

# Terms of Reference for a UK-based Expert to Support the AUA Center for Responsible Mining in Preparing a Scoping Study for the Republic of Armenia's 2018 EITI Report

## 1. Background

The Extractive Industries Transparency Initiative (EITI) is a global standard that promotes transparency and accountability in the extractive sector. EITI implementation has two core components:

- **Transparency:** Information on the management of the extractive sector alongside the reconciliation of company payments and government receipts is made publicly available through an EITI Report or by integrating the EITI disclosures into government and company systems.
- **Accountability:** An established multi-stakeholder group with representatives from government, companies and civil society oversees the disclosure process, communicate the findings, act upon the recommendations derived from the reporting process and promote the integration of EITI into broader transparency efforts in that country.

The EITI Standard has a robust yet flexible methodology for disclosing information across the extractive sector's value chain and enables monitoring and reconciling company payments and government revenues from oil, gas and mining at the country level. It encourages countries to build on the existing reporting systems and practices for EITI data collection. Each implementing country designs its own EITI disclosure process adapted to the specific needs of the country. This involves defining the scope of information to be published and exploring how disclosure of information is and/or can be integrated into government and company portals to complement and strengthen wider efforts to improve extractive sector governance.

The requirements for implementing countries are set out in the EITI Standard.<sup>1</sup> For further information, please see [www.eiti.org](http://www.eiti.org)

### 1.1. Background of EITI in Armenia

Armenia began the process of becoming an EITI member in July 2015, when the Prime Minister formally stated the intention to become a country member.

The EITI MSG of the Republic of Armenia comprises fifteen members, as follows:

- Six representatives from the Government of the Republic of Armenia;
- Four representatives from mining companies, elected in February 2016; and
- Five representatives from civil society (including one from academia).

On June 27, 2016, the first meeting of the Armenian EITI Multi-Stakeholder Group took place. On 26 December 2016, the MSG adopted the ToR of the EITI MSG of the Republic of Armenia, and its 2017-

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<sup>1</sup> The EITI Standard available at <https://eiti.org/document/standard>

2018 EITI Work Plan.<sup>2</sup> By letter dated 28 December 2016, the Government formally submitted its application for candidate status.

Armenia's EITI candidature application was approved on 9 March 2017 at the EITI board meeting in Bogota. The decision noted the following deadlines:

*The EITI admits the Republic of Armenia as an EITI candidate country on 9 March 2017. In accordance with the EITI Standard, the Republic of Armenia is required to publish its first EITI Report within 18 months of becoming a candidate (i.e. by 9 September 2018). Armenia is required to publish an annual activity report for 2017 by 1 July 2018. Validation will commence within two and a half years of becoming a candidate (i.e. by 9 September 2019). In accordance with the work plan submitted by the MSG, the EITI Board expects Armenia to publish a beneficial ownership roadmap by 1 January 2018.*

The EITI workplan for 2017-2018 has identified the following priorities:

1. Ensuring awareness about the mining sector
2. Increasing the mining sector transparency and accountability
3. Enhancing the culture of responsible mining through application of the best international practices, and based on legal regulations
4. Enhancing competitive investment environment for responsible investors
5. Institutional capacity development of sector beneficiaries

The workplan also sets out 6 objectives:

- Ensuring accessible and timely information
- Development of roadmap for disclosure of ultimate beneficial owners
- Review of the legal framework of Armenia, disclosure of inconsistencies and gaps with EITI Standard
- Review of the best international practices and development of roadmap for harmonization with the EITI and best responsible mining international experience
- Ensuring Armenia's EITI candidacy status
- Comprehensive report consistent with the EITI standard

The American University of Armenia's Center for Responsible Mining (CRM) has been supporting Armenia with its application for EITI membership, and in particular has facilitated the process of consultations with civil society, including conducting trainings and facilitating the election of civil society representatives to the MSG.

With support from the **British Embassy in Armenia**, the CRM has undertaken to enhance Armenia's capacity to implement EITI, including supporting the preparation of a scoping study for the EITI annual report as well as drafting the TOR for its independent administrator.

In this regard, the CRM seeks a competent and credible UK-based expert firm or individual (hereafter consultant) to support the preparation of the scoping study in accordance with these Terms of Reference.

