

*This note has been issued by the EITI International Secretariat to provide guidance to implementing countries on meeting the requirements in the EITI Standard. Readers are advised to refer to the EITI Standard directly, and to contact the International Secretariat to seek further clarification. Contact details can be found at [www.eiti.org](http://www.eiti.org).*

# License allocations

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## *Guidance note 4 – Requirement 2.2*

### **Summary**

The majority of resource rich countries have established systems for allocating licenses to explore and exploit oil, gas and minerals. In most countries these bidding and license allocation procedures are defined in publicly available legislation and regulations that set out how and on what conditions companies are granted rights. In other countries, these procedures are ad hoc, are being revised, or are simply not clearly articulated. Disclosing information about license allocation systems enables citizens to access essential information about how the country's natural resources are being developed. It is also a first step towards ensuring that licenses are not obtained through inefficient or corrupt practices or acquired by politically connected individuals. Where disclosure reveals deficiencies in the licensing system, stakeholders can use this information to press for reforms to ensure more transparent and efficient licensing systems, which in turn will tend to enhance the investment climate and the potential for developing the extractives industries.

The EITI requires that implementing countries disclose information about license awards and transfers that take place during the accounting period covered in the EITI Report (Requirement 2.2). This information should include a description of the process for awarding licenses, the criteria used, and deviations from the legal framework and policies on license allocations (Requirement 2.2). Countries may also include additional information on the licensing process, such as commentary on the efficiency and effectiveness of these systems (Requirement 2.2). In some implementing countries information about license allocations is readily available from government websites. In other countries there is little information about how and on what grounds companies have been awarded licenses. This note provides guidance to multi-stakeholder groups on how to address these issues as part of the EITI implementation process. It should be read alongside the guidance note on license registers.

Requirement 2.2 sets out the reporting requirements related to license allocations:

## 2.2 Allocation of licenses

- a) Implementing countries are required to disclose the following information related to the award or transfer of licenses pertaining to the companies covered in the EITI Report during the financial year covered by the EITI Report:
- i. a description of the process for transferring or awarding the license;
  - ii. the technical and financial criteria used;
  - iii. information about the recipient(s) of the license that has been transferred or awarded, including consortium members where applicable; and
  - iv. any non-trivial deviations from the applicable legal and regulatory framework governing license transfers and awards.
- It is required that the information set out above is disclosed for all license awards and transfers taking place during the accounting year covered by the EITI Report, including license allocations pertaining to companies that are not included in the EITI Report, i.e. where their payments fall below the agreed materiality threshold. Any significant legal or practical barriers preventing such comprehensive disclosure should be documented and explained in the EITI Report, including an account of government plans for seeking to overcome such barriers and the anticipated timescale for achieving them.
- b) Where companies covered in the EITI Report hold licenses that were allocated prior to the accounting period of the EITI Report, implementing countries are encouraged, if feasible, to disclose the information set out in 2.2(a) for these licenses.
- c) Where licenses are awarded through a bidding process during the accounting period covered by the EITI Report, the government is required to disclose the list of applicants and the bid criteria.
- d) Where the requisite information set out in 2.2(a-c) is already publicly available, it is sufficient to include a reference or link in the EITI Report.
- e) The multi-stakeholder group may wish to include additional information on the allocation of licenses in the EITI Report, including commentary on the efficiency and effectiveness of licensing procedures.

*Source: EITI Standard 2016, p. 17-18.*

## Guidance

The EITI International Secretariat recommends the following step-by-step approach to MSGs for addressing this requirement:

1. **In order to ensure that the EITI Report includes a description of the process for transferring or awarding licenses (Requirement 2.2(a)), the multi-stakeholder group is advised to gain an understanding of how licenses are allocated, for example by investigating the following:**
  - Do laws and regulations specify the procedures for license applications and the process by which licenses will be issued and approved?
  - What licensing practices does the government commonly follow? Bidding rounds, auctions, direct negotiations or awards on a 'first come first serve' basis? Note: the processes may be different for mining and oil and gas and these may need to be noted separately.
  - Which institution(s) has authority to grant oil, gas and mineral licenses? Note that there may be more than one system, e.g. systems at national, regional and local levels. If so, is there a clear delineation of competences between them and if not how disputes are typically resolved?
  - Are decisions to award licenses made based on established, consistent and clearly understood criteria/parameters and are these publicly announced for each license? This may include technical and financial qualifications needed to hold an oil, gas or mineral right, legal criteria, criteria for health, safety and environment, work programs etc.
  - Are there any reforms underway to the current licensing system?
  - Do the licensing procedures ensure follow-on title as between exploration and development rights in the event of a discovery being made?
  
