



Liberia Extractive Industries  
Transparency Initiative Liberia  
Extractive Industries

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"Office of the Secretariat" "Office of the Secretariat"

# **Terms of Reference for an Independent Administrator**

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Term of Reference

**Independent Administrator for the 9<sup>th</sup> EITI Report for Liberia**

**July 1, 2015 to June 30, 2016**

Approved by: The Multi Stakeholders Steering Group (MSG) of the  
Liberia Extractive Industries Transparency Initiative on April 26, 2017

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## 1. 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 multi-stakeholder group (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).

It is a requirement that the MSG approves the terms of reference for the Independent Administrator (requirement 4.9.iii), drawing on the objectives and agreed scope of the EITI as set out in the MSG's workplan. The MSG's deliberations on these matters should be in accordance with the MSG's internal governance rules and procedures (see requirement 1.4.b). The EITI requires an inclusive decision-making process throughout implementation, with each constituency being treated as a partner.

It is a requirement that the Independent Administrator be perceived by the MSG to be credible, trustworthy and technically competent (Requirement 4.9.b.ii). The MSG and Independent Administrator should address any concerns regarding conflicts of interest. The EITI Report prepared by the Independent Administrator will be submitted to the MSG for approval and made publicly available in accordance with Requirement 7.1.

These terms of reference include "agreed-upon procedures" for EITI reporting (see section 4) in accordance with EITI Requirement 4.9.b.iii. The international EITI Board has developed these procedures to promote greater consistency and reliability in EITI reporting. The EITI process should be used to complement, assess, and improve existing reporting and auditing systems. The Board recommends that the process rely as much as possible on existing procedures and institutions, so that the EITI process draws on, complements and critically evaluates existing data collection and auditing systems. In this way, the EITI process has the potential to generate important recommendations to strengthen other oversight systems.

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<sup>1</sup> <http://eiti.org/document/standard>

## **EITI Implementation in Liberia**

Liberia signed on to the EITI process in April of 2007 and was subsequently established as an autonomous agency by an Act of the Liberian Legislature approved on July 10, 2009. Liberia became EITI compliant in 2009. Since its entry into the EITI processes, Liberia has produced 8 EITI Reports covering fiscal years: 2007/2008, 2008/2009, 2009/2010, 2010/2011, 2011/2012, 2012/2013, 2013/2014 and 2014/2015 respectively. Liberia extended the scope of the EITI to include the forestry and agriculture sectors.

The LEITI is led by a governing board called the Multi-stakeholders Group (MSG), which comprises representatives of the Government of Liberia, civil society organizations, the private sector, and Liberia's development partners. The initiative endeavors to ensure transparency over payments made to Government by companies in the concerned sectors and revenues received by the Government. The core activities of LEITI entail regular disclosure, publication and dissemination of both (1) all material payments made by oil, mining agriculture and forestry sectors to the Government, and (2) all material revenues received by the Government from the above-mentioned sectors. For more information, please visit the LEITI website at [www.leiti.org.lr](http://www.leiti.org.lr).

The LEITI MSG is chaired by the Minister of Lands, Mines & Energy of the Republic of Liberia.

The LEITI also consists of a Secretariat that implements policies of, and operates under the supervision of the MSG. Additionally, the Secretariat is tasked with carrying out the day-to-day administrative and operational functions of the LEITI.

The broad objective of LEITI is to assist in ensuring that all benefits due the Government and people of Liberia on account of the exploitation and/or extraction of the country's minerals and other resources are:

Verifiably paid or provided  
Duly accounted for; and  
Prudently utilized for the benefits of all Liberians and on the basis of equity and sustainability

## **2. Objectives of the assignment**

On behalf of the Government of Liberia and the LEITI MSG, the LEITI Secretariat seeks a competent and credible firm, free from conflicts of interest, to provide Independent

Administrator services in accordance with the EITI Standard. The objective of the assignment is to:

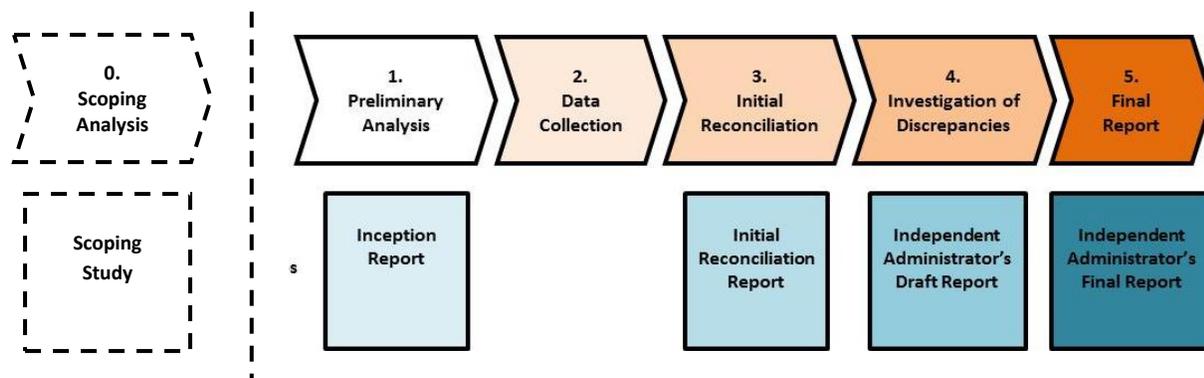
- Produce a scoping study to inform the MSG’s decision on the scope of Liberia’s 2015 / 2016 EITI Report.
- Produce the 9<sup>th</sup> EITI Report for Liberia covering Fiscal Year July 1, 2015 to June 30, 2016, in accordance with the EITI Standard and section 3 below,
- Produce a summary of the Reconciliation Report in line with the Standard EITI Summary Report Template<sup>2</sup>;

### 3. Scope of services, tasks and expected deliverables

The work of the Independent Administrator has five conceptual phases (see figure 1). These phases may overlap and there may also be some iteration between the phases. EITI reporting is generally preceded by scoping work, and for the case of preparation of LEITI 9th report, will be undertaken by the Independent Administrator (under phase 0 in the figure).

