



US Extractive Industries Transparency Initiative Final Inception Report

Prepared for the Department of the Interior
Office of Natural Resources Revenue



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1. Introduction

The Extractive Industries Transparency Initiative (EITI) Standard, dated July 11, 2013, requires the appointment of an Independent Administrator (IA) who is responsible for applying relevant international professional standards to produce the annual [United States Extractive Industries Transparency Initiative \(USEITI\) Report](#). The USEITI report will include the reporting of contextual extractive industry information, unilateral data disclosure by the Department of the Interior, and the disclosure and reconciliation of material company payments and government revenues. In August 2014, Deloitte & Touche LLP (Deloitte & Touche) was selected to perform the work of the IA for the USEITI program in a manner consistent with the [Terms of Reference \(TOR\)](#) adopted by the US Multi-Stakeholder Group (MSG). The TOR was subsequently agreed to by Deloitte & Touche (also identified as “the IA”). The work and responsibilities of the IA to help produce the 2015 USEITI report are broken into five phases and are performed with guidance provided by the TOR and MSG. The first phase, preliminary analysis, includes the development of an Inception Report and supports the following objectives:

- Confirm the scope of the USEITI 2015 Report
- Establish the data reporting templates
- Develop the data collection and reconciliation plan
- Develop the online data/contextual report plan
- Confirm the schedule for publishing the 2015 USEITI report

In developing a plan to meet these objectives, we have considered various sources of information, including:

- Publicly available materials and minutes from past MSG meetings
- Preliminary scoping work performed by the US Department of Interior (DOI) Office of Natural Resources Revenue (ONRR)
- EITI website(s) and resources, including the 2013 EITI Standard
- EITI annual reports issued by other countries
- Other publicly available sources of information
- Consultations with the EITI International Secretariat
- Consultations with members of the MSG
- Consultations with DOI employees
- Consultations with various Deloitte & Touche employees, partners, principals, and directors with experience in Industry, Government, and Civil Society

- Consultations with various Deloitte Tax professionals as well as those in the Dodd-Frank Act practice area
- Consultations with Deloitte Touche Tohmatsu Limited (DTTL)¹ international member firm team members in Norway, Timor-Leste and Australia with relevant EITI experience

We understand that the Inception Report is an integral component of the USEITI implementation process. It should clearly define the scope of the 2015 USEITI report and be used as a confirmation that the scope is in line with both the EITI Standard and the MSG's agreed objectives and expectations for the USEITI process. We have analyzed the information gathered from the above sources to provide our initial input and offer potential recommendations within this report.

The Inception Report covers the following eight areas:

- Relevant background information (TOR 1.1)
- Payments and revenues to be covered as part of the USEITI program (TOR 1.3)
- Companies and government entities required to report for purposes of reconciliation (TOR 1.4)
- Draft reporting template (TOR 1.5)
- Examine audit practices and procedures for companies and government entities participating in the USEITI reporting process (TOR 1.6)
- Advice on what information should be requested from the participating companies and government entities to assess the credibility of the data (TOR 1.7)
- Advice on appropriate provisions relating to safeguarding confidential information (TOR 1.8)
- Unresolved issues or potential barriers to effective implementation and possible remedies for consideration (TOR 1.9)

¹ <http://www2.deloitte.com/us/en/pages/about-deloitte/articles/about-deloitte.html>

2. Relevant background information

2.1 EITI Implementation in the United States

What is EITI?

The EITI is a global coalition of governments, companies, and civil society working together to improve openness and accountable management of revenues from natural resources.² The EITI was established with the belief that natural resources, such as oil, gas, metals, and minerals, belong to a country's citizens, and that the appropriately managed revenues from these resources can lead to economic growth and social development. The core belief behind EITI is that transparency and openness around how a country manages its natural resource wealth is necessary to make sure that these resources can benefit all citizens.

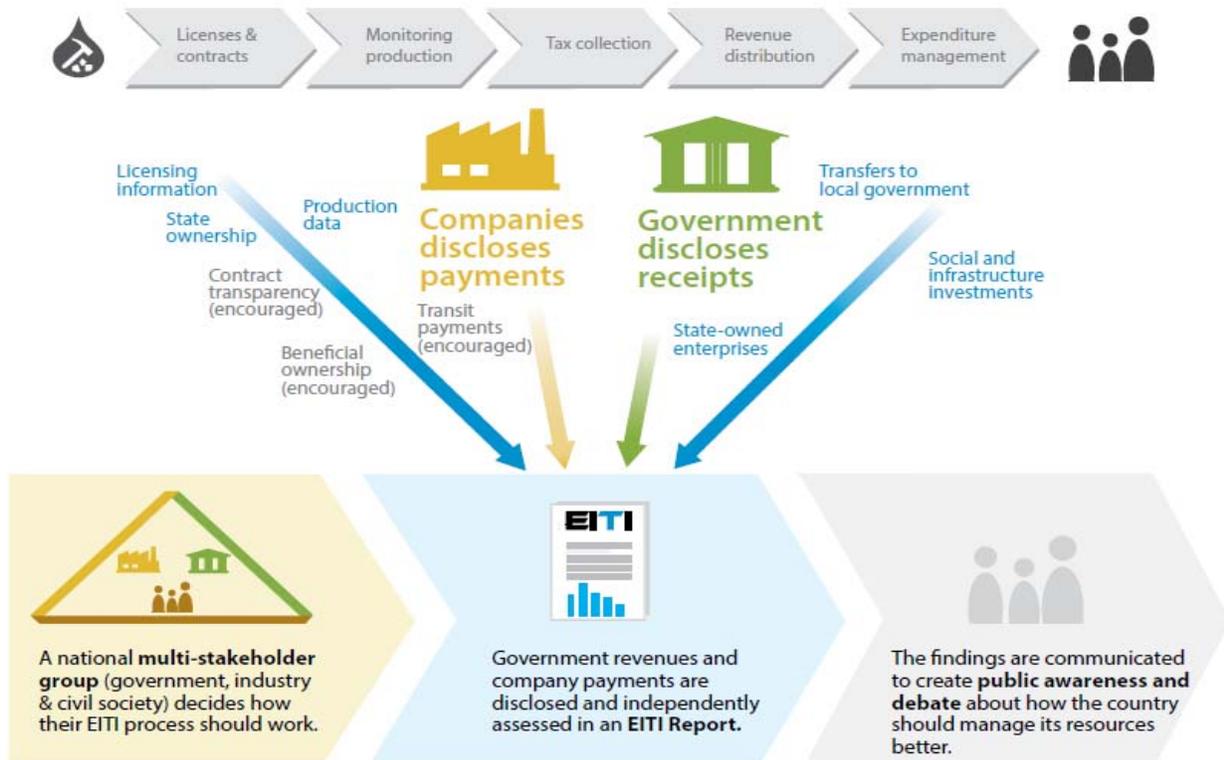
The principles and criteria for EITI, which are documented in the [EITI Standard](#) and described in figure 2.1-1, were designed with the objective of promoting and supporting transparency and accountability in resource-rich countries through the full publication of company payments, government revenues, and other information related to countries' extractive sectors. Countries implement the EITI Standard to confirm a full disclosure of payments made by extractive companies to governments. These payments are disclosed in an annual EITI Report that is published to allow citizens to see for themselves how much their government is receiving from their country's natural resources.

The EITI was [first established](#) in 2003 and the organization initially agreed upon 12 principles to increase transparency over payments and revenues in the extractive sector. These principles remain the cornerstone of the EITI. Several years later, the EITI established 23 requirements known as the EITI Rules. The new EITI Standard replaced the EITI Rules on May 24, 2013.

None of the documents establishing or related to the initiative creates legally binding obligations on governments. Governments that participate in EITI choose to implement the EITI principles and criteria through their domestic law and policy and may choose to change laws or regulations to effectuate EITI implementation. Once a country chooses to implement the EITI, however, they must comply with the EITI principles and standard in order to remain a member of the organization. Countries of varying degrees of development have chosen to adopt or are planning to adopt EITI reporting. As of December 2014, per the [EITI website](#), 35 countries have produced EITI reports, of which 31 are currently compliant. There are currently 17 candidate countries seeking to implement EITI, including the United States.

² <http://eiti.org/eiti>

Figure 2.1-1 The EITI Standard



United States adoption of EITI

In 2011, President Obama announced the US government's intention to implement the EITI as a signature effort of the [US National Action Plan for the Open Government Partnership \(OGP\), following bipartisan encouragement from Members of Congress](#). The President named the Secretary of the Interior (the "Secretary") as the senior US official to oversee the implementation. The Secretary committed to work alongside both the civil society and industry sectors to implement EITI in the United States.

