

**TERMS OF REFERENCE  
FOR  
SHORT TERM LEGAL CONSULTANCY SERVICES**

**Background**

The Extractive Industries Transparency Initiative (EITI) is a global standard for improving transparency and accountability in the oil, gas and mining sectors.

EITI implementation has two core components:

- **Transparency:** oil, gas and mining companies disclose information about their operations, including payments to the government, and the government discloses its receipts and other relevant information on the industry. The figures are reconciled by an Independent Administrator, and published annually alongside other information about the extractive industries in accordance with the EITI Standard.
- **Accountability:** a MSG with representatives from government, companies and civil society is established to 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 and public understanding of revenues and encourage high standards of transparency and accountability in public life, government operations and in business. The requirements for implementing countries are set out in the EITI Standard<sup>1</sup>. Additional information is available via [www.eiti.org](http://www.eiti.org). The PNGEITI MSG has taken a drastic measure and has endorsed the initiative to be established by law.

Therefore, the PNG Extractive Industries Transparency Initiative (EITI) seeks to engage the services of an experienced consultant, an individual or a consulting firm with LEGAL background and 5 years and above experience in the field to provide the legal services for PNGEITI National Secretariat for a period of 6 months, i.e. from June to November 2023 (24 weeks).

**The objective of the assignment**

The main objective of this assignment is to review, assess and finalised the proposed bill and all other related documents to it that are required by law prior to establishment of a new government entity. 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 and the necessary actions required to meet the key statutory requirements or compliance as captured in the 'Scope of Work' (part 4 of the TOR). The expected outcome is to ensure that the proposed PNGEITC Bill is finalised and goes through the necessary administrative and statutory process and secures the support it requires for endorsement by the National Executive Council

(NEC) and subsequently presented to Parliament and enacted for transitioning of the PNGEITI National Secretariat office into an independent statutory Commission.

### **The Scope of services, task and deliverables for the consultant**

The consultant is expected to undertake the following tasks during the period;

1. Review the final draft bill, the regional consultation reports, one on one consultation report, the feedbacks received from the EITI International secretariat and any other written comments from the concerning stakeholders and identify the next phase to be re-worked,
2. Assess and provide guidance on the documents provided and delivered by previous consultant which include: NEC submission, Drafting instruction, Explanatory notes, PNGEITI Administrative Orders, PNGEITI Corporate Plan.
3. Provide a work plan specifying the activities that are to be taken and completed for the final bill to go to parliament,
4. Conduct workshops, briefings or information sessions (as may be required) on the contents of the final Bill for the TWG, the National Secretariat and the MSG and the EITI International Secretariat;
5. Consultant is to ensure that an oversight identified in the existing NEC Decision No:90/2013 is rectified and amended to ensure that the new statutory commission is fully funded by the Government through its national budgetary allocation process;
6. 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;
7. Ensure the Minister for Treasury who is the Chair of the PNGEITI MSG is fully briefed on the proposed Bill and is fully engaged, supports and sponsors the Bill to NEC and subsequently presents it to Parliament to be enacted;
8. Perform other task as may be required and directed by the TWG, the Head of the National Secretariat and the MSG;

### **Level of effort by the Consultant**

The Consultant is required to review and finalise the draft Bill and ensure that the Bill fully meets and ticks off all the boxes for the administrative and statutory requirements 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.

### **Qualification requirements**

This project must be undertaken by a consulting service provider applying accepted professional standards in the legal sector. It is a requirement that the consultant is perceived by the National Secretariat to be credible, trustworthy and technically competent and free of conflict of interest. The consultant will have to demonstrate the following:

- Expertise and experience in drafting legal bills, etc,
- Expertise and experience with the legal practice of the country specifically in the extractive sector,
- Have legal educational background, and
- Have record of accomplishment in similar projects in PNG.

## **EVALUATION CRITERIA**

Consultant (s) must demonstrate a thorough understanding of the tasks and scope of work required to coordinate and finalise the draft Bill. 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 a realistic budget proposal.

### **Reporting requirement and time schedule**

The assignment is expected to commence in June 2023 and ends in November 2023 (six months contract). The consultant is required to report to the client through the legal TWG. Kari will be the point of contact and support staff at the National Secretariat for any matter relating to this assignment. Fortnightly progressive reports on meetings held shall furnish to the TWG and National Secretariat through Kari.

### **Consultant professional fees**

Consultant(s) should include a financial proposal with a breakdown of all labour hours and other professional fees estimated for this short-term assignment. Professional fees will be paid to the consultant upon delivery of the services required in this Terms of Reference.

The proposed payment schedule are as follows but could amended to suit the service providers workplan and schedule deliverables:

- a) 10% on signing of contract
- b) 20% will be paid upon delivery of phase one to PNGEITI National Secretariat;
- c) 20% will be paid upon delivery of phase two of the project;
- d) 20% will be paid to the consultant for phase three; and
- e) 30% will be paid to the consultant upon delivery of the final phase and a project completion report.

## 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	15 May, 2023
Initial Meeting and Submission of Work Plan	22 May, 2023
<b>Review of stakeholder feedback and finalisation of proposed legislation (PNGEIT Commission Bill)</b>	
Submission of refined draft Bill including reviewing drafting Instructions and Explanatory Notes, and any annexures to TWG/NS for reviews and comments	31 <sup>st</sup> May, 2023
Submission of revised draft Bill to TWG/NS/MSG	5 <sup>th</sup> June, 2023
Submission of final draft Bill including annexures to State Solicitors office by PNGEITI MSG (Requesting Certificate of Necessity (CoN))	20 <sup>th</sup> June, 2023
Consultant to review feedbacks from State Solicitor and finalise draft Bill	30 <sup>th</sup> June, 2023
Final reviews and documentations of NEC submission	5 <sup>th</sup> July, 2023
Submission to NEC	30 <sup>th</sup> July, 2023
<b>Review and provide guidance on the Administrative Policies and Statutory Compliance Procedures of the PNGEIT Commission</b>	
Submission of final Administrative Orders for PNGEIT Commission Bill	10 <sup>th</sup> September, 2023
<b>Review and provide guidance to the Corporate Plan for the PNGEIT Commission</b>	
Submission of final and completed Corporate Plan	15 <sup>th</sup> October, 2023
Submission of Final Bill to Parliament	5 <sup>th</sup> November, 2023