The Independent Administrator’s responsibilities in each phase are elaborated below.

Figure 1 – Overview of the EITI Reporting process and deliverables



#### **Phase 0 - Scoping and scoping study**

Objective: Scoping work aims to identify what the EITI Report should cover in order to meet the requirements of the EITI Standard. Scoping sets the basis for producing a timely, comprehensive, reliable and comprehensible EITI Report. It commonly involves looking at issues such as the fiscal period to be reported, the contextual information that should be part of the EITI Report,

<sup>2</sup> The latest version of the summary data template can be found at: <https://eiti.org/document/eiti-summary-data-template>

reviewing the types of assurances that are needed for ensuring that the data submitted by reporting entities is credible, determining which revenue streams from oil, forestry, agriculture and mining are significant, and consequently which companies and government entities should be required to report. It is also an opportunity for the multi-stakeholder group to consider the feasibility of extending the scope of EITI reporting beyond the minimum requirements in order to address the objectives outlined in the EITI workplan. Scoping may also investigate likely gaps or issues that may be particularly challenging to include in the EITI Report with a view to identify options, solutions, and recommendations for an appropriate reporting methodology for consideration by the multi-stakeholder group.

See *Annex 3* for the full detail of the scope of work expected to be undertaken by the Independent Administrator under “Phase 0”.

### **Phase 1 – Preliminary Analysis and Inception Report**

Objective: The purpose of the inception phase is to confirm that the scope of the EITI reporting process has been clearly defined, including the reporting templates, data collection procedures, and the schedule for publishing the EITI Report. The inception report should ensure that there is a mutual understanding between the MSG and the Independent Administrator on the scope of the EITI Report and the work to be carried out.

- 1.1 Review the relevant background information, including the governance arrangements and tax policies in the extractive industries, the findings from any preliminary scoping work, and the conclusions and recommendations from previous EITI Reports and Validations. (A list of relevant documentation is provided as Annex 2).
- 1.2 Update the reporting templates where necessary for the data collection phase and offer the relevant advice to the MSG regarding the reporting templates based on the agreed benefit streams to be reported and the reporting entities. Sample and past templates are available from the International Secretariat and the LEITI respectively. It is recommended that the templates include a provision requiring companies to report “any other material payments to government entities” above an agreed threshold. The final draft reporting templates will be considered for approval by the MSG.
- 1.3 **On the basis of 1.1 and 1.2, produce an inception report that:**
  - 1.3.1 **Includes a statement of materiality (annex 1) confirming the MSG’s decisions on the payments and revenues to be covered in the EITI Report, including:**
    - The definition of materiality and thresholds, and the resulting revenue streams to be included in accordance with Requirement 4.1(b).
    - The sale of the state’s share of production or other revenues collected in-kind

in accordance with Requirement 4.2.

- The coverage of infrastructure provisions and barter arrangements in accordance with Requirement 4.3.
- The coverage of social expenditure in accordance with Requirement 6.1.
- The coverage of transportation revenues in accordance with Requirement 4.4.
- Disclosure and reconciliation of payments to and from state owned enterprises in accordance with Requirement 4.6.
- The materiality and inclusion of direct sub-national payments in accordance with Requirement 4.5.
- The materiality and inclusion of sub-national transfers in accordance with Requirement 5.2.
- The level and type of disaggregation of the EITI Report in accordance with Requirement 4.7.

**1.3.2 Include a statement of materiality (annex 1) on the companies and government entities that are required to report, including:**

- The companies, including SOEs that make material payments to the state and will be required to report in accordance with Requirement 4.1(c).
- The government entities, including any SOEs and sub-national government entities, that receive material payments and will be required to report in accordance with Requirement 4.1(c-d), 4.5 and 4.6.
- Any barriers to full government disclosure of total revenues received from each of the benefit streams agreed in the scope of the EITI report, including revenues that fall below agreed materiality thresholds (Requirement 4.1(d)).

**1.3.3 Based on the examination of the audit and assurance procedures in companies and government entities participating in the EITI reporting process (1.3 above), confirm what information participating companies and government entities are required to provide to the Independent Administrator in order to assure the credibility of the data in accordance with Requirement 4.9.**

The Independent Administrator should exercise judgment and apply appropriate international professional standards<sup>3</sup> in developing a procedure that provides sufficient basis for a comprehensive and reliable EITI Report. The Independent Administrator should employ his /her professional judgment to determine the extent to which reliance can be placed on the existing controls

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<sup>3</sup> For example, ISA 505 relative to external confirmations; ISA 530 relative to audit sampling; ISA 500 relative to audit evidence; ISRS 4400 relative to the engagement to perform agreed-upon procedures regarding financial information and ISRS 4410 relative to compilation engagements.

and audit frameworks of the companies and governments. The Independent Administrator and the MSG, assurances may include:

- Requesting sign-off from a senior company or government official from each reporting entity attesting that the completed reporting form is a complete and accurate record.
- Requesting a confirmation letter from the companies’ external auditor that confirms that the information they have submitted is comprehensive and consistent with their audited financial statements. The MSG may decide to phase in any such procedure so that the confirmation letter may be integrated into the usual work program of the company’s auditor. Where some companies are not required by law to have an external auditor and therefore cannot provide such assurance, this should be clearly identified, and any reforms that are planned or underway should be noted.
- Where relevant and practicable, request that government reporting entities obtain a certification of the accuracy of the government’s disclosures from their external auditor or equivalent.
- The inception report should document the options considered and the rationale for the assurances to be provided.