## 2. Objective of the assignment

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<sup>2</sup> The Work Plan can be accessed here: [http://www.gov.am/u\\_files/file/ardyunaberakan-cragir/EITI\\_Workplan\\_Armenia\\_eng\(1\).pdf](http://www.gov.am/u_files/file/ardyunaberakan-cragir/EITI_Workplan_Armenia_eng(1).pdf)

The objective of the assignment is to produce a report which will inform the MSG's discussions regarding the scope of information to be published under the EITI and the most suitable approach for publishing it. This should include considering options for integrating disclosures in government systems and company portals. The consultant is expected to support CRM to:

- Collate all the necessary information related to the management of the extractive sector in line with the MSG's objectives and workplan, and the EITI's requirements (EITI Requirement 2, 3, 4, 5 and 6);
- Propose options for strengthening disclosure of information to ensure accessibility, reliability and complementarity with existing government and company systems (EITI Requirement 7.2.c and the EITI Open data policy<sup>3</sup>);
- Identify the total government revenue from the extractive sector to document a recommended definition of materiality and coverage for the EITI reconciliation (EITI Requirement 4, 4.1.d and 4.1.a);
- Suggest the payments and revenues streams to be reported and reconciled, including appropriate materiality thresholds and the levels of disaggregation where applicable (EITI Requirement 4.1.a, 4.1.b and 4.7);
- List the companies, state-owned enterprises and government entities expected to participate in the report according to a suggested materiality (EITI Requirement 4.1.c.);
- Identify additional benefit streams from the extractive sector that should be disclosed (EITI Requirements 4.2, 4.3, 4.4, 4.5 and 4.6);
- Consider revenue allocations and expenditure that should be disclosed under the EITI (EITI Requirement 5 and 6);
- Assess the reliability of available data, including reviewing current auditing practices and the assurances to be provided by the reporting entities (EITI Requirement 4.9);
- Identify any barriers to disclosure of the requisite information and propose options for addressing them; and
- Address the following issues:
  - Investigate information regarding sponsored/charitable measures from organisations in the sector, as well as the ability to reveal information regarding allocations (payments) made to state bodies' extra-budgetary foundations;
  - Summarise progress regarding the beneficial ownership roadmap and highlighting any potential issues;
  - Highlight potential obstacles to accessibility of tax data, including confidentiality issues and time limits;
  - Examine the issue of the sector's contribution to sustainable development and the extent to which there exists data to assess this;
  - Examine the impact on creation of a culture of responsible mining, including the promotion of investment and the development of institutional capacity;
  - Conduct a mapping of the entire information field for EITI transparency, showing what information is compiled by various state bodies and what information is

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<sup>3</sup> EITI Open data policy available in the EITI Standard at <https://eiti.org/document/standard>

available, including which of these is only for internal use, which for state use, and which for the public;

- Examine the possibility of including 2017 data in the 2018 EITI report, taking into account the time limits governing the availability of annual information and the need for legal acts, as well as restrictions on imposing retroactive effect;
- Provide a description of the establishment of a process to ensure the reliability of data from entities that submit data to the report, including consideration of a reliable online portal solution for the compilation and submission of reports;
- Present recommendations regarding possible new financial resources for implementation of EITI; and
- Examine the possibility of widening the mandatory scope of the report (including data on medium term payments, export sales and production, information on licences, contracts, income from other sectors and the disclosure of other relevant information) and obstacles to doing so.

In addressing these points, the consultant is expected to set out options available to the MSG, taking into account the overall objectives, the EITI requirements, the local context and the resources available. The MSG and the Independent Administrator (to be appointed) will draw on the scoping study in agreeing the scope of the reporting process, in accordance with the “Standard Terms of Reference for Independent Administrators.”<sup>4</sup>

The scoping study prepared by CRM with the support of consultant will be submitted to the MSG and made publically available.

### 3. Scope of work

The consultant will be expected to support CRM in the following **tasks**:

1. Examine the MSG’s workplan in order to gain a clear understanding of the objectives and scope of the Republic of Armenia’s EITI implementation. The consultant should also review any relevant background information and reports produced by the MSG.
2. Assess to what extent information that is required in the EITI Standard, outlined in point 4, 5 and 6 below, or information that is otherwise relevant for achieving the objectives outlined in the MSG’s workplan, is already publicly available. Assess the timeliness, comprehensiveness and reliability of this information and provide recommendations on how publicly available data can be improved or complemented to address the EITI requirements and the MSG’s objectives.

#### EITI disclosures

3. The EITI Standard requires the disclosure of information about the management of the extractive industries in line with the extractive industry value chain (Requirement 2, 3, 4, 5 and 6). The consultant is expected to support CRM to identify sources and disclosure options for the following information:
  - a) The legal and institutional framework, including disclosures related to the allocation of contracts and licenses (EITI Requirement 2.1-2.3);

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<sup>4</sup> Standard Terms of Reference for Independent Administrator services available at <https://beta.eiti.org/standard/TOR-IA>