2. **In accordance with Requirement 2.2(a), information related to any license awards or transfers taking place during the accounting period covered by the EITI Report should be disclosed. Implementing countries are advised to investigate whether such awards or transfers have taken place, and include a summary of these processes in the EITI Report. The summary should include (Requirement 2.2(a)):**
  - A description about the process by which the license(s) was awarded or transferred. Where this information is publicly available, it is sufficient to include a link or reference to where this information can be accessed.
  - Details about the technical and financial criteria used for awarding or transferring the license(s). Where this information is publicly available, it is sufficient to include a link or reference to where this information can be accessed.
  - Information about the recipient(s) of the license(s). This could for example be done by including a reference or link to a publicly accessible register or cadastre system that contains this information. Where such registers/cadastrals do not contain the necessary information, multi-stakeholder groups should ensure that the information is made publicly accessible, for example by providing the details in attachment to the EITI Report or making it available on the national EITI website. As per Requirement 2.3 (b), information about the recipient(s) should include:
    - the license holder(s), including consortia members where applicable;
    - the coordinates of the license area;

- the duration of the license (date of application, date of award and duration of the license); and
- in the case of production licenses, the type of commodity being produced.
- An assessment of whether the process for awarding or transferring the license(s) followed the procedures set out in applicable legislation and regulations. Any substantive deviations should be noted. This might include cases where the license(s) was awarded using a different licensing practice than the one commonly followed, deviations from standard criteria, including contract terms, etc.

Any significant legal or practical barriers preventing comprehensive disclosure of the above information for all license awards and transfers related to exploration and exploitation that have taken place during the accounting period covered by the EITI Report should be documented and explained in the EITI Report. The report should also include an account of government plans for seeking to overcome any such barriers and the anticipated timescale for achieving them (requirement 2.2(a)).

Implementing countries are encouraged, where feasible to disclose similar information for any licenses held by companies covered in the EITI Report, but awarded prior to the accounting period covered by the report (requirement 2.2(b)).

3. **Implementing countries should, in accordance with Requirement 2.2(b), investigate whether any licenses have been awarded through a bidding process during the accounting period covered by the EITI Report.** Where such bidding processes have taken place, the EITI Report should include or provide a link to the list of applicants; and details about the bid criteria.
4. **The multi-stakeholder group may wish to include additional information on the allocation of licenses in the EITI Report (Requirement 2.2(d)). Multi-stakeholder group may for example wish to look at and include:**
  - Commentary on the efficiency and effectiveness of these systems. This might include
    - the duration of the licensing process, including deviations from the deadlines set in the legal framework or guidelines;
    - the percentage of rejected license applications during the accounting year covered in the EITI Report;
    - the percentage of empty tenders or annulled auctions during the accounting year covered in the EITI Report;
    - the percentage of occupied land/blocks as a percentage of the total land/blocs open for extractive industry activity; and
    - the percentage of disputes regarding applications or tender bid procedures during the accounting year covered in the EITI Report and how these were resolved.
  - Information about number of revoked/cancelled licenses during the accounting year covered in the EITI Report, including reasons for the cancellations.
  - Information about changes in ownership of license holders during the accounting year covered in the EITI Report.
  - The general availability of licensing information and ease of access to this information, reliability of and confidence in data obtained.

## Examples

In **Liberia**, LEITI has conducted a full post-award audit of the processes for awarding concessions, contracts, licenses, permits and other rights to exploit natural resources in the period July 2009 to December 2011. The purpose of the audit was to ascertain whether the licensing processes were in compliance with applicable Liberian Laws at the time of award. The audit is available from:

[http://www.leiti.org.lr/uploads/2/1/5/6/21569928/leiti\\_post\\_award\\_process\\_audit\\_final\\_report.pdf](http://www.leiti.org.lr/uploads/2/1/5/6/21569928/leiti_post_award_process_audit_final_report.pdf)

**Mongolia's** EITI Report includes an overview of changes in licenses held by companies covered in the EITI Report.

**Appendix K—Survey on exploration and exploitation licenses**

#	Company name	Number of exploitation licenses				Number of exploration licenses				Comment
		Beginning bal of 2010	Purchased	Deducted	Ending bal of 2010	Beginning bal of 2010	Purchased	Deducted	Ending bal of 2010	
1	Agit Khangai LLC	1			1	1			1	
2	Agm Mining LLC	1			1	2			2	
3	Adamas Mining LLC	1		1	0	16		8	8	1 was returned partially and others were expired and cancelled
4	Adamas Mounty LLC				0	15		10	5	expired and cancelled
5	Adil Och LLC	1			1	1		1	0	cancelled

Source: Mongolia 2010 EITI Report, available from <http://eiti.org/report/mongolia/2010>

In **Norway**, information about licensing procedures is published at the website of the Norwegian Petroleum Directorate.