On [March 19, 2014](#), the United States was accepted as a 'Candidate' country by the international EITI governing body. The United States joins more than 35 countries that have committed to improved transparency around the extraction of natural resources and the resulting government revenues received. The United States intends to implement EITI to provide accessible and useful information about public resources and their associated revenues and to better inform public policy and strengthen public trust. This effort in participatory government and collaborative decision-making seeks to enhance public financial management and improve the information and tools available for citizens to assess whether their government is an effective steward of the natural resources it manages on their behalf.

USEITI governance

The USEITI Advisory Committee, which was established under the [Federal Advisory Committee Act \(FACA\)](#), serves as the USEITI Multi-Stakeholder Group (MSG) and oversees the implementation of USEITI. The USEITI MSG is a consensus-based decision-making body that is composed of representatives from government, industry, and civil society. The following definitions are used in this document to define each of these specific stakeholder groups:

- **Civil society** is the aggregate of community-based organizations, nongovernmental organizations, and institutions outside of government representing the diversity of citizens and their views, seeking to speak on behalf of or for the “public interest” and the citizens themselves. More specifically, civil society might include, but not be limited to, nonprofits or not for profits, the media, trade unions, academic and research institutions, faith-based groups, investors, and individuals. The MSG civil society sector is representative of some aspects of this grouping.
- **Industry** is defined as companies operating within the extractive sectors of the country, be that domestic or international entities or business associations (e.g., trade associations or groups). In the United States, extractive sectors may include oil, gas, coal, geothermal, solar, wind, and Non-fuel minerals.
- **Government** is defined as the executive branch of government. Given the federal system in the United States, this may include the federal government, state governments, local governments, and/or tribal governments. For the purposes of this report, state will refer to one of the 50 states of the United States and local government will refer to a territorial division of a state, such as a city, town, county, parish, or district.

The Secretary formed the MSG in December 2012. It reports to the Secretary through DOI’s Assistant Secretary for Policy, Management and Budget. The MSG consists of approximately 21 primary and 21 alternate members, and is not to exceed nine primary members from each of the three stakeholder groups. The MSG has formally met 11 times since the first meeting in February 2013, and will continue to meet at least quarterly until the 2015 USEITI Report has been published. All meetings are announced in advance and are open to the public. Further details regarding the MSG are posted on the DOI website for the [USEITI MSG](#). This includes the MSG charter, a list of current members, and a historical listing of meeting information, materials, and minutes. The MSG leadership includes representatives of each of the aforementioned stakeholder groups, who have each appointed a co-chair to help lead the committee.

Per the terms of the [Charter](#)³ signed by the Secretary, the MSG’s duties include consideration and fulfillment of the tasks required to achieve EITI compliant reporting status. The MSG is also charged with oversight of the USEITI implementation process. This includes considering and making determinations on items, such as the scope of industries, lands, and payments, to be included in the USEITI and materiality thresholds for reporting. The MSG is also responsible for communicating the findings of the USEITI reports and making recommendations to promote the integration of the USEITI into broader natural resource revenue transparency efforts.

The MSG must also do the following:

- Develop and recommend to the Secretary an annual work plan with cost estimates, measurable targets, a timeline for implementation, and an assessment of capacity constraints

³ USEITI MSG Charter <http://www.doi.gov/eiti/upload/EITI-Charter.pdf>

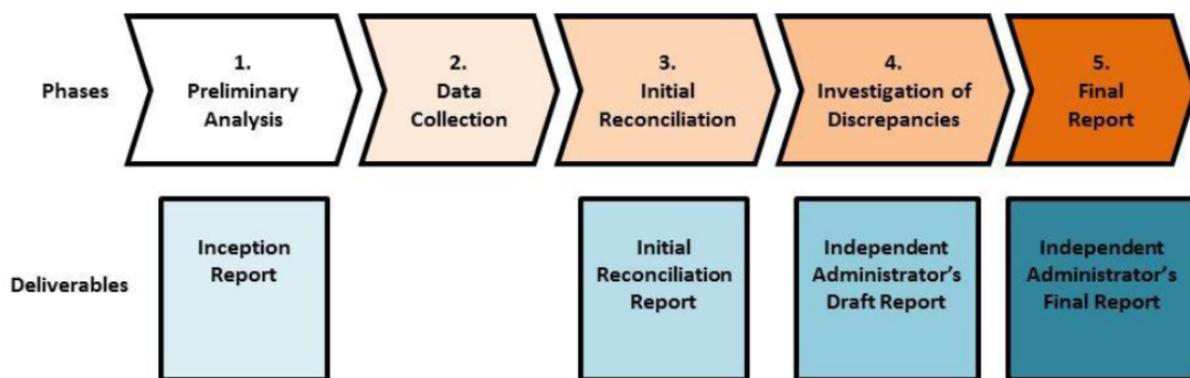
- Advise the Secretary on, and post for consideration by other stakeholders, proposals for conducting long-term oversight and other activities required to achieve EITI compliant reporting status
- Provide opportunities for collaboration and consultation among stakeholders

Independent administrator

We understand that the IA's role, at a high level, is to assist the MSG in producing a 2015 USEITI report. As part of that report, the IA must be able to reconcile 2013 data submitted by companies and government reporting entities. The IA must also obtain the necessary assurances from the reporting entities around the comprehensiveness and reliability of the data. We also understand the requirement that we must work with the MSG to agree on the procedures for incorporating and analyzing contextual and other non-revenue information in the USEITI Report and that this information must be clearly sourced and attributable. The IA's work must be independent and performed in a manner consistent with the TOR. The report should meet the criteria specified in the EITI Standard and other detailed requirements as outlined in the TOR.

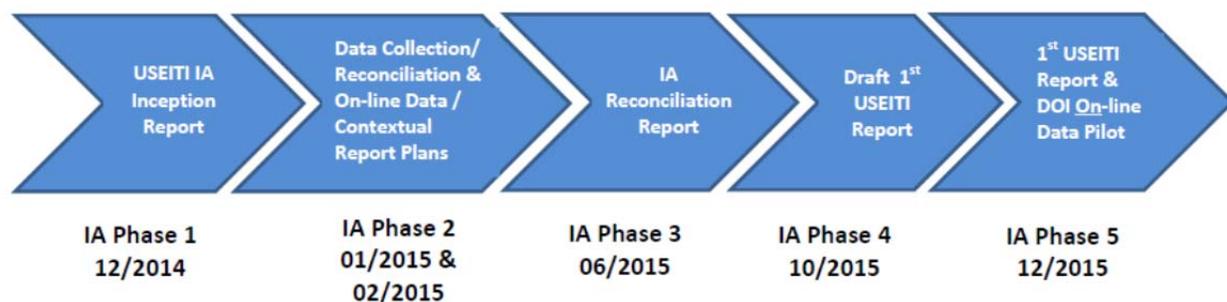
The work of the IA to develop the 2015 USEITI report will occur in five phases, as defined by the MSG, with specific timelines and deliverables for each phase. The high-level phases and deliverables as outlined by the MSG in the TOR are depicted in Figure 2.1-2.

Figure 2.1-2 Overview of the USEITI reporting process and deliverables



Some key activities for each phase and their planned timing, as outlined by the MSG in the TOR, are depicted in Figure 2.1-3.

Figure 2.1-3 USEITI IA implementation timeline and milestones



As a part of the Candidacy Application, the MSG proposed that the United States would produce its first USEITI Report by December 2015 and publish its second USEITI Report by December 2016. The second USEITI

Report will be submitted to the EITI Board for validation. A successful validation process would result in the United States being found to be compliant with the EITI Standard.

2.2 Overview of the extractive industries in the United States

The EITI defines extractive industries as those responsible for the extraction of raw materials from the earth. In the United States, this includes but may not be limited to the oil, gas, coal, geothermal, solar, wind, and non-energy mining industries. The forestry and fisheries industries will be considered for inclusion in the future. The United States is both a significant producer and consumer of various extractive natural resources. Domestic energy production continues to grow. [Per a report from the US Energy Information Administration \(EIA\)⁴ in June 2014](#), total US energy production (production from oil, gas, mining, and renewables) reached 81.7 quadrillion British thermal units (quads) in 2013, enough to satisfy 84% of total US energy demand, which totaled 97.5 quads. The EIA states that the portion of US energy consumption supplied by domestic production has been increasing since 2005, when it was at its historical low point (69%). Since 2005, production of domestic resources, particularly natural gas and crude oil, has been increasing. The EIA notes that this is primarily due to the development of new technologies that have enabled extraction of oil and natural gas from previously non-economic sources. The EIA forecasts growth to continue in the coming years. For 2013, the aggregate extractive industries comprised approximately 2.6% of gross domestic product (GDP) in the United States.⁵

The following sections are intended to provide a brief overview of the background and activities for each of the major extractive sectors within the United States, including total US production information and select regions and areas where production is concentrated. This background section is not meant to be a comprehensive overview for the extractive industry; it is included as a reference for understanding the basic background of the extractive industry within the United States. In general, the most current and recent data is available and incorporated, but in certain cases, older data may be necessary where current data is not available.

