



## **TANZANIA EITI – BENEFICIAL OWNERSHIP IMPLEMENTATION STATUS**

Tanzania is among eleven countries that are taking part in the pilot study for disclosing the identity of the real owners behind the extractive companies operating in the country other Pilot countries includes **Burkina Faso, the Democratic Republic of Congo, Honduras, Kyrgyz Republic, Liberia, Niger, Nigeria, Tajikistan, Tanzania, Togo** and **Zambia**.

In January 2014 Tanzania agreed to participate in the beneficial ownership pilot aimed to assess the feasibility of requiring beneficial ownership disclosure through the EITI. This involves reviewing existing disclosure practices and identifying obstacles for disclosure of individuals who own and benefit from mining, oil and gas licenses and contracts. To achieve this goal, TEITI began a process of recruiting a consultant in May 2014 who will conduct a legal review to inform on approach for disclosing those individuals owning stakes and benefiting from Tanzania's minerals, oil and gas resources. The study has not yet completed until mid-September due to procurement delays resulted from poor responsiveness of the 1<sup>st</sup> Advert. Nevertheless, TEITI has made the following progress:-

### **(a) MSG agreed on threshold for beneficial ownership:**

TEITI MSG met on 17th June, 2015 and deliberated on materiality threshold of BO in Tanzania. Generally, materiality of 5% was considered to be adequate. However, there was a concern that the materiality level should reflect the authorised capital of the company this is due to the fact that authorised capital varies between companies. It was resolved that a final decision on materiality will be made after receiving recommendations from the BO study.

**(b) Companies to report on BO in the reporting template for 5<sup>th</sup> and 6<sup>th</sup>**

**Reconciliation Exercise:**

TEITI-MSG agreed to collect information on BO through reporting templates for 5<sup>th</sup> and 6<sup>th</sup> TEITI reconciliation exercise. The reporting template requires extractive companies to provide identity of shareholders and percentage of interest they own against authorised company capital. The reporting templates have been circulated to extractive companies. The information to be collected may assist the consultant in making recommendations.

**(c) Accuracy of the Information**

As per ToR for BO pilot, management sign-off will be asked to certify the accuracy of the BO information disclosed.

Ministry of Energy and Minerals (MEM) issued an invitation to eligible firms on May 26th, 2014 to express interest for undertaking the assignment. Five local firms applied to undertake the study. The evaluation committee comprised of four members submitted its report on July 2014, but with divided recommendation on

two firms, one (former) which is a legal firm and the other (latter) whose strength is on management consultancy.

MEM Ministerial Tender Board (MTB) met on 21<sup>st</sup> April 2015 and reviewed the evaluation report along with documents on expression of interests from the two firms. After the assessment the board observe that, one firm lacked adequate strengths while the other firm did not conform to advertisement of tender requirement. In the view of noted shortfalls, MTB resolved to re-advertise the tender.

Notice of re-advertisement of Expression of Interests (EoI) was published on 8<sup>TH</sup> May 2015 and bids were opened on 19<sup>th</sup> May 2015. Two firms expressed interest both from Tanzania. The evaluation team made an assessment and recommended MM Attorneys to MTB and on 25<sup>th</sup> June 2015 MTB met and accepted the recommended firm to be requested to submit a combined Technical and Financial proposal.

It is expected that the consultant will begin the assignment by September 2015. In addition, MEM in collaboration with TEITI are working to establish open registry for disclosing names of individuals who own mineral rights for non-public traded companies. MEM maintains open mineral rights registry, both in hard copies and digital database known as Mining Cadastre Information Management System (MCIMS). The MCIMS is a rules-based system aligned with the Mining Act 2010. Mineral rights are granted on first-come, first-served basis. Information on tenements can be accessed in person at the Licensing Unit, Ministry of Energy and Minerals, or by online tenement portal at <http://portal.mem.go.tz/map>

### **The methodology for data collection:**

TEITI has designed reporting template for 5<sup>th</sup> and 6<sup>th</sup> reports to include a section for disclosing information relating to shareholders of the extractive companies and the

percentage of share they own within a company. The two reports are expected to be out in October 2015.

### **Obstacles for BO disclosure:**

The production of 5<sup>th</sup> and 6<sup>th</sup> TEITI is current on-going and so far there hasn't been any obstacle in encounter. However, TEITI has learnt the following:-

#### **1. Information of real owners of the proceed of mining and oil & gas companies:**

Many of the information available on public registry of government institutions responsible for registration of extractive companies contain limited information regarding beneficial ownership; most of information available is limited to names of company shareholders, board directors, authorized capital and percentage of shares own by each shareholder. The registry does not go beyond to provide details to individuals who either owns interest to the companies or have a direct control to towards respective company. Despite the fact that EITI require pilot countries to disclose real owners, the model-approach of collecting information in EITI largely depends towards the existing government institution: these might hinder disclosure of the information when responsible institution they too lack.

#### **2. Public Listed Companies**

The requirement for not disclosing public listed companies appears to be a challenge to country like Tanzania where mostly of the extractive companies taking place are large scale operations and many of these companies are public listed companies. EITI should considers to disclose both non-listed and listed companies.

#### **3. Means of Verification**

As mentioned above, number of the existing companies registry have limited information regarding individuals who owns interest and possess direct

control to the companies or in the decision making. This can be considered a challenge once for EITI to verify the details of the names disclosed, since the data will be unilateral disclosed without the other side verification if such disclosed is accurate. The question that remains is how can EITI Pilot country go about verifying the information that are unilateral disclosed?

#### **4. Credibility of the EITI Reports vis-à-vis Disclosure of BO**

The experience learnt from countries which has already publish BO data (Nigeria and Ghana) reflects that most of the data collected regarding BO are either false data or not accurate reported. Since EITI is at no position to verify the validity of data provided such inaccuracy pose a potential risks to the credibility of data reported within EITI reports.