#### Relevant links:

- [Invitation to apply for petroleum production license \(pdf\)](#)
- [Ministry of Petroleum and Energy](#)

#### Guidelines:

- [Guidelines for applying to the 22nd licensing round \(pdf\)](#)
- [Guidelines for reporting company information \(pdf\)](#)
- [Guidelines for application letter \(pdf\)](#)

#### Forms that must be filled out:

- [Application letter table \(MS Excel\)](#)
- [Form 1 \(MS Excel\)](#)
- [Form 2 \(MS Excel\)](#)
- [Form 3 \(MS Excel\)](#)
- [Form 4 \(MS Excel\)](#) *Updatet 23.10.2012*
- [Form 5 \(MS Excel\)](#)
- [Form 6 \(MS Excel\)](#)
- [Form 7 \(MS Excel\)](#)
- [Form 8 \(MS Excel\)](#)

#### Other application information:

- [Form 4 attachment \(MS Excel\)](#)
- [Map of announced blocks 22. Licensing Round \(pdf\)](#)
- [Block coordinates for announced blocks](#)

**Source:** Norwegian Petroleum Directorate,  
<http://www.npd.no/en/Topics/Production-licences/Theme-articles/Licensing-rounds/22-nd-Licensing-round/22st-licensing-round-announcement>

In **Trinidad & Tobago**, the Ministry of Energy and Energy Affairs publishes detailed information about licensing procedures on its website.

The screenshot shows the website of the Ministry of Energy and Energy Affairs. The header includes the logo and the tagline 'POWER, PROSPERITY, PROGRESS'. The main navigation menu lists 'RESOURCES', 'INVESTORS', 'SERVICES', 'PROJECTS', 'DATA', and 'PUBLICATIONS'. The 'INVESTORS' section is highlighted, with a dropdown menu showing 'Competitive Bid Round 2013 - Deepwater' and 'Competitive Bid Round 2013 - Onshore'. Below this, there are sections for 'LEGISLATION', 'POLICIES', 'CURRENT FISCAL MEASURES', 'COMPANIES', and 'CORPORATIONS'. A 'QUICKLINKS FOR...' section lists 'COMPETITIVE BID ROUND' with links to 'Competitive Bid Round 2013 - Deepwater' and 'Trinidad Onshore Bid Round 2013'. There is also a section for 'INVESTORS' and 'LINKS'. A large banner on the right side of the page reads '2013 NOW OPEN ONSHORE BID ROUND' and 'THREE (3) BLOCKS 64,000 HECTARES IN TRINIDAD'S SOUTHERN BASIN. OPEN FOR BIDDING MAY- OCTOBER 2013'. Below the banner, there is an 'Introduction' section with text about the Republic of Trinidad and Tobago and the Deep Water area.

**Source:** Ministry of Energy and Energy Affairs,  
<http://www.energy.gov.tt/investors.php?mid=208>

**Timor-Leste's** 2013 EITI Report includes an explanation for why the government decided to deviate from the license allocation procedures when awarding PSC 11-106 to ENI and Timor GAP in 2013.

**(a) Brief Note on how PSC 11-106 was awarded**

The oil and gas sector in Timor-Leste consists of two different jurisdictions, which are the Timor-Leste Exclusive Area (TLEA) and the Joint Petroleum Development Area (JPDA). The PSC 11-106 is an offshore oil field that is located in the JPDA area. This PSC was granted to ENI JPDA 11-106 BV as the operator (incorporated under Netherlands Law) and its joint ventures such as Inpex Offshore Timor-Leste, Ltd (incorporated under Japanese Law), and Timor Gap PSC 11-106 Unipessoal Limitada (the National Oil Company) in October 2013. Each company holds shares as follow: ENI 40.533%, Inpex 35.467% and Timor Gap with 24%.

The basis for awarding this PSC was mainly because Eni as the operator of Kitan field, PSC 06-105, is obliged to relinquish the exploration area. Under the contract, the exploration area outside the development area shall be relinquished. However, the existing contract does not allow Eni to continue to retain such area. Eni - as the initial holder of the contract area - had identified the relinquished area as a prospective area for further development.

Eni approached the ANP in early 2012, indicating its interests to develop the relinquished exploration area of Kitan PSC. Both parties started to work on the "termsheet" in mid-2012 resulting in an agreed terms and conditions in the draft PSC negotiation.

One of the reasons that ANP decided to award this PSC to Eni directly, was based on the consideration that Eni has been working in the area for a significant amount of time with good understanding of the geological and petroleum systems in the JPDA. In addition, the participation of TIMOR GAP, E.P in this PSC was considered a milestone for the progress of the National Oil Company.

With the consent from the Joint Commissioners, PSC was awarded in April 2013, where the Contractor had 60 days to meet the requirements under the preceding conditions. The 22 October 2013 was declared as the PSC's effective date after the Contractor fulfilled all the requirements such as the completion of the Joint Operating Agreement, appointment of Operatorship, insurance and Parent Company Guarantee.

PSC 11-106 is currently at exploration stage. Two main prospects were identified as the hub for future development where the satellite fields will be linked back to the main hub.

**Source:** Timor-Leste 2013 EITI Report, [https://eiti.org/files/tl-eiti\\_report\\_2013edit.pdf](https://eiti.org/files/tl-eiti_report_2013edit.pdf)