- b) The Republic of Armenia’s policy and practices on disclosure of contracts and licenses that govern the exploration and exploitation of minerals and any reforms underway (Requirement 2.4);
  - c) The identity of the beneficial owners of companies that bid for, operate or invest in extractive assets in the Republic of Armenia (EITI Requirement 2.5);
  - d) Exploration, export and production data (EITI Requirement 3);
  - e) Where applicable, information about the role of state-owned companies (SOE) in the extractive sector and the financial relationships between the government and the SOE, quasi-fiscal expenditures, and government ownership in oil, gas and mining companies operating in the Republic of Armenia (EITI Requirement 2.6, 4.6 and 6.2);
  - f) Information about revenue allocations and distribution of revenues in accordance with EITI Requirements 5;
  - g) Information about the social and economic spending, and the contribution of the extractive industries to the economy (EITI Requirement 6);
  - h) Information regarding sponsored/charitable measures from organisations in the sector, as well as the ability to reveal information regarding allocations (payments) made to state bodies’ extra-budgetary foundations; and
  - i) All other items listed in Section 2 (“Objectives of the Assignment”), above, and not reflected in Section 3 (“Scope of Work”).
4. Based on the assessment, the consultant should support CRM to suggest a framework for EITI reporting suitable to the country’s situation and in line with the EITI Standard. To inform the options and recommendations to be presented to the MSG, the consultant is expected to:
- a) Assess to what extent the information set out above is available in government systems and/or corporate reports and whether it is available online and accessible and comprehensible to a significant proportion of the country’s citizens;
  - b) Assess the timeliness and reliability of the available data. If there are several public sources for the data, assess whether they are consistent;
  - c) Assess whether there are barriers to disclosure and recommend how gaps in publicly available information can best be addressed. The consultant should assess if there is information available in government systems that is not publicly available but could easily be published online. For example, if an online license cadastre exists but does not contain all the data required by the EITI Standard, the consultant should assess to what extent any missing information can be added to the existing cadastre, including a proposal for making this information publicly available;
  - d) Assess whether it is feasible to include in the EITI Report disclosure of other information about the sector that is more recent than the revenue data featured in the report;
  - e) Based on the above, present a recommendation on how the information should be captured in the EITI report: whether it is sufficient to include a link to existing information in the EITI Report or whether the EITI Report should include a partial or full description of the information, what information the Independent Administrator should collect and what can be directly drawn from the source and what weaknesses and challenges should be addressed in the EITI Report; and
  - f) Document carefully in the scoping report all information collected, the sources, and the basis for the assessments made.

5. The consultant is expected to help CRM provide the MSG with options and recommendations on how to strengthen disclosure practices on each of the points above primarily through integrating information into government and company portals and secondarily by publishing information in the EITI Report. The consultant is expected to take into account the local premises (e.g. level of access to Internet) and international best practices.

#### EITI reconciliation

6. The EITI Standard requires full disclosure of government revenues from the extractive sector and disclosure of material payments made by mining companies (Requirement 4.1.c). The consultant will support CRM to assess the availability and reliability of revenue and payment data and explore ways how this information can best be made available. To this end, the consultant is expected to undertake a comprehensive analysis of the payments and government revenue streams related to the extractive sector, noting in particular the revenue streams that must be covered in accordance with EITI Requirement 4.1(b). The analysis should also cover revenues related to the sale of the state's share of production or other revenues collected in-kind (EITI Requirement 4.2), infrastructure provisions and other barter arrangements (4.3), transportation revenues (4.4), transactions related to state-owned enterprises (4.5), subnational payments (4.6), subnational transfers (5.2), social expenditures by extractive companies (6.1), and quasi-fiscal expenditures (6.2).
7. The consultant is expected to describe what revenue and payment data listed in point 6 above is publicly available either online and open (free) or through other government or company sources. The consultant should assess the timeliness, comprehensiveness and reliability of the data (EITI Requirement 4.8 and 4.9). Where disclosures are complete, the consultant should make recommendations for how payment and revenue data can be made public through channels other than the EITI Report in accordance with EITI Requirement 7.2(c).<sup>5</sup> For example, by embedding data into online license cadastres or including a database and/or reporting templates on government, company and/or national EITI websites. Where there are gaps in the information, the consultant should make recommendations on how to address these with a view to embed EITI reporting in the future.
8. Following the analysis of revenue streams and payments, the consultant is expected to support CRM to:
  - a) Review cadastre and revenue data from 2015 and 2016 and make recommendations as to which of the tax payments and government revenues streams should be considered material, including suggesting materiality thresholds for company disclosure if appropriate (with reference to the guidance note 13 and EITI requirement 4).
  - b) Based on the proposed materiality definition, develop a preliminary list of the companies that make material payments and should be covered in the EITI Report (EITI requirement 4.1.a). Where materiality thresholds are proposed, this should include an estimate of coverage of company payments that will be disclosed relative to total government revenues from the sector. It should also identify the total contribution of companies not required to report (i.e. those that fall below the materiality threshold), with a clear indication of the relative size of each company. (This information will inform the assessment of the comprehensiveness of the EITI Report as per Requirement 4.1)
  - c) For each company, identify where available:
    - i. Company's Tax Payer Identification Number

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<sup>5</sup> For further guidance, please refer to the Standard Terms of Reference for feasibility studies for mainstreaming EITI disclosures.