2.2.1 Oil

[Crude oil](#)⁶ is produced in 31 states and US coastal waters off Alaska, California, and in the Gulf of Mexico. Crude oil production (including lease condensate⁷) averaged 7.5 million barrels per day in 2013. In 2013, petroleum, comprised of both naturally occurring unprocessed crude oil and petroleum products that are made of refined crude oil, contributed less than 1% of US electricity generation.⁸ Five states and the Gulf of Mexico supplied more than 80%, or 6 million barrels per day, of the crude oil produced in the United States in 2013; Texas alone provided almost 35%. The second largest state producer was North Dakota, with 12% of US crude oil production, followed by California and Alaska at close to 7% each and Oklahoma at 4%. Gulf of Mexico federal offshore oil production accounts for 17% of total US crude oil production. Table 2.2.1-1 illustrates the recent historical crude oil production by state or region.

⁴ The U.S. Energy Information Administration is available at the following Web address: <http://www.eia.gov/>

⁵ GDP by Industry for 2013: http://www.bea.gov/industry/gdpbyind_data.htm

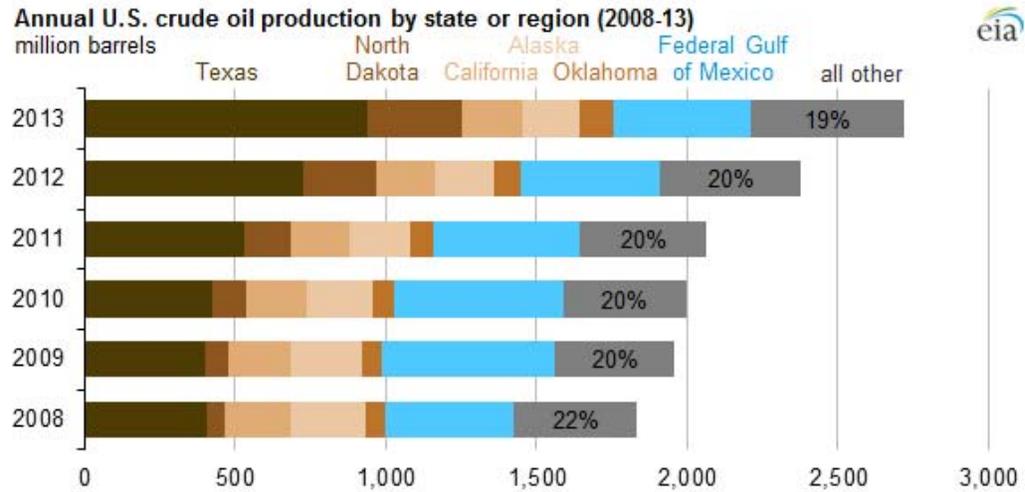
⁶ More information for oil can be found in: <http://www.eia.gov/petroleum/>

⁷ Lease condensate: Light liquid hydrocarbons recovered from lease separators or field facilities at associated and non-associated natural gas wells, mostly pentanes and heavier hydrocarbons. Normally enters the crude oil stream after production.

⁸ Information for electricity generation in the United States is available at: http://www.eia.gov/energyexplained/index.cfm?page=electricity_in_the_united_states

Table 2.2.1-1 — 2013 Crude oil production

Five states and the Gulf of Mexico produce more than 80% of U.S. crude oil

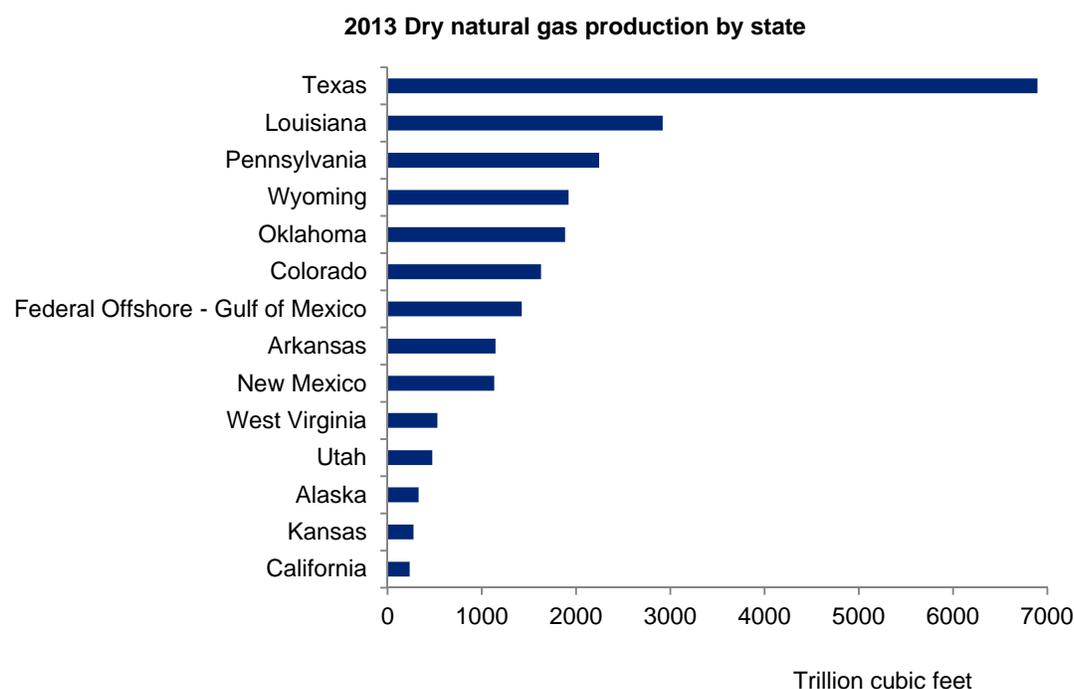


2.2.2 Gas

The United States is the world's largest natural gas producer with 24 trillion cubic feet of dry [natural gas](#)⁹ produced in 2013. In 2013, natural gas contributed to 27% of US electricity generation. Natural gas withdrawn from a well often contains liquid hydrocarbons and non-hydrocarbon gases. This is called "wet" natural gas. The natural gas is separated from these components near the site of the well or at a natural gas processing plant. The gas is then considered "dry" and is sent through pipelines to a local distribution company and ultimately to the consumer. Dry natural gas is also known as consumer-grade natural gas. Dry natural gas is produced in 33 states and coastal waters off the Gulf of Mexico. Five states produce almost 66% of the total dry natural gas in the United States. The distribution of production by the top 13 states and the Gulf of Mexico is shown in Table 2.2.2-1.

⁹ More information for natural gas can be found in: <http://www.eia.gov/naturalgas/>

Table 2.2.2-1 — 2013 Dry natural gas production by state



Source: U.S. Energy Information Administration, Natural Gas Annual

2.2.3 Coal

US coal¹⁰ production was 983.8 million short tons in 2013, making the United States the world's second largest producer of coal in 2013 (per the World Coal Association).¹¹ More than 90% of US consumption of coal was by US power plants and used to generate 39% of US electricity in 2013. Coal is mainly found in three large regions: the Appalachian region, the Interior region, and the Western region. Approximately 27% of the coal produced in the United States comes from the Appalachian coal region. Illinois is the largest coal producer in the Interior coal region, accounting for just over 30% of the region's coal production. More than half of the coal produced in the United States is from the Western coal region.¹² Figure 2.2.3-1 shows the distribution of production by region.