1.3.4 Confirm the procedures for integrating and analyzing non-revenue information in the EITI Report. The inception report should incorporate table 1 below, confirming the division of labor between the Independent Administrator, the MSG or other actors in compiling this data, and how the information should be sourced and attributed.

*Table 1 – Non-revenue information to be provided in the EITI Report*

| <b>Non-revenue information to be provided in the EITI Report</b>           | <b>Work to be undertaken by the Independent Administrator (IA)</b>  | <b>Work to be undertaken by the MSG/others</b> |
|--|---|--|
| Legal framework and fiscal regime in accordance with EITI Requirement 2.1. | It is required of the IA to include in the report the following information:<br><br>1. Description of the legal framework and fiscal regime governing the extractive sector. Such information must include the level of fiscal devolution, a summary of the relevant laws and regulation, and information on the roles and responsibilities of the relevant | Review and approval of the report              |

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|--|---|--|
|  | <p>government agencies; where any reform is being undertaken, ensure the report document said reform effort. Said description should as well include information of extractive industry activities in the informal sector of the four sectors covered.</p>  |  |
| <p>Information about license holders in accordance with EITI Requirement 2.3<sup>4</sup> and the allocation of licenses in accordance with EITI Requirement 2.2.<sup>5</sup></p> | <p>It is required of the IA to include in the report the following information:</p> <ol style="list-style-type: none"> <li>2. Information related to the award or transfer of licenses pertaining to companies to be covered in the report for the fiscal period, within or below agreed materiality. Such info should include a description of the process for transfer or award of the license; technical and financial criteria used; information about the recipients of the license that has been transferred/awarded; info of any non-trivial deviation from the applicable regulatory framework governing such transfer or award, and document any significant legal or practical barrier that would prevent such disclosure including any plans of the state to overcome such and the anticipated time to achieve such plan; the list of applicants and the bidding criteria, where licenses were awarded through a bidding process for the given fiscal year or a link thereto when such information is already publicly available; and together with the MSG offer any commentary on the effectiveness and efficiency of the licenses procedure.</li> <li>3. Guidance on how to access information contained in a national cadastre of licenses and contracts; and where there is limitation of information of licenses in the</li> </ol> | <p>Review and approval of the report The below entities will specifically be required to provide information about licenses in accordance with Requirements 2.2 and 2.3: Ministry of Lands, Mines and Energy (MLME), Forestry Development Authority (FDA) (SGS), National Oil Company (NOCAL), Liberia Maritime Authority and Ministry of Agriculture.</p> |

<sup>4</sup> Guidance Note 3: Licence Registers, <https://eiti.org/guidance-notes-and-standard-terms-reference#GN3>

<sup>5</sup> Guidance Note 4: Licence Allocations, <https://eiti.org/guidance-notes-and-standard-terms-reference#GN4>

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|---|---|-----------------------------------|
|   | cadastre, include in the EITI report government plans to overcome such challenge and the time it is hoped to be done. Also, include a reference or link in the report to the national license cadastre, and where no cadastre exist or is incomplete, discuss any gaps observed and efforts being undertaken to strengthen said systems. Meanwhile, where said information on licenses (as set out in 2.3.b of the Standard) is absent, include in the EITI report such detailed information. |                                   |
| Any information requested by the MSG on contracts in accordance with EITI Requirement 2.4 <sup>6</sup>                              | It is required of the IA to include in the report the following information:<br><br>4. The policy of the government (i.e. the relevant legal provisions, actual disclosure practices including reforms planned or underway) on disclosure of contracts and licenses that govern the exploration and exploitation of natural resources. Include an overview of contracts and licenses that are publicly available, and a reference or link to where such info is published.                    | Review and approval of the report |
| An overview of the extractive industries, including any significant exploration activities in accordance with EITI Requirement 3.1. | It is required of the IA to include in the report the following information:<br><br>1. Overview of the extractive industries and any significant exploration activities.  | Review and approval of the report |
| Information about the contribution of the extractive industries to the economy in accordance with EITI Requirement 6.3.             | IA must collect and outline the extractive industries contribution to the economy in individual and aggregate forms   | Review and approval of the report |
| Production and export data in accordance with EITI Requirement 3.2 and 3.3  | The IA must customized the reporting templates to as well collect production and export data for the fiscal year, which should include total production and export volume, total value of production and export by  | Review and approval of the report |

<sup>6</sup> Guidance Note 7: Contract Transparency, <https://eiti.org/guidance-notes-and-standard-terms-reference#GN7>

