



**PNG EXTRACTIVE INDUSTRIES
TRANSPARENCY INITIATIVE
NATIONAL SECRETARIAT**



**TERMS OF REFERENCE (TOR)
FOR SHORT TERM LEGAL CONSULTANCY SERVICES**

Prepared by PNGEITI National Secretariat

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SHORT TERM LEGAL CONSULTANCY SERVICES
FOR
COMPILATION AND PRODUCTION OF REPORT ON REGIONAL CONSULTATIONS, REVIEW AND
FINALISATION OF THE PROPOSED PAPUA NEW GUINEA EXTRACTIVE INDUSTRIES TRANSPARENCY
COMMISSION (PNGEITC) BILL

1. BACKGROUND

Extractive Industries Transparency Initiative (EITI) is a global standard that seeks to promote open and accountable management of revenues generated from extractive sector activities. It also seeks to strengthen government and company systems and processes, inform public debate and enhance trust among different stakeholders. The EITI has made significant contributions to improved governance of the extractive industries in numerous EITI implementing countries globally.

EITI implementation has two core components:

- **Transparency:** oil, gas and mining companies disclose information about their operations, including payments to the government, and government discloses its receipts and other relevant information on the industry. The figures are reconciled by an Independent Administrator (IA), and published annually alongside other contextual information about the extractive industries in accordance with the EITI Standard.
- **Accountability:** a multi-stakeholder group (MSG) with representatives from government, companies and civil society oversee the process and communicate the findings of the EITI reporting, and promote the integration of EITI into broader transparency efforts in that country.

The EITI Standard encourages MSGs to explore innovative approaches to extending EITI implementation to increase the comprehensiveness of EITI reporting. Most importantly, it also encourages high standards of transparency and accountability in public life, government operations and in business. The requirements for EITI implementing countries are set out in the EITI Standard. Additional information is available via www.eiti.org. The EITI Standard is being implemented in fifty two (52) countries around the world including PNG.

2. EITI IMPLEMENTATION IN PAPUA NEW GUINEA

PNG is endowed with vast reserves of oil, gas, gold, copper and other minerals. A significant proportion of export revenues to the Government is derived from the mineral wealth. In an effort to promote and improve transparency and accountability within the oil, gas and mining sectors, the Government is committed to supporting this global initiative. This is to ensure that the extraction of PNG's mineral wealth remains commercially sound.

EITI implementation in PNG is based on the National Executive Council (NEC) Decision No. 90/2013 that gave effect to the PNGEITI MSG to implement the EITI.

The objective of implementing EITI in PNG is to:

- Ensure a well-established and fully functional National Secretariat Office and its MSG;
- Show extractive industries' contribution (both directly and indirectly) to the PNG economy;
- Improve public understanding of the governance of the extractive industries, including details of mining and petroleum licensing and the approval process. And also any other prevailing licenses, reference to environmental and other regulatory processes and approvals;
- Strengthen revenue generation and collection to ensure consistency, transparency, accountability and accuracy of recorded payments or transfers by extractive industries to the government. The

government to also record receipts of these payments (including sub-national government entities), and accountability by government in utilization of these funds, including transfers to the subnational tiers of government and landowners;

- Engage stakeholders to effectively address issues affecting PNG's extractive industries; and
- Monitor and evaluate the EITI implementation in the country.

3. OBJECTIVES OF THE ASSIGNMENT (CONSULTANCY SERVICE)

The main objective of this assignment is to develop and produce a full Report on the recently concluded Regional Consultations on the proposed Papua New Guinea Extractive Industries Transparency Commission (PNGEITC) Act. It is also to provide legal advice and take the leading role in the final review of the Bill including; provision of technical expertise, advice and assistance on related administrative tasks as captured in the 'Scope of Work' (part 4 of the TOR). The expected outcome is to ensure that the proposed PNGEITC Bill secures support and endorsement by the National Executive Council (NEC) and subsequently passed by Parliament.