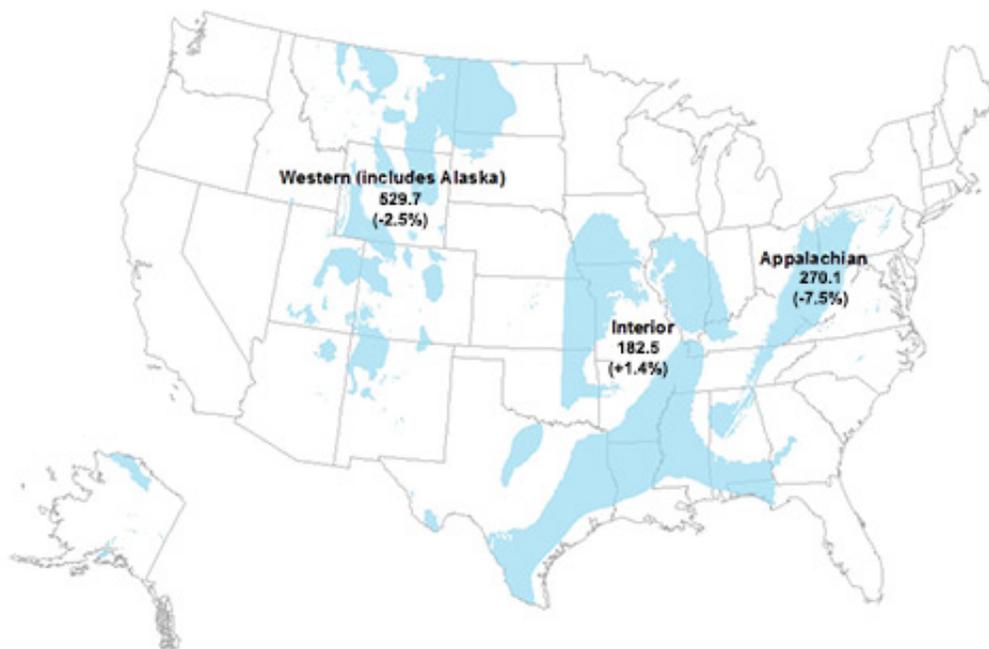
¹⁰ More information for coal can be found at: <http://www.eia.gov/coal/>. Coal statistics were updated on January 16, 2015 when 2013 information became available.

¹¹ More information can be found in the World Coal Association: <http://www.worldcoal.org/>

¹²EIA. Coal production resource: http://www.eia.gov/Energyexplained/index.cfm?page=coal_where

Figure 2.2.3-1 — 2013 Coal production by region

Coal production by region in million short tons, 2013 (percent change from 2012)



Source: U.S. Energy Information Administration, *Quarterly Coal Report* (March 2014), preliminary 2013 data.
Production does not include refuse recovery.



2.2.4 Geothermal, Solar, and Wind

Responsible development of the United States' energy resources, including geothermal, solar, and wind, is a component of President Obama's Climate Action Plan.¹³ These sources are utilized primarily for electricity generation.

Geothermal

Geothermal energy has been a small source of electricity in the United States since 1971, providing 0.4% of total US generation in 2013.¹⁴ Current geothermal energy production is concentrated in Western states, particularly California, Nevada, and Utah. The Western states region is expected to be one of the areas with the highest growth potential, as this region is primarily where the required geological formations are located in the United States. Geothermal plants generate electricity by tapping underground reservoirs of hot water where the heat from the steam or superheated water is used to drive steam turbine power generators. There are currently 64 operating conventional geothermal power plants in the United States, accounting for nearly 2,700

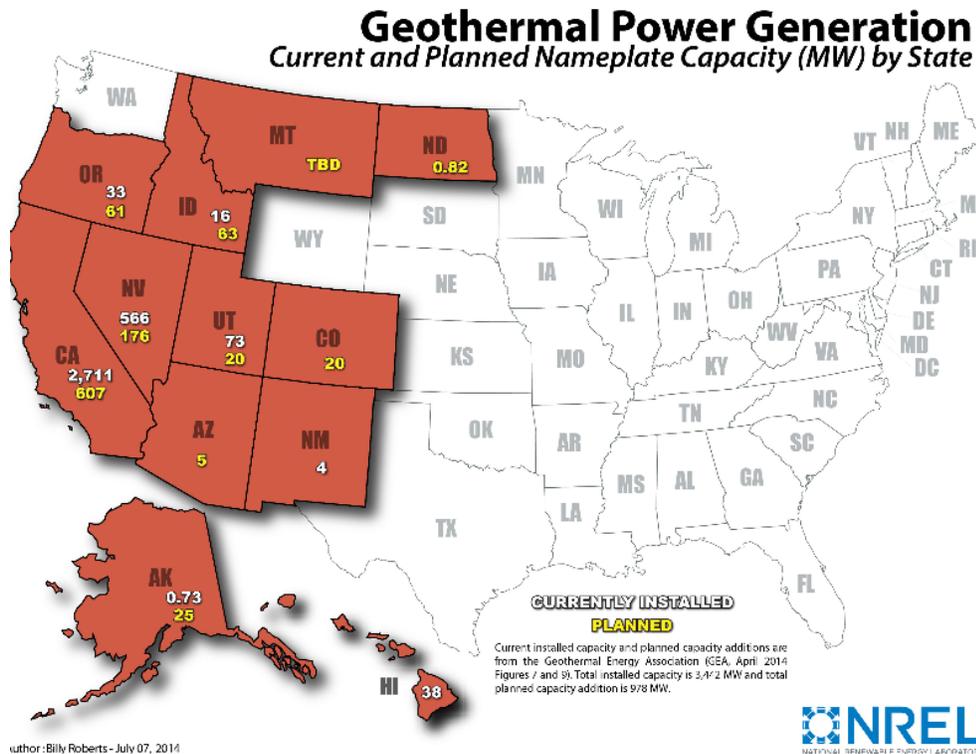
¹³ Climate Action Plan <http://www.whitehouse.gov/sites/default/files/image/president27climateactionplan.pdf>

¹⁴ More information for geothermal can be found in: <http://www.eia.gov/todayinenergy/detail.cfm?id=17871>

megawatts (MW) of total capacity at the end of 2013. Over three-fourths of US geothermal power generation in 2013 was in California.

The geothermal map in Figure 2.2.4-1 below shows current and planned power generation capacity by state, based on the data from the National Renewable Energy Laboratory¹⁵ and the Geothermal Energy Association. Total installed capacity is 3,442 MW and total planned¹⁶ capacity is 978 MW as of April 2014.

Figure 2.2.4-1 — 2014 Geothermal power generation capacity



Solar

Solar power is energy from the sun that is converted into thermal or electrical energy. In the United States, solar energy comes from a combination of concentrated solar power plants and smaller, decentralized local distributed generation devices. Based on data from the EIA, solar electric generating capacity has shown high growth in recent years, and now stands at 12,057 MW as of February 2014, accounting for almost 1.13% of total US electric capacity.¹⁷ California, Arizona, and North Carolina combine to produce 72% of the total utility-level solar capacity in the United States while California, New Jersey, and Massachusetts combine to produce 59% of the total net-metered (local distributed) solar capacity. These areas provide a mix of plentiful sunshine and state-level incentivized programs, two factors that continue to impact areas for solar growth.

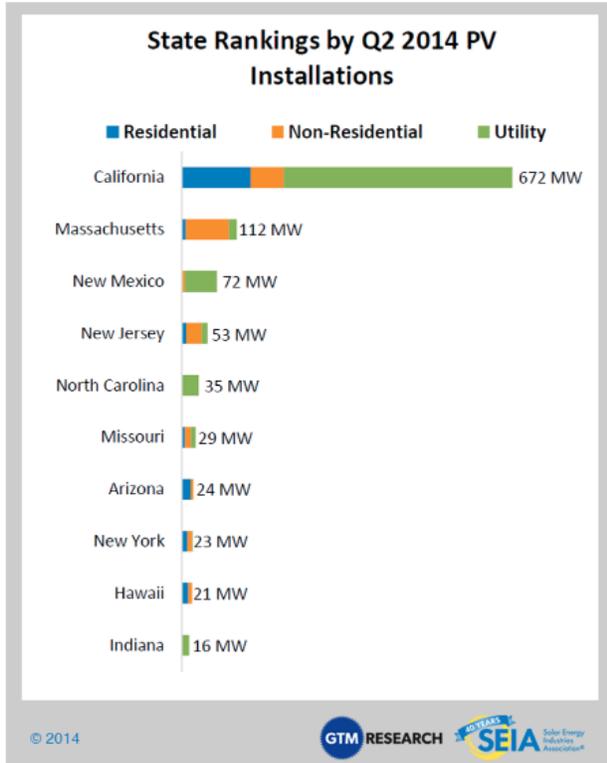
¹⁵ National Renewable Energy Laboratory <http://www.nrel.gov/gis/geothermal.html>

¹⁶ The numbers for "planned" generation include projects in Phases 1-4 of development and unconfirmed projects.