|   |  |  |
|---|--|--|
|   | <p>commodity and by counties of activities including information of sources of the data and how said data have been calculated. Also, liaise with other relevant ministries and agencies to collect complementary production and export data for crossing referencing, resolution and validity purposes.</p>   |  |
| <p>Information regarding revenue collection in the extractive industries in accordance with EITI Requirement 4.</p> | <p>It is required of the IA to reconcile companies' payment and government revenue from the extractive sectors; i.e. comprehensively reconcile companies' payments and taxes and government revenues from the companies including payments to and from SOEs; provide the volumes sold and revenue received where sale of state's share of production or other revenue collected in kind is material, and ensure such data is disaggregated by individual buying company and to levels that commensurate with the reporting of other payments and revenue streams; investigate whether there exist any agreement(s) involving the provision of goods and services (including loans, grants and infrastructure works), in full or partial exchange for oil and mineral exploration and production concessions or physical delivery of such commodities; and determine and disclose revenue from the transportation of oil and mineral resources, in the case they are material, and ensure such data is disaggregated to levels that commensurate with the reporting of other payments and revenue streams in line with EITI Requirement 4.4.</p> <p>Furthermore, provide details of the role SOEs including material payments they receive from operating companies and transfers between SOEs and other government agencies; investigate to determine whether direct payments from companies to subnational government entities is material within the scope of the agreed benefit streams, and where it</p> | <p>Agree on which payments and revenues are material and must be disclosed, including the necessary material definitions and thresholds; agree on the level of disaggregation of data for publication;</p> |

|  |  |  |
|--|--|--|
|  | <p>is found to be material, reconcile same accordingly; and ensure all data is disaggregated for publication.</p> <p>Lastly, ensure data quality and assurance in line with EITI Requirement 4.9.</p>  |  |
| <p>Information regarding state participation in the extractive industries in accordance with EITI Requirement 2.6 and 6.2.<sup>7</sup></p> | <p>Information on state participation must be clearly sourced in the report.</p> <p>Information on the prevailing rules and practices regarding the financial relationship and funds transfer between the government and state-owned enterprises (SOEs) including retained earnings, reinvestment and third party financing; information on the level of state ownership in companies operating in the extractive sector, including those held by SOE subsidiaries and joint ventures, and provide information where there are changes in the level of ownership during the fiscal year. Ensure said information is detailed as set out in 2.6.b of the Standard.</p>  | <p>Review and approval of the report</p> |
| <p>Information about the distribution of revenues from the extractive industries in accordance with EITI Requirement 5.1.</p>              | <p>It is required of the IA to provide detailed description of the distribution of revenue from the extractive sector, indicating which industry revenues, whether cash or in kind, are recorded in the national budget, the allocation of these revenues must be explained with link provided to the relevant financial reports; include reference to the national revenue classification systems, and other international standards such as the IMF Government Financial Statistics Manual.</p> <p>Furthermore, ensure information about transfers between national and subnational government entities are provided which concerns revenue generated by the extractive sector paid as a result of an agreement of</p> | <p>Review and approval of the report</p> |

<sup>7</sup> Guidance Note 18: SOE participation in EITI Reporting, [https://eiti.org/files/GN/Guidance\\_note\\_18\\_SOEs\\_EN.pdf](https://eiti.org/files/GN/Guidance_note_18_SOEs_EN.pdf)

|  |   |                                   |
|--|---|-----------------------------------|
|  | regulation.   |                                   |
| Any further information requested by the MSG on revenue management and expenditures in accordance with EITI Requirement 5.3. | Any other information identified as relevant in the scoping should be included in the report  | Review and approval of the report |
|  |   |                                   |
| Any information requested by the MSG on beneficial ownership in accordance with EITI Requirement 2.5 <sup>8</sup>            | The IA should document existing beneficial ownership disclosure practices and policies across the mining, agriculture, forestry and oil sectors, and any planned and on-going reform. |                                   |
|  |   |                                   |

**1.3.5** Confirm the reporting templates, as well as any procedures or provisions relating to safeguarding confidential information. The Administrator shall conduct at least one workshop geared towards talking-through the process of completing the templates, highlighting challenges experienced by stakeholders in completing templates for the 7<sup>th</sup> & 8<sup>th</sup> Reports, defining payment/revenue streams, and providing contact details and communication channel that reporting stakeholders may use to obtain assistance or clarification in connection with completing the Templates. This may take place following approval of the reporting templates and the inception report.

## **Phase 2 – Data Collection**

**Objective:** The purpose of the second phase of work is to collect the data for the 9<sup>th</sup> EITI Report in accordance with the scope confirmed in the Inception Report. The MSG and Secretariat will provide contact details for the reporting entities and assist the Independent Administrator in ensuring that all reporting entities participate and fully comply.

The Independent Administrator is expected to undertake the following tasks during the data collection phase:

- 2.1 Distribute the reporting templates and collect the completed forms and associated supporting documentation directly from the participating reporting entities, as well as any contextual or other information that the MSG has tasked the Independent Administrator to collect in accordance with 1.3.4 above.
- 2.2 Contact the reporting entities directly to clarify any information gaps or discrepancies.

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<sup>8</sup> Template beneficial ownership declaration, <https://eiti.org/files/Template-beneficial-ownership-declaration-form.doc>

- 2.2.1 The Administrator shall ensure that report of each company is duly signed by the authorized officer of the company and attested to by the external auditor of the company stating that the report is fair and accurate. Similarly, the report of the Government reporting entities shall be signed by the head of the reporting agency or ministry and attested to by the General Auditing Commission (GAC) or the relevant external auditor of the agency/ministry.
  - 2.2.2 The Administrator shall collect and/or receive from the reporting stakeholders all completed templates with appropriate supporting documentation verifying (1) the fixed component of amount ought to be paid (“amount due”) from reporting companies by Government and “amount payable” to Government by reporting companies (2) “amount paid or received as appropriate by companies and government.
- 2.3 The Independent Administrator shall ensure that request for data includes appropriate guidance to the reporting entities, and on where to seek additional information and support.

### **Phase 3 – Initial Reconciliation**

**Objective:** The purpose of this phase is to complete an initial compilation and reconciliation of the contextual information and revenue data with a view to identify any gaps or discrepancies to be further investigated.

