Indonesia, data transparency, and resource governance issues, with knowledge of the extractive industries;
- Familiarity with Indonesian political dynamics and experience of coordination and stakeholder engagement with both junior and senior government officials ;
- Experience in and knowledge of beneficial ownership transparency concept, tools, use cases and approaches;
- Skills and experience in project management, including development and delivery of training and workshops;
- Knowledge of Bahasa;
- Location: Jakarta. Other locations in Indonesia might be accepted upon submission.

To ensure quality and independence in the undertaking, the Consultant must, in their technical and financial proposals, disclose any potential or actual conflicts of interest, together with a comment about how they may be mitigated.

Selection process

A Consultant will be selected following a quality and cost-based selection procedure.

Consultants should submit:

- A Technical Proposal, following the [this template](#).
- A Financial Proposal in USD, 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 Consultant does not need to include any costs related to specific activities indicated in this TOR (travel, event costs, etc.). These costs will be covered separately by the programme. The Financial Proposal should be sent as a password protected PDF file. The passwords should not be sent - financial proposals submitted without the password will be considered non-responsive. The passwords will be requested following the assessment of the technical proposals.

Proposals must be delivered by email to SKasimova@EITI.org by close of Wednesday 26 June. The criteria for assessing the technical proposals will be based on the following:

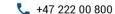Rådhusgata 26, 0151 Oslo, Norway   +47 222 00 800   openingextractives@eiti.org

- 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 Consultant's qualifications and competence based on the Qualification requirements (see section on qualification requirements 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%.

Reference materials:

- The EITI Standard
- Guide to implementing the EITI Standard
- Guidance on MSG Oversight of Beneficial Ownership Disclosure
- Opening Extractives microsite
- Opening Extractives Progress Report 2022/23
- Beneficial ownership transparency in Indonesia