4. SCOPE OF WORK

The following details specific activities expected to be undertaken by the Consultant to achieve the above objectives. Without limiting the generality and intentions of the TOR, the Consultant shall undertake to meet the following deliverables:

- Assist with the one-on-one consultations with relevant national departments and State entities;
- Compile, document and produce a report from the recently concluded Regional Consultations on the proposed Extractive Industries Transparency Commission Act, including annexures;
- Review and incorporate changes or amendments in the proposed Bill arising from comments, recommendations and suggestions made by provincial stakeholder groups and others that participated;
- Finalise drafting of the Bill, including Drafting Instructions, Explanatory Notes and other documentations or instruments that may be required;
- Consolidate and prepare submission to the State Solicitor (Requesting Certificate of Necessity (CoN)) and deliver to the PNGEITC Legal Technical Working Group (TWG), the PNGEITI National Secretariat and the MSG;
- Critically review and finalise the Bill to be accompanied by a Cabinet Submission and presented to the TWG, the National Secretariat and subsequently to the MSG for endorsement;
- Assist the PNGEITI National Secretariat to finalise submissions, including the NEC Submission and the proposed Law for the Minister for Treasury to present to the National Executive Council (NEC) for deliberation and endorsement for tabling in Parliament.
- Provide technical advice and assistance to develop and produce a PNGEITC Corporate Plan for the PNGEITC Commission;
- Provide technical advice and assistance to develop and produce an Administrative Order for the PNGEITC Commission;
- Conduct workshops, briefing or information sessions (as may be required) on the contents of the final Bill for the TWG, the National Secretariat and the MSG; and
- Perform other tasks as required and directed by the TWG, the National Secretariat and the MSG.

4.1 Level of effort by the Consultant and Duration

The consultant is required to review and finalise the draft Bill for submission to Cabinet and subsequently to Parliament for enactment of the law to establish PNGEITI National Secretariat as an independent statutory entity as indicated above. This is a short-term assignment and is expected to take approximately four (4) months from December 2021 to March 2022.

5. CONSULTANT'S QUALIFICATION AND EXPERIENCES

The assignment must be undertaken by a legal expert or consulting firm that has experience in legislative drafting for establishment of Statutory institutions or a Commission consistent with the Regulatory Statutory Authorities Act (RSA) and the PNG Constitution. Further, the legal consultant must have a clear understanding and working knowledge on the PNG legislative process, the statutory requirements and the procedures involved in drafting laws or a Bill, securing Cabinet approval and presentation to Parliament.

6. TIME SCHEDULE FOR DELIVERABLES

The consultant shall complete the work associated with each task in accordance with the proposed schedule below:

Type of activity	Deliverable Dates
Signing of Contract	6 December 2021
Initial Meeting and Submission of Work Plan	8 December 2021
Compilation of Consultation Report and Review and Finalisation of Legislation (PNGEIT Commission Bill)	
Submission of the initial Regional Consultation Report	31 st December 2021
Submission of refine report and amended draft Bill including drafting Instructions and Explanatory Notes, & annexures to TWG/NS for reviews and comments	28 th January 2022
Submission of final report and Bill to TWG/NS	11 th February 2022
Submission of Regional Consultation Report with the amended draft Bill including annexures to State Solicitors office by PNGEITI MSG (Requesting Certificate of Necessity (CoN))	15 th February 2022
Consultant to review the feedbacks from State Solicitor as well as finalise Bill	1 st March 2022
Final reviews and documentations of NEC submission	25 th March 2022

Submission to NEC	30 th March 2022
Develop and Produce the Administrative Policies and Procedures of the PNGEIT Commission	
Develop and Produce 1 st draft of PNGEIT Commission Administrative Orders	10 th January 2022
2 nd draft of Administrative Orders	28 th January 2022
Submission of final Administrative Orders for PNGEIT Commission	10 th February 2022
Develop and Produce the Corporate Plan for the PNGEIT Commission	
Submission of 1 st draft Corporate Plan	15 th February 2022
Submission of 2 nd draft Corporate Plan	15 th March 2022
Submission of final and completed Corporate Plan	30 th March, 2022

7. EVALUATION CRITERIA

7.1 Technical Approach –Consultant (s) must demonstrate a thorough understanding of the tasks and scope of work required to compile and finalise the Regional Consultation Report. Consultant should address his or her practical approach to accomplishing the tasks set forth in this TOR to complete the assignment. The Consultant shall provide a detailed execution plan with a realistic schedule and assurance for timely completion of this assignment within budget.

7.2 Qualifications/Experience – Consultant should provide a one-page resume displaying the qualifications, experience, legal knowledge and skills required for this project.

7.3 Price – Consultant(s) should include a financial proposal with breakdown of all labour hours and other professional fees estimated for this short-term assignment.

8. ANNEXES

- Annex 1. NEC Decisions
- Annex 2. National Policy for Transparency & Accountability in the Extractives Sector in Papua New Guinea