- 3.1 The Independent Administrator should compile a database with the payment and revenue data provided by the reporting entities from government and private sector.
- 3.2 The Independent Administrator should comprehensively reconcile the information disclosed by the reporting entities, identifying any discrepancies (including offsetting discrepancies) in accordance with the agreed scope and any other gaps in the information provided (e.g. assurances).
- 3.3 The Independent Administrator should prepare an initial reconciliation report based on the reported (unadjusted) data for consideration by the MSG in accordance with the agreed scope.
- 3.4 With respect to contextual information and other data collected by the Independent Administrator or provided to the Independent Administrator by the government or MSG, the Independent Administrator will compile the data collected by the government, MSG, or reporting entities and prepare an initial report based on the reported contextual and other information in the format agreed by the MSG for reporting.
  - 3.4.1 Conduct a mapping exercise of the flow of revenue from the Extractive Industries/companies to government agencies or special accounts and the national consolidated revenue account.

- 3.4.2 A mapping of the flow of revenues from line ministries and agencies and the budget and other special accounts to expenditure units/cost centers or projects.
- 3.4.3 Review the extent to which revenue from the extractive industry can be linked to public investments/expenditures, specifically indicating which extractive industry revenues, whether cash or in-kind are recorded in the national budget.
- 3.4.4 The report will map out the economic footprint of extractive industries on the Liberian economy, including, but not limited to:
- The size of the extractive industries in absolute terms and as a percentage of GDP including an estimate of informal sector activity.
  - Exports from Extractive industries in absolute terms and as a percentage of total exports.
  - Employment in the extractive industries in absolute terms and as a percentage of the total employment.
  - Key regions/ Areas where production is concentrated.

#### **Phase 4 – Investigation of Discrepancies and Draft EITI Report**

Objective: The purpose of this phase is to investigate any discrepancies identified in the initial reconciliation, and to produce a draft EITI Report that compiles the contextual information, reconciles financial data and explains any discrepancies above the margin of error determined by the MSG, where applicable.

- 4.1 The Independent Administrator should contact the reporting entities to clarify the causes of any significant discrepancies or other gaps in the reported data, and to collect additional data from the reporting entities concerned.
- 4.2 The Independent Administrator should submit a draft EITI Report to the MSG for comment that comprehensively reconciles the information disclosed by the reporting entities, identifying any discrepancies, and report on contextual and other information requested by the MSG. The financial data should be disaggregated to the level of detail agreed by the MSG and in accordance with requirement 4.7. The draft 9<sup>th</sup> EITI Report should:
- a. Describe the methodology adopted for the reconciliation of company payments and government revenues, and demonstrate the application of international professional standards.
  - b. Include a description of all revenue streams, related materiality definitions and thresholds (Requirement 4.1).
  - c. Include an assessment from the Independent Administrator on the comprehensiveness and reliability of the (financial) data presented, including an informative summary of the work performed by the Independent Administrator

and the limitations of the assessment provided.

- d. Indicate the coverage of the reconciliation exercise, based on the government's disclosure of total revenues as per Requirement 4.1(d).
  - e. Include an assessment of whether all companies and government entities within the agreed scope of the EITI reporting process provided the requested information. Any gaps or weaknesses in reporting to the Independent Administrator must be disclosed in the EITI Report, including naming any entities that failed to comply with the agreed procedures, and an assessment of whether this is likely to have had material impact on the comprehensiveness of the report.
  - f. Document whether the participating companies and government entities had their financial statements audited in the financial year(s) covered by the 9<sup>th</sup> EITI Report. Any gaps or weaknesses must be disclosed. Where audited financial statements are publicly available, it is recommended that the EITI Report advises readers on how to access this information.
  - g. Include non-revenue information as per Requirement 2, 3, 5 and 6 and other information requested by the MSG. The contextual information should be clearly sourced in accordance with the procedures agreed by the Independent Administrator and the MSG.
- 4.3 Where previous EITI Reports have recommended corrective actions and reforms, the Independent Administrator should comment on the progress in implementing those measures. The Independent Administrator should make recommendations for strengthening the reporting process in the future, including any recommendations regarding audit practices and reforms needed to bring them in line with international standards, and where appropriate, recommendations for other extractive sector reforms related to strengthening the impact of implementation of the EITI on natural resource governance.
- 4.4 The Independent Administrator is encouraged to make recommendations on strengthening the template and Terms of Reference for Independent Administrator services in accordance with the EITI Standard for the attention of the EITI Board.

### **Phase 5 – Final EITI Report**

**Objective:** The purpose of this phase is to ensure that any comments by the MSG on the draft report have been considered and incorporated in the final EITI Report.

- 5.1 The Independent Administrator will submit the EITI Report upon approval to the MSG. The MSG will endorse the report prior to its publication and will oversee its publication. Where stakeholders other than the Independent Administrator decide to include additional comments in, or opinions on, the EITI Report, the authorship should be clearly indicated.
- 5.2 The Independent Administrator should produce electronic data files<sup>9</sup> that can be

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<sup>9</sup> The files can be in CSV or Excel format and should contain the tables and figures from the print report. In accordance with requirement 7.1.c, the multi-stakeholder group is required to make the EITI Report available in an open data format (xlsx or csv) online.

published together with the final Report.

- 5.3 Following approval by the MSG, the Independent Administrator is mandated to submit summary data from the EITI Report electronically to the International Secretariat according to the standardized reporting format available from the International Secretariat<sup>10</sup>.
- 5.4 The Independent Administrator shall take appropriate measures to ensure that the report is comprehensible. This includes ensuring that the report has high levels of readability, legibility and usability.
- 5.5 The Independent Administrator shall submit to the LEITI Secretariat all data gathered during reconciliation available, including the contact information of all institutions contacted during the reporting process.
- 5.6 At the end of the service, the Independent Administrator will submit 10 (ten) certified copies of the reconciliation report to the Secretariat of the Liberia Extractive Industries Transparency Initiative (LEITI).