- ii. Sector and phase of operation, i.e. exploration, production, oil, gas, mining etc.
  - iii. Type of license(s) held and the license number(s).
- d) Based on the proposed materiality definition, identify which government entities should be required to report. It should be noted that the government is required to disclose all revenues, regardless of the materiality (EITI Requirement 4.1.c). Thus, where materiality thresholds for company disclosures are established, a reconciliation of the company payments and government revenues in accordance with the materiality threshold would be appropriate. Any additional government revenues (i.e. from companies below the materiality threshold) would also need to be disclosed in the EITI Report as per Requirement 4.1(c).
- e) In considering which government entities should participate in the reconciliation process, the consultant should identify whether sub-national government entities receive direct or indirect revenues from the extractive sector in accordance with Requirement 4.6 and Requirement 5.2.
- f) Identify any legal, regulatory, administrative or practical barriers to comprehensive disclosure, and if necessary set out options and make and recommendations for addressing these barriers (see examples on guidance note 11).

#### Issues requiring specific attention

9. Identify key activities needed to make legislative changes and build institutional capacity to promote a culture of responsible mining in Armenia.

#### Data quality

10. In accordance with EITI Requirement 4.9 examine the audit and assurance procedures in companies and government entities that are likely to participate in the EITI reporting process, including the relevant laws and regulations, any reforms that are planned or underway, and whether these procedures are in line with international standards. Review the reliability of data that is already available from public sources and recommend how reliability can be improved.
11. In accordance with EITI Requirement 4.9 propose assurances to be provided by reporting entities to the Independent Administrator.

#### Scope of work: deliverables

12. The consultant is expected support CRM to prepare the following outputs:
- a) An inception report including a draft structure;
  - b) A draft report; and
  - c) A final report reflecting the consultations, including recommendations for the 2018 EITI Report and how future scoping reports can be improved, and incorporating comments from the MSG.

CRM is expected to submit to the MSG these deliverables according to the following time table:

Scoping study inception report	21-Jul
Draft scoping study report	8-Sep
Final scoping study report	6-Oct

#### 4. Consultant requirements

The Consultant will need to demonstrate:

- Technical and financial skills, including knowledge and work on transparency and governance, public finance and financial accountability, and multi-stakeholder dialogue. Preferably, proven experience related to the EITI.
- Knowledge of the mining sectors or other natural resources sectors, preferably in Armenia and other former Soviet countries.
- A demonstrable track record in scoping studies.
- Ability to travel to Armenia for maximum 4 days in September 2017.
- Ability to offer support for a total of 5 work-days.

#### 5. Administrative arrangements

The CRM will be responsible for logistical and administrative arrangements, including arranging the expert's visit to Armenia and organising meetings with the MSG and other stakeholders. Costs of travel to and subsistence in Armenia will be paid by CRM. The expert will report to the Director of the CRM or other staff as delegated by him, and will work closely with the CRM legal experts in preparing the report.

**Interested and qualified UK-based experts should submit their CV and cover letter to [crm@aua.am](mailto:crm@aua.am) by the end of July 9, 2017.**

#### Reference materials

- **The EITI Standard**, in particular Requirements 2 -7, <http://eiti.org/document/standard>;
- **EITI implementation guidance notes** issued by the International Secretariat, <http://eiti.org/document/guidance-notes-implementing-countries>, in particular the guidance notes on scoping (#9), on addressing tax payer confidentiality in EITI reporting (#11), defining materiality (#13), publication of data (#19) and the open data policy (in the EITI Standard). The consultant is advised to contact the EITI International Secretariat for any questions or clarifications related to the EITI Standard and the implementation of the EITI requirements;
- **Agreed upon procedures for Independent Administrators**, including standard EITI reporting templates, available from the International Secretariat;
- Examples of Scoping Studies, available from <http://eiti.org/document/guidance-notes-implementing-countries> and the International Secretariat; and
- EITI's webpage on Armenia's membership: <https://eiti.org/armenia>
- The Armenian Government's webpage on EITI: <http://www.gov.am/en/eiti/>
- CRM's EITI webpage: <http://crm.aua.am/eiti/>
- The Mining Resources section of the website of the Republic of Armenia Ministry of Energy Infrastructures and Natural Resources <http://www.minenergy.am/>