¹⁷ <http://www.eia.gov/electricity/monthly/update/archive/april2014/>

Figure 2.2.4-2 shows the solar power generation capacity ranking by state based on data from the Solar Energy Industries Association¹⁸. Total solar power capacity, including power generated by residential, nonresidential, and utility, is 1,057 MW in the top 10 states as of June 2014.

Figure 2.2.4-2 — 2014 Solar power generation capacity



Wind

Wind power involves converting wind energy into electricity by using wind turbines. Based on data from the EIA¹⁹, 167 million megawatt hours (MWh) of power came from wind in 2013, representing approximately 4% of US electricity generation. In 2013, 12 states accounted for 80% of US wind-generated electricity. Texas was the top wind power state, with nearly 36 million MWh of electricity. Iowa was second, with more than 15 million MWh, followed by California, Oklahoma, Illinois, Kansas, Minnesota, Oregon, Colorado, Washington, North Dakota, and Wyoming. These 12 states produced a combined 134 million MWh of electricity from wind.

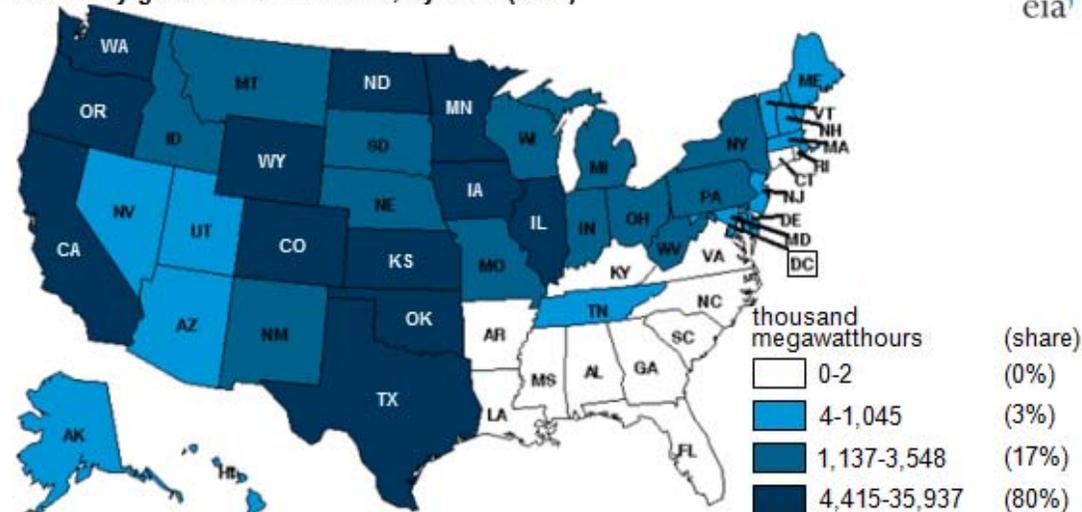
¹⁸ Solar Energy Industries Association <http://www.seia.org/research-resources/solar-industry-data>

¹⁹ <http://www.eia.gov/todayinenergy/detail.cfm?id=15851>

Figure 2.2.4-3 — 2013 Wind power generation capacity

Twelve states produced 80% of U.S. wind power in 2013

Electricity generation from wind, by state (2013)



Source: U.S. Energy Information Administration, Electric Power Monthly

2.2.5 Non-fuel minerals

A wide variety of minerals can be classified as “Non-fuel”, including precious metals, base metals, industrial minerals, and materials used for construction. The General Mining Law of 1872 declared all valuable mineral deposits in public land to be free and open to exploration and purchase. These minerals may be “located” with a mining claim under the law. “Locatable” minerals include both metallic minerals (gold, silver, lead, copper, zinc, nickel, etc.), nonmetallic minerals (fluorspar, mica, certain limestone and gypsum, heavy minerals in placer form, uranium, bentonite, silica sand, and gemstones), and certain uncommon varieties of minerals (e.g., dimension stone, pumice, pumicite, and cinder deposits). This includes what is commonly referred to as “hard rock minerals,” generally those minerals containing metals (ore containing gold, silver, iron, copper, zinc, nickel, tin and lead). Other minerals include those that are often used as industrial feedstock, such as phosphate, sodium, and potassium. Mineral materials include sand, gravel, dirt, and rock.

The estimated value of US metal and mineral mine production in 2013 was \$74.2 billion, with \$32.1 billion attributable to metal mine production and \$42.1 billion to nonmetal minerals, according to the United States [Geological Survey \(USGS\) Mineral Commodities Summary 2014](#). Principal contributors to the total value of metal mine production in 2013 were gold (32%), copper (28%), iron ore (16%), zinc (5%), and molybdenum (4%). Principal contributors to the total value of nonmetal mine revenues were crushed stone (26%), construction sand and gravel (16%), phosphate rock (7%), industrial sand and gravel (6%), and clay (4%). In 2013, 12 states each produced more than \$2 billion worth of non-energy mineral commodities. These states are, in descending order of value produced, Nevada, Arizona, Minnesota, Florida, Texas, Alaska, Utah, California, Wyoming, Missouri, Michigan, and Colorado. The mineral production of these states accounted for 64% of the US total output value.

2.3 Governance arrangements

This section describes the governance structure, legal framework, and property rights structures that are relevant to the EITI implementation in the United States. A list of major statutes and applicable laws can also be found in **Appendix C: List of Applicable Laws**.

2.3.1 Property Rights — Ownership of land and mineral rights

In the United States, subsurface resources belong to the surface landowner, unless sold separately by a deed. In this sense, the legal structure governing land ownership and mineral rights differs in the United States from that of many other countries, which consider subsurface minerals to be government-owned property. In the United States, the subsurface mineral rights can be segregated by vertical depth in some instances, further complicating ownership. Resource ownership can also be mixed even if the surface span is owned by a single entity.

The rights to natural resources in the United States can be owned by private owners, the federal government, state governments, or tribal entities. Companies can extract natural resources from land and property owned by any of the four types of entities (private, federal, state, and tribal). The obligations due to the natural resource owners vary by type of mineral, and this is governed by an interrelated collection of federal and state laws.

Natural resources are extracted from onshore or offshore locations in the United States. The development of offshore oil, gas, and other mineral resources in the United States is governed by a number of interrelated legal regimes, including international, federal, and state laws. Offshore natural resource ownership rights are split between the state and federal governments. In general, states have primary authority and ownership in the three-mile area extending from their coasts and the federal government governs those minerals located under federal waters, which extend from the states' offshore boundaries out to at least 200 nautical miles from the shore. Unlike offshore, onshore natural resources may be owned by private owners, state governments, the federal government, or by federally recognized Indian tribes. Often, the span of an entire field or mine is owned by a combination of private landholders, the federal government, a state government, or Indian tribes. Extractive resource ownership can be very complex, based upon the laws and regulations that govern a particular location.

A brief description of key terms related to ownership of land and mineral rights in the United States is provided.²⁰

- **Surface rights:** A landowner's right to the land surface and to the substances below the surface that are not defined as "minerals."
- **Subsurface rights:** A landowner's right to the minerals and water below the property. Subsurface rights are dependent on state law and, thus, vary from state to state. In many states, the owners of the land are not necessarily the owners of the minerals. In some states, mineral rights revert to the surface owner under certain conditions, such as death, failure to obtain production, or passage of a specified period.
- **Federal land²¹:** Land and interests in land owned by the federal government, public domain, acquired lands, and military lands.

²⁰ Information about land types and rights is available at: <http://www.blm.gov/wo/st/en/info/regulations.html>

²¹ Federal Land Ownership: Overview and Data <http://fas.org/sgp/crs/misc/R42346.pdf>

- **Public domain lands:** Those lands that were ceded to the United States by treaty, purchase, or conquest that have not been transferred out of federal ownership. Development of subsurface resources on public domain lands are governed by a variety of laws, including the Mineral Leasing Act and the Mining Law. For example, public domain lands are open to location of mining claims under the Mining Law if not withdrawn by the US Forest Service office or the Bureau of Land Management (BLM). Mineral rights on federal lands that have not been sold or patented are given the status of Public Domain Minerals.
- **Acquired lands:** Lands in federal ownership that the federal government obtained by deed through purchase, gift, exchange, or condemnation proceedings.
- **Military acquired lands:** Lands acquired with military funds under military acquisition laws.
- **Outer continental shelf:** Submerged lands seaward and outside the area of lands beneath navigable waters. Lands beneath navigable waters are defined as extending three nautical miles from the coastline into the Arctic Ocean, the Atlantic Ocean, the Pacific Ocean, and the Gulf of Mexico, and as extending from the coastline three marine leagues into the Gulf of Mexico off Texas and western Florida.
- **Indian land:** Lands owned by Indians, including tribal lands held in trust by the United States or subject to federal restrictions against alienation, or allotted land owned by individual Indians with federal restrictions against alienation.
- **Indian allotment:** An allocation of a parcel of public lands or Indian reservation lands to an Indian for individual use. Revenue from mineral production from leases on these allotments is paid to individual Indian land and mineral owners.
- **Alaska Native Corporations**²²: Twelve regional corporations received rights to the subsurface and some surface lands, and certain village corporations received title to surface lands.
- **State lands:** Lands owned by state governments.
- **Fee lands:** Lands in private ownership.

²² Regional Alaska Native Corporations: <http://www.gao.gov/assets/660/650857.pdf>

2.4 US federal government extractive revenues

For the purposes of USEITI implementation, the MSG has determined that the material amounts of federal government revenues from extractive industries in the United States are primarily composed of royalties, rents, bonuses, settlements, penalties, and fees collected by DOI for extractive activities. DOI's collection of over \$14.4 billion in FY (fiscal year) 2013 is one of the Federal government's largest sources of non-tax revenue²³. Extractive companies are also responsible for paying federal income taxes, which are collected by the Internal Revenue Service²⁴. The MSG has also determined that it will request companies to report the sum of all corporate income tax payments/refunds (based on 13 identified IRS transaction codes) made by or on behalf of all of the companies included in the annual consolidated federal income tax income return for the 2015 USEITI report. Accordingly, this section includes an overview of the identified relevant types of tax and non-tax revenues collected by Federal government agencies from extractive companies. The US federal government operates on an accounting or fiscal year that is the 12-month period beginning October 1 and ending September 30 of the following year. Much of the publicly available information on federal revenues is published on a government fiscal year basis, though there may be some data published on a calendar year basis. Data will be presented in the following sections in the format it was made publicly available.

2.4.1 Federal income tax revenues

Business entities in the United States are primarily organized as corporations, partnerships, and sole proprietorships. Companies are taxed from a federal perspective differently based on their entity type. Corporate income tax is imposed at the federal level on all entities treated as corporations. These are primarily entities organized as C corporations. Other entities are taxed as flow-through entities, meaning federal taxes are levied at the member or shareholder level, and not the entity level.²⁵ These include S corporations, various partnerships, limited liability companies (LLCs), and sole proprietorships. Extractive companies operating in the United States are organized for tax purposes as both corporations and flow-through entities. Unless included in the income of C corporations, taxes related to flow-through entities have been excluded from USEITI by the MSG as not applicable revenue streams under requirement 4.1(b) of the EITI Standard.

Corporate income tax

The principal federal tax payments made by companies are the corporate income tax and the alternative minimum tax. Like individuals, corporations must file tax returns every year and must make quarterly estimated tax payments. Corporations are taxed at the rate of 15% on the first \$50,000 of taxable income, 25% on taxable income from \$50,001 to \$75,000, 34% on taxable income from \$75,001 to \$10 million, and 35% on taxable income above \$10 million. The first two graduated rates are phased out for corporations with taxable income between \$100,000 and \$335,000, and the 34% rate is phased out between \$15,000,000 and \$18,333,333 in taxable income.

To compute taxable income, a corporation deducts expenses paid or incurred during the taxable year from gross business income (gross receipts minus cost of goods sold). These expenses include wages, state and local taxes, depreciation, depletion, interest expense, and other expenses. Expenditures that produce benefits in future taxable years, such as expenditures on plant and equipment, are capitalized and recovered over time through depreciation, amortization, or depletion allowances. When deductions exceed income, a corporation

²³ Office of Natural Resources Revenue: <http://www.onrr.gov>

²⁴ Internal Revenue Service: <http://www.irs.gov/>

²⁵ Flow-through businesses are defined as legal business entities that pass income on to the owners or investors. Generally, they are not treated as taxable entities for income tax purposes, but rather income, expenses, and credits are passed through to their owners.

has a net operating loss. Net operating losses can be carried back for two years and carried forward for 20 years to offset taxable income. Deductions are also allowed for certain amounts for which the corporation did not make expenditures. For example, a deduction is allowed for a portion of income attributable to certain domestic production activities. Certain other payments by corporations, such as dividends paid to shareholders, are not deductible.

US corporations are subject to tax on foreign source as well as domestic source income. Although a US corporation is required to pay US tax currently on foreign income earned through a foreign branch, US tax generally is not imposed on the active earnings of a foreign subsidiary until the subsidiary distributes the income to the parent corporation as a dividend (i.e., until income earned abroad is repatriated back to the United States). However, certain passive income, such as portfolio income, is taxed when earned, regardless of whether it is repatriated to the United States. In computing US tax liability, US taxpayers (including corporations) are allowed a credit for foreign taxes paid.

A corporation is also subject to an alternative minimum tax, which is payable to the extent that it exceeds the corporation's regular tax liability. The alternative minimum tax is imposed at the rate of 20% on a base that is broader than the regular tax base. The exemption amount for the corporate alternative minimum tax is \$40,000. If a corporation pays the alternative minimum tax, the amount of tax paid is allowed as a credit against the regular tax in future years. Under the alternative minimum tax regime, certain preferences and adjustments are added back or subtracted from a taxpayer's regular taxable income. Items that commonly affect the oil and gas industry are depreciation and intangible drilling costs (IDCs).

A corporation generally is treated as distinct from its shareholders for tax purposes. Distributions to shareholders in the form of dividends generally are taxable to the shareholders. Corporate earnings that are retained and reflected in stock value are taxed as capital gains on disposition of the stock. Thus, corporate profits on equity investments are generally taxed twice — once at the corporate level when the income is earned and again at the individual level when received by the shareholder as a dividend or capital gain. Amounts paid as interest to debt holders are only subject to tax at the recipient level because they are allowed as a deduction by the corporation.

Under the corporate income tax, there is no separate rate structure for capital gains. Thus, the maximum rate on net capital gains is 35%. Capital losses in excess of capital gains are not deductible, but may be carried back for three years or carried forward for five years.

Tax provisions impacting extractive industries

Various rules exist in the Internal Revenue Code (IRC) that apply only to specific types of activities, such as exploration and development of natural resources. These rules include the US tax treatment of leasehold costs, seismic (geological and geophysical (G&G)) costs, tangible equipment, and development costs.

Lease acquisition costs are capitalized and recovered through depletion. Taxpayers are eligible for cost depletion, which is on a unit of production rate. This rate is derived from current-year volumes of production sold divided by the total volume of reserves in the ground plus those previously mined but not sold at the beginning of the taxable year.

An independent producer and royalty owner, a term used to distinguish entities from integrated oil and gas companies, may also qualify for percentage depletion with respect to mineral properties. The amount of the deduction is a statutory percentage of the gross income from the property. Generally, for oil and gas properties, the percentage is 15% and the deduction may not exceed 100% of the taxable income from the property. Percentage depletion is further limited to 1,000 barrels of production a day. Cost depletion is then compared to

the percentage depletion calculated under these limitations. The taxpayer is allowed to deduct the greater of cost depletion or percentage depletion on a property-by-property basis. Finally, the percentage depletion deduction for oil and gas properties may not exceed 65% of the taxpayer's overall taxable income. Other limitations and special rules also apply to the percentage depletion deduction for oil and gas properties.

The United States also has a percentage depletion incentive for mining companies for federal income tax purposes. Similarly, this is a statutory percentage of the gross mining revenue, subject to a 50% mining taxable income limitation. The percentage ranges from 5% (for minerals such as gravel and stone) to 22% (for minerals such as uranium; and if from US deposits, clay talc and certain ores, including tin and zinc). In general, the percentage depletion deduction is determined separately by mine and for regular federal income tax purposes is not limited to the tax basis in the ore body.

G&G costs have a different treatment depending on the classification of the taxpayer. After August 9, 2005, independent producers capitalize and amortize G&G costs over a 24-month period using a half-year convention. Major integrated oil companies must amortize these costs over 7 years (for costs after December 19, 2007) or five years (for costs after May 17, 2006, but before December 20, 2007). Prior to August 9, 2005, these costs were capitalized to the leasehold costs and depleted.

Tangible equipment is capitalized and depreciated. Taxpayers generally use either the units of production (similar to cost depletion) or use the standard depreciation system provided by statute. Under the standard method, generous allowances exist for property, depending on the type of asset.

Special rules also allow an accelerated deduction in the case of exploration and development expenditures. Specifically, upon election by the taxpayer, intangible drilling costs (IDC) incurred in the United States are eligible to be deducted when incurred. Upon making the election, independent producers are eligible to deduct 100% of IDCs incurred in a year. Integrated oil companies may deduct 70% of these costs, and the remaining 30% is capitalized and amortized over 60 months. If the taxpayer made a proper election to deduct IDC, both classifications of taxpayers may make a separate, annual election to capitalize and amortize IDC over 60 months. This election is an annual election and may be made for some or all of the IDC incurred.

Through the allowance of a special deduction, corporations are taxed at lower rates on income from certain production activities. For taxable years after 2009, the deduction for domestic production activities is generally 9% of the income from manufacturing, construction, and certain other specified activities. The deduction for income from oil and gas production activities is limited to 6%. The 9% deduction is (approximately) equivalent to taxing income at a tax rate of 31.85% (i.e., taxing 91% of income at a 35% rate is equivalent to taxing 100% of income at a 31.85% rate). Corporations are also eligible to claim tax credits related to certain activities, such as the tax credit for research and experimentation, the carbon dioxide sequestration tax credit, the renewable electricity production tax credit, and others.

2.4.2 Other federal tax revenues

The IRC imposes federal excise taxes on various fuels. Excise taxes can be collected at various stages, including the point of extraction, production, transportation, distribution, wholesale, and retail levels. Many trust funds established by the federal government are financed with dedicated excise tax receipts. Examples of such trust funds include, but are not limited to, highway trust fund taxes, airport and airway trust fund excise taxes, inland waterways trust fund excise tax, environmental trust fund excise fuel taxes, and black lung disability trust fund coal excise tax. These types of taxes have been excluded from USEITI by the MSG as not applicable revenue streams under requirement 4.1(b) of the EITI Standard.

2.4.3 Federal non-tax revenues

The federal government collects certain types of non-tax revenues related to extraction activities that take place upon federally owned land. States, counties, and local governments could also have an interest in areas where extractive industry companies operate, and may receive monetary allocations from a portion of the federal revenues collected.

The Department of the Interior is the primary agency responsible for collecting federal extractive revenues. The extractive revenue collection process for DOI is primarily handled by the Office of Natural Resources Revenue (ONRR), but the Bureau of Land Management (BLM), the Office of Surface Mining Reclamation and Enforcement (OSMRE), the Bureau of Ocean Energy Management (BOEM), and the Bureau of Safety and Environmental Enforcement (BSEE) also have a role.

The following sections provide a high-level overview for each of the DOI bureaus on the types of extractive revenues they collect. Where publicly available, we have also included actual revenue data for the most recent year or several years to provide additional context.

Office of Natural Resources Revenue (ONRR)

ONRR handles both onshore and offshore royalty and revenue functions, including the collection and distribution of revenue, auditing and compliance, and asset management.

ONRR collected approximately \$11.9 billion in government fiscal year 2012 and \$14.4 billion in government fiscal year 2013. The revenues collected by ONRR are subsequently disbursed to other federal agencies, states, Indian tribes, and individual Indian land and mineral owners.²⁶ The revenues collected by ONRR include royalties, rents, bonuses, and other revenues. Each of these revenue streams is defined in detail in the sections below.

ONRR has created a [web page of statistical information](#) to allow the public to have access to information related to the revenues collected by ONRR. Data can be accessed and presented in many different ways through this web page. This includes accessing data by accounting year versus sales year. Accounting year data represent all transactions that ONRR accepted into their financial system during a given fiscal year (October 1 to September 30). This data set contains transactions for sales that took place in the current fiscal year, as well as adjusted or corrected transactions for sales that took place in previous fiscal years. Sales year data represent transactions for sales that took place in a given fiscal year and do not include adjusted or corrected transactions for sales that took place in previous fiscal years. For the purposes of presenting background information on ONRR revenues in the following sections, all ONRR data will be presented in the accounting year format. By statute, companies can adjust and correct their payments for up to seven years after a transaction takes place. If a company overpays its royalty, rent, bonus, or other revenue, it is entitled to recoup its overpayment. If the overpayment and recoupment happen in different years, the recoupment may appear as a negative amount in ONRR's revenue summaries.

Table 2.4.3-1 shows the total revenues reported and paid to ONRR by category for fiscal year 2013.

²⁶ More information for ONRR can be found at: <http://www.onrr.gov/>

Table 2.4.3-1 — ONRR reported revenues by category for fiscal year 2013



**Reported Revenues by Category
FY 2013 by Accounting Year**

Revenue Type	Commodity	2013			Total
		American Indian	Federal Offshore	Federal Onshore	
Reported Royalties	Coal (ton)	\$78,219,384.97	\$0.00	\$697,439,021.31	\$775,658,406.28
	Gas (mcf)	\$130,635,347.94	\$500,024,502.58	\$1,008,066,360.37	\$1,638,726,210.89
	NGL (gal)	\$12,634,562.58	\$163,180,521.84	\$284,957,168.46	\$460,772,252.88
	Oil (bbl)	\$684,766,073.25	\$5,434,009,241.26	\$1,459,973,588.60	\$7,578,748,903.11
	Other Products	\$3,009,419.98	\$41,115.36	\$176,160,226.69	\$179,210,762.03
Rents		\$2,817,905.86	\$258,090,744.24	\$44,896,462.71	\$305,805,112.81
Bonus		\$10,611,353.00	\$2,675,677,880.50	\$652,350,224.76	\$3,338,639,458.26
Other Revenues		\$48,263,184.25	\$34,547,942.38	\$26,937,538.10	\$109,748,664.73
Total		\$970,957,231.83	\$9,065,571,948.16	\$4,350,780,591.00	\$14,387,309,770.99

Royalties

Royalties are payments of a set percentage of the value of production removed or sold from the lease. The percentage is called a royalty rate and is set in the lease document. Royalties are typically due in the month following the month of removal or sale. For producing leases, monthly royalty payments are calculated as a percentage of the amounts or value of the production saved, removed, or sold from the lease. Royalty rates for federal onshore lands are typically a standard 12.5%. For federal OCS leases, the royalty rates are typically 12.5%, 16.67%, or 18.75%. Some federal OCS leases are subject to royalty relief.²⁷ Table 2.4.3-2 shows royalty revenues collected by ONRR for the prior three fiscal years of available data.

Table 2.4.3-2 — ONRR reported royalty revenues for fiscal years 2011 to 2013

Commodity	2011	2012	2013
Coal (ton)	\$774,185,841.14	\$799,306,819.57	\$697,439,021.31
Gas (mcf)	\$2,235,431,440.62	\$1,459,829,733.80	\$1,508,090,862.95
NGL (gal)	\$530,861,483.11	\$541,420,440.57	\$448,137,690.30
Oil (bbl)	\$6,213,285,570.55	\$6,491,427,002.29	\$6,893,982,829.86
Other Products	\$133,563,097.22	\$171,922,491.58	\$176,201,342.05
Total Reported Royalties	\$9,887,327,432.64	\$9,463,906,487.81	\$9,723,851,746.47

²⁷ The Outer Continental Shelf Lands Act (OCSLA) authorizes the Secretary of the Interior to grant royalty relief to promote increased oil and gas production (43 U.S.C. 1337). <http://www.epw.senate.gov/ocsla.pdf>

Rents

Rental revenues are periodic payments made by a holder of a lease during the primary lease term, for the right to use the land or resources for purposes established in the lease. For nonproducing federal and Indian leases, an annual rental payment is due at the beginning of each year until the lease starts producing in paying quantities.²⁸ Annual rental rates range from \$1.50 to \$44.00 per acre for federal onshore and federal OCS lands. Table 2.4.3-3 below shows rental revenues collected by ONRR for the prior three fiscal years of available data.

Table 2.4.3-3 ONRR reported rent revenues for fiscal years 2011 to 2013

Commodity	2011	2012	2013
Clay	\$314.00	-\$6.00	\$314.00
Coal	\$1,420,470.26	\$1,341,477.41	\$1,133,149.17
Geothermal	\$3,238,763.00	\$3,022,350.00	\$2,612,042.00
Gilsonite	-\$2,495.50	-\$1,829.00	\$492.50
Hard rock	-\$2,099.50	-\$1,407.00	\$26,228.50
Oil and Gas	\$268,246,528.48	\$271,781,004.99	\$298,715,849.69
Oil Shale		\$1,876.00	\$1,876.00
Phosphate	\$3,386.00	-\$8,954.50	-\$4,146.50
Potassium	\$41,860.75	\$186,000.00	\$45,615.25
Sodium	-\$172.15	-\$3,437.51	\$44,058.50
Tar Sands	\$7,732.00		
Wind	\$186,487.60	\$111,762.92	\$411,727.84
Total Rents	\$273,140,774.94	\$276,428,837.31	\$302,987,206.95

Bonuses

Bonuses are cash considerations paid to the United States by the successful bidder for a mineral lease. BOEM manages the offshore leasing process and BLM administers the onshore leasing process; however, ONRR accounts for the bonuses from BLM and BOEM lease sales. Table 2.4.3-4 shows bonus revenues collected by ONRR for the prior three fiscal years of available data.

Table 2.4.3-4 — ONRR reported bonus revenues for fiscal years 2011 to 2013

Commodity	2011	2012	2013
Coal	\$175,235,034.40	\$560,597,984.43	\$460,458,001.79
Geothermal	\$393,932.00	\$94,089.00	\$113,052.00
Hard rock		\$30.00	
Oil and Gas	\$270,218,666.17	\$946,766,723.25	\$2,864,635,991.97
Phosphate	\$755,824.00	\$799,997.74	

²⁸ Paying quantities means production from a lease of oil and/or gas of sufficient value to exceed direct operating costs and the cost of lease rentals or minimum royalties. http://www.blm.gov/wy/st/en/programs/energy/Oil_and_Gas/docs/43cfr_part3160.print.html

Potassium	\$20,962,776.73	\$42,560.00	\$2,796,952.00
Sodium	\$120.00	-\$480.00	
Wind			\$24,107.50
Total Bonus	\$467,566,353.30	\$1,508,300,904.42	\$3,328,028,105.26

Other revenues

For ONRR data, “other revenues” consist of several different components that are aggregated in this category. Revenues from this category consist of minimum royalty payments²⁹, estimated royalty payments³⁰, penalties, settlement agreements, interest, and various fees. Table 2.4.3-5 shows other revenue collected from accounting year 2011 to 2013.

Table 2.4.3-5 — ONRR reported “other revenues” for fiscal years 2011 to 2013

Commodity	2011	2012	2013
Clay	\$462.00	\$462.00	\$942.00
Coal	\$5,176,944.08	\$3,527,834.64	\$6,036,353.03
Geothermal	\$48,289.81	\$12,413.15	\$11,151.77
Gilsonite	\$10,113.00	-\$1,860.00	\$3,372.00
Hard rock	\$65,348.55	\$73,845.56	\$62,886.40
Oil and Gas	\$37,569,567.87	\$22,324,300.08	\$54,856,315.82
Phosphate	\$139,945.00	\$134,164.00	\$170,253.00
Potassium	\$301,090.30	\$368,535.62	\$270,227.00
Sodium	\$184,140.40	\$81,251.00	\$62,793.46
Sulfur	\$12,670.72	\$12,429.60	\$11,186.00
Total Other Revenues	\$43,508,571.73	\$26,533,375.65	\$61,485,480.48

Bureau of Land Management (BLM)

BLM³¹ is responsible for managing more than 260 million acres of public land and 700 million acres of federal subsurface mineral estate nationwide. It is responsible for onshore leasing and related functions, such as drilling permits, production verification, diligence, onsite inspections, and enforcement. Fees collected by BLM include permit fees, cost recovery fees, and other fees associated with onshore renewable energy. As previously noted, ONRR collects revenues associated with the leases managed by BLM³². Table 2.4.3-6 is a summary of oil and gas lease sales by BLM state offices for calendar year 2013. The revenues from these

²⁹ Minimum royalty payments: Some producing federal and Indian leases require lessees to pay a minimum amount of royalty each lease year. The amount of minimum royalty is usually determined by the producing acreage in the lease multiplied by a fee per acre (for example, \$2 per acre) and is in addition to any other fees required under regulation or lease terms.
<http://www.onrr.gov/ReportPay/PDFDocs/RevenueHandbook.pdf>

³⁰ Royalty payments are normally required by the end of the month following the month you sold or removed the product from the lease; however, if you cannot meet this deadline, you may establish an estimated royalty payment (estimate) to give you an additional month to report and pay actual royalties and possibly avoid late payment interest charges.
<http://www.onrr.gov/ReportPay/PDFDocs/RevenueHandbook.pdf>

³¹ <http://www.blm.gov/wo/st/en.html>

³² http://www.blm.gov/wo/st/en/prog/energy/oil_and_gas/questions_and_answers.html

sales are collected by ONRR and are thus included in the bonus revenues data for ONRR above. The data is presented for calendar year as that is the format publicly presented by BLM.

Table 2.4.3-6 — BLM oil and gas lease sale information, calendar year 2013³³

BLM State Office	Total Receipts ³⁴	Parcels Posted ³⁵	Acreage Posted	Parcels Receiving Bids ³⁶	Acreage Receiving Bids
Eastern States	\$505,912	18	1,480	17	1,280
Nevada	\$1,979,581	178	303,334	54	93,816
New Mexico	\$11,363,974	17	5,554	17	5,554
Utah	\$3,399,486	82	143,981	29	36,475
Colorado	\$9,973	10	2,518	7	1,945
Alaska	\$2,885,153	408	4,458,146	22	245,293
Wyoming	\$2,834,233	35	42,677	34	42,587
Montana/Dakotas	\$870,638	87	21,645	84	20,845
Eastern States	\$2,969,632	26	27,905	26	27,815
Utah	\$0	35	65,727	-	0
Colorado	\$478,846	4	2,506	3	2,125
Wyoming	\$33,897,654	134	79,329	113	56,062
New Mexico (+Oklahoma, Texas)	\$22,098,389	72	29,820	64	18,768
Montana/Dakotas	\$49,842,283	90	19,489	87	19,015
Eastern States	\$1,429	7	669	5	191
Nevada	\$862,183	41	66,326	33	53,924
Utah	\$139,140	12	14,654	12	14,614
Arizona	\$11,955	2	3,332	2	3,329
Colorado	\$21,828	3	2,245	2	2,165
Montana/Dakotas	\$644,032	198	93,731	32	7,349
Wyoming	\$8,730,595	77	86,430	66	84,867
New Mexico (+Oklahoma, Texas)	\$20,345,257	55	35,708	53	35,231
Eastern States	\$1,279,351	63	48,009	63	48,009
Nevada	\$1,271,113	36	45,610	29	35,889
Utah	\$4,068,198	41	63,909	26	37,414

³³ http://www.blm.gov/wo/st/en/prog/energy/oil_and_gas/recent_lease_sales.html

³⁴ Total receipts: The total amount of money generated from the Competitive Oil and Gas Lease Sale. This includes rents, bonuses, and administrative fees.

³⁵ Parcels (and acreage) posted: The number of parcels (and acreage) advertised for sale in the original Notice of Competitive Oil and Gas Lease Sale.

³⁶ Parcels (and acreage) receiving bids: The number of parcels (and acreage) that received bids and sold at the oral auction.

BLM State Office	Total Receipts ³⁴	Parcels Posted ³⁵	Acreage Posted	Parcels Receiving Bids ³⁶	Acreage Receiving Bids
Arizona	\$31,708	4	8,887	4	8,887
Colorado	\$2,082,702	198	114,933	107	60,010
Wyoming	\$7,792,429	162	107,953	136	85,737
Montana/Dakotas	\$11,441,100	28	2,903	25	2,831
New Mexico (+ Oklahoma, Texas)	\$10,104,535	76	36,184	68	29,939
Total	\$201,963,309	2,199	5,935,594	1,220	1,081,966

In addition to managing the sale of leases on public lands, BLM also reviews and approves permits and licenses from companies to explore, develop, and produce both renewable and nonrenewable energy on federal lands. BLM seeks to make sure that proposed projects meet all applicable environmental laws and regulations. BLM works with local communities, states, industry, and other federal agencies during the approval process, and has set up four Renewable Energy Coordination Offices to facilitate reviews. Once projects are approved, BLM is responsible for ensuring that developers and operators comply with use authorization requirements and regulations.

The identified publically available information on the fee revenues collected by BLM is limited. Updated information for BLM's 2013 fee revenues is not currently available but will be included in the 2015 USEITI report.

Office of Surface Mining Reclamation and Enforcement (OSMRE)

[OSMRE](#) is the primary regulator of coal mining under the [Surface Mining Control and Reclamation Act of 1977 \(SMCRA\)](#). The [Abandoned Mine Land Reclamation \(AML\) Program](#) is one of OSMRE's primary responsibilities under Title IV of the SMCRA and its purpose is to pay for the cleanup of abandoned mine lands. Under the AML Program, OSMRE collects reclamation fees from companies.

Reclamation fees are assessed on present production and deposited into the interest-