## **6. Qualification requirements for Independent Administrators**

The reconciliation of company payments and government revenues must be undertaken by an Independent Administrator applying international professional standards (requirement 4.9). It is a requirement that the Independent Administrator is perceived by the MSG to be credible, trustworthy and technically competent. Bidders must follow the appropriate professional standards for the reconciliation / agreed-upon-procedures work in preparing their report.

The Independent Administrator will need to demonstrate:

- Expertise and experience in the oil, gas, mining, forestry and agriculture sectors in Liberia.
- Expertise in accounting, auditing and financial analysis.
- A track record in similar work. Previous experience in EITI reporting is not required, but would be advantageous.
- Willingness to carry out the audit services at the Offices of the Liberia Extractive Industries Transparency Initiative (LEITI).

In order to ensure the quality and independence of the exercise, Independent Administrators are required, in their proposal, to disclose any actual or potential conflicts of interest, together with commentary on how any such conflict can be avoided.

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<sup>10</sup> The latest version of the summary data template can be found at: <https://eiti.org/document/eiti-summary-data-template>

## 7. Reporting requirements and time schedule for deliverables

The assignment is expected to commence on June 29, 2017, culminating in the finalization of the EITI Report by October 31, 2017. The proposed schedule is set out below:

|  |  |
|--|--|
| Signing of contract                      | June 28, 2017                              |
| Scoping Period                           | June 29 - July 31, 2017                    |
| Inception period                         | August 10 – 25, 2017                       |
| Inception report                         | August 30, 2017                            |
| Data collection & initial reconciliation | September 10 – October 16, 2017 ( 5 weeks) |
| Initial reconciliation report            | October 17 - 31 2017 (2 weeks)             |
| Draft report                             | November 1 – 15 , 2017 (2 weeks)           |
| Final report                             | December 18, 2017                          |

### The schedule of payments shall be as follows:

1. 30% following contract signing
2. 20% following delivery of the inception report
3. 20% following delivery of the draft report
4. 30% following MSG approval and publication of the report

## Annex 1 – Statement of materiality

The purpose of this statement of materiality is for the Independent Administrator to understand the scoping work and associated decisions that have already been carried out by the multi-stakeholder group or by other consultants. The Independent Administrator confirms the joint understanding of the scope of the services in the inception report. Annex 2 lists relevant attachments, including any scoping studies undertaken in the past.

### 1. Taxes and revenues to be covered in the EITI Report (Requirement 4.1)<sup>11</sup>

With regards to the revenue streams set out in Requirements 4.1-4.2, the multi-stakeholder group has agreed that the following revenue streams from the extractive sector are material and should be reconciled in the EITI Report:

*Table 1 – Material revenues to be reconciled*

| Revenue stream  | Estimated value and share of total extractive industry revenue | Government recipient | Additional commentary on work to be undertaken by the Independent Administrator as necessary. |
|---|--|----------------------|---|
| <list of revenue streams, taking into account common revenue streams set out in Requirement 4.1 > | <value><br>(<percentage>)                                      | ...                  | ...   |
| The materiality and inclusion of the state’s share of   |  |                      |   |

<sup>11</sup> Guidance Note 13: on defining materiality, reporting thresholds and reporting entities, [https://eiti.org/files/Guidance%20note%20on%20defining%20materiality\\_0.pdf](https://eiti.org/files/Guidance%20note%20on%20defining%20materiality_0.pdf)

|  |  |  |  |
|--|--|--|--|
| production collected in-kind<br>(Requirement 4.2 <sup>12</sup> , where applicable) |  |  |  |
|--|--|--|--|

The multi-stakeholder group has agreed that the revenue streams from the extractive sector listed in Table 2 should be unilaterally disclosed by the government in the EITI Report rather than reconciled with company figures. The reasons for unilateral disclosure rather than reconciliation should be documented by the MSG.

*Table 2 – Material revenues to be unilaterally disclosed by the government*

| Revenue stream | Estimated value and share of total extractive industry revenue | Government recipient | Additional commentary on data sources and work to be undertaken by the Independent Administrator as necessary. |
|----------------|--|----------------------|--|
| ...            | <value><br>(<percentage>)                                      | ...                  | ...  |
|                |  |                      |  |

The multi-stakeholder group has agreed that the following revenue streams from the extractive sector are immaterial and should not be reconciled or unilaterally disclosed by the government in the EITI report:

*Table 3 – Immaterial revenue streams from the extractive sector to be excluded from the EITI Report*

| Revenue stream | Estimated value and share (%) of total extractive industry revenue | Government recipient | Additional commentary on data sources and rationale for concluding that the revenue stream is immaterial |
|----------------|--|----------------------|--|
|                |  |                      |  |

<sup>12</sup> Guidance Note 18: SOE participation in EITI Reporting, [https://eiti.org/files/GN/Guidance\\_note\\_18\\_SOEs\\_EN.pdf](https://eiti.org/files/GN/Guidance_note_18_SOEs_EN.pdf)

|     |                           |     |     |
|-----|---------------------------|-----|-----|
| ... | <value><br>(<percentage>) | ... | ... |
|-----|---------------------------|-----|-----|

**2. Additional benefit streams:**

With regards to the benefit streams set out in Requirements 4, the MSG has agreed the following:

*Table 4 – Additional benefit streams*

| <b>Benefit stream</b>   | <b>Applicable/material?</b> | <b>Estimated value and share (%) of total extractive industry revenue</b> | <b>Government recipient</b> | <b>Additional commentary on data source and work to be undertaken by the Independent Administrator as necessary.</b> |
|---|-----------------------------|---|-----------------------------|--|
| The materiality and inclusion of infrastructure and barter arrangements (Requirement 4.3) <sup>13</sup> |                             |   |                             |  |
| The materiality and inclusion of <u>mandatory</u> social payments (Requirement 6.1(a)) <sup>14</sup>    |                             |   |                             |  |
| The materiality and inclusion of <u>voluntary</u> social payments                                       |                             |   |                             |  |

<sup>13</sup> Guidance note 15: Infrastructure and barter provisions: <https://eiti.org/guidance-notes-and-standard-terms-reference#GN14>

<sup>14</sup> Guidance note 17: Social expenditures: <https://eiti.org/guidance-notes-and-standard-terms-reference#GN17>

|  |  |  |  |  |
|--|--|--|--|--|
| (Requirement 6.1(b)) <sup>15</sup>   |  |  |  |  |
| The materiality and inclusion of transportation revenues (Requirement 4.4) <sup>16</sup> |  |  |  |  |

### 3. Reporting companies (Requirement 4.1)

The MSG has agreed that any company making payments [equal to or above [insert threshold]] against the material revenue streams identified in table 1 are required to be included in the EITI Report:

Table 5 – Companies to be included in the EITI Report

| Companies | Sector | Additional commentary on work to be undertaken by the Independent Administrator as necessary. |
|-----------|--------|---|
| ...       | ...    | ...   |
|           |        |   |

### 4. Government - government transactions (Requirement 4)

Table 6 – Government to government transactions included in the scope of the EITI Report

| Transactions | Applicable/ material? | Financial flow | State-owned company | Government agency | Additional commentary on work to be undertaken by the Independent Administrator as necessary. |
|--------------|-----------------------|----------------|---------------------|-------------------|---|
|              |                       |                |                     |                   |   |

<sup>15</sup> Guidance note 17: Social expenditures: <https://eiti.org/guidance-notes-and-standard-terms-reference#GN17>

<sup>16</sup> Guidance note 16: Revenues from transportation of oil, gas and minerals: <https://eiti.org/guidance-notes-and-standard-terms-reference#GN16>

|  |                                  |   |   |   |   |
|--|----------------------------------|---|---|---|---|
| The disclosure and reconciliation of payments to and from state-owned enterprises (Requirement 4.6) <sup>17</sup>  |                                  |   |   |   |   |
| <b>Transactions</b>  | <b>Applicable/<br/>material?</b> | <b>Financial flow and<br/>revenue sharing<br/>formula</b> | <b>Government agency<br/>executing the<br/>transfer</b> | <b>Government<br/>agency receiving<br/>the transfer</b> | <b>Additional commentary on work to be<br/>undertaken by the Independent Administration<br/>as necessary.</b> |
| The materiality and inclusion of mandatory sub-national transfers in accordance with Requirement 5.2 <sup>18</sup> |                                  |   |   |   |   |

## **Annex 2 – Supporting documentation**

<sup>17</sup> Guidance Note 18: SOE participation in EITI Reporting, [https://eiti.org/files/GN/Guidance\\_note\\_18\\_SOEs\\_EN.pdf](https://eiti.org/files/GN/Guidance_note_18_SOEs_EN.pdf)

<sup>18</sup> Guidance Note 10: Sub-national reporting, <https://eiti.org/files/Guidance-note-10-Subnationalreporting.pdf>

## Documentation on governance arrangements and tax policies in the extractive industries, including relevant legislation & regulations

- Revenue Code of Liberia as Amended in 2011
- Petroleum (Exploration and Production) Act of 2014
- Liberia Minerals and Mining Law
- Mineral Policy of Liberia
- Exploration Regulations
- National Forestry Reform Law of 2006
- LEITI Post Award Process Audit Reports
- LEITI Act of 2009

### EITI Workplans & other documents

- EITI Standard 2016
- EITI New Rule

### Previous EITI Reports

- 3<sup>rd</sup> EITI Report for Liberia
- 4<sup>th</sup> EITI Report for Liberia
- 5<sup>th</sup> EITI Report for Liberia

- 6<sup>th</sup> EITI Report for Liberia
- 7<sup>th</sup> EITI Report for Liberia
- 8<sup>th</sup> EITI Report for Liberia

Commentary on previous EITI Reports

- United Nations Panel Experts Report on Liberia
- Civil Society Reports

#### Validation Reports

- 
- Initial Data Collection and Assessment Report
- Validation Report for Liberia 2017

Other relevant documentation (e.g. annual activity reports)

- LEITI 2013 Annual Activities Report
- LEITI Workplan 2013-2014 & 2014-2015
- LEITI Communications Strategy 2013-2015
- LEITI 2012 Annual Activities Report
- LEITI MSG Regulation of 2009
- LEITI Quarterly Newsletter

- LEITI Gap Analysis Report
- Amended and Restated Public Procurement and Concession Act 2010 (PPCA)
- Public Procurement and Concession Act 2005
- Amended and Restated Public Procurement and Concession Act 2010
- National Investment Commission Act 2010
- Investment Act 2010
- National Bureau of Concession Act
- NOCAL Act of 2014
- Annual Budget Law 2014/2015 & 2015/2016 (Section 9)
- Environment Protection and Management Law 2002
- Public Lands Law - Title 34 - Liberian Code of Law Revised
-

## Annex 3 – TOR for Scoping Study

### **TERMS OF REFERENCE FOR THE SCOPING WORK**

#### **Objective of the assignment**

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 assignment is expected 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>19</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);

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<sup>19</sup> EITI Open data policy available in the EITI Standard at <https://eiti.org/document/standard>

- identify revenue streams that are not recorded in the national budget and explain the allocation of such off-budget revenues as well as track track implementation of the International Monetary Fund’s Government Finance Statistics (GFS) classifications for extractives revenues.
- consider revenue allocations and expenditure that should be disclosed under the EITI (EITI Requirement 5 and 6); and to the extent possible, assess the possibility for unilateral or where possible reconciliation of social expenditures as
- per EITI Requirement 6.1. a) and b) and contributions to the Social Development Funds.
- 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
- Investigate any other issues as mandated by the MSG.

In addressing these points, the IA 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 multi-stakeholder group will draw on the scoping study in agreeing the scope of the reporting process, in accordance with the “Standard Terms of Reference for the Independent Administrators<sup>20</sup>”.

The IA’s report will be submitted to the MSG and made publically available.

### **Scope of work**

The IA will be expected to undertake the following tasks:

1. Examine the MSG’s workplan in order to gain a clear understanding of the objectives and scope of Liberia’s EITI implementation. The IA should also review any annual progress reports that have been produced by the MSG to see the progress made in achieving the objectives and review any actions undertaken by the MSG to address recommendations from any previous EITI reporting exercises and validations.
2. Where applicable, undertake a review of all past EITI Reports and Validation report(s) to gain an understanding of the current scope and state of the EITI reporting process in Liberia and assess areas where further improvement is needed; and

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<sup>20</sup> Standard Terms of Reference for Independent Administrator services available at <https://beta.eiti.org/standard/TOR-IA>

3. 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**

4. 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 IA is expected 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);
  - b) Liberia's policy and practices on disclosure of contracts and licenses that govern the exploration and exploitation of oil, gas and 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 Liberia (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, mining, forestry and agricultural companies operating in Liberia (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); and,
5. Based on the assessment, the IA should 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 IA 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 IA 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 IA 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 should be collected and what can be directly drawn from the source and what weaknesses and challenges should be addressed in the EITI Report;
  - f) document carefully in the scoping report all information collected, the sources, and the basis for the assessments made.
6. The IA is expected to 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 IA, while doing the scoping study, is expected to take into account the local premises (e.g. level of access to Internet) and international best practices.

### **EITI reconciliation**

- 7. The EITI Standard requires full disclosure of government revenues from the extractive sector and disclosure of material payments made by oil, gas and mining companies (Requirement 4.1.c). The IA is expected 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 IA 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).
- 8. The IA is expected to describe what revenue and payment data listed in point 6 above is publicly available either online 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 IA 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>21</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 IA should make recommendations on how to address these with a view to embed EITI reporting in the future.

9. Following the analysis of revenue streams and payments, the IA is expected to:
  - a) Review cadastre and revenue data from July 1, 2015 – June 30, 2016 and make recommendations as to which of these 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
    - 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).
    - iv. Sector employment data
  - 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).

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<sup>21</sup> For further guidance, please refer to the Standard Terms of Reference for feasibility studies for mainstreaming EITI disclosures.

- e) In considering which government entities should participate in the reconciliation process, the IA 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**

- 10. In consideration of determining “Amount to be paid” (amount due) for the Fiscal year under review for all sectors, work with the relevant reporting entities to determine the fixed amount components of the revenue streams (amount due).
- 11. Design a revenue tracking template for line ministries and agencies at different stages of the value chain – flow of funds.
- 12. Identify areas in which reconciliation is feasible, i.e. there is perfect symmetry between the paying and receiving entities, and areas in which only a unilateral disclosure by the receiving or disbursing entity is necessary.

### **Data quality**

- 13. Where EITI Reports have already been produced, review previous approaches for addressing data quality, including any recommendations by past IAs or Validators for strengthening the process.
- 14. 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.
- 15. In accordance with EITI Requirement 4.9 propose assurances to be provided by reporting entities to the IA.

### **Scope of work: deliverables**

- 16. The IA is expected to present the following outputs:
  - a) Inception report;
  - b) A draft scoping report containing all of the scoping issues mentioned herein; and
  - c) A final scoping report reflecting the IA undertaking within the agreed timeframe.

| Inception report  | Draft report  | Final report  |
|---|---|---|
| <b>To be presented to the MSG for comments 2 weeks after the beginning of the appointment.</b>  | To be presented to the MSG for comments 3 week after the beginning of the appointment.                  | To be presented to the MSG for comments and approval 4 weeks after the beginning of the appointment.  |
| <b>Based on the initial document review, the inception report should confirm the methodology, the scope of the work and propose a time table.</b> | To include tasks completed.   | Prepare and present a final report that includes the remaining tasks and the comments from the MSG, the IA and the International Secretariat. |
| <b>The MSG shall present any comment in writing to the IA within 5 days.</b>  | The MSG and the International Secretariat shall present any comment in writing to the IA within 5 days. | The MSG shall approve the report according to contractual clauses.  |

The IA is expected to prepare and present a draft inception and scoping report to the MSG for review and comment according to established timeline. It is within the scope of the work of the IA to consult the parties and to ensure the comments are reflected in succeeding versions of the scoping and draft report.

The IA should integrate the comments from the MSG and prepare a final report to the MSG including recommendations for the July 1, 2015 – June 30, 2016 EITI Report for Liberia and how future scoping reports can be improved, as per agreed timeframe.

The MSG is expected to approve the report according to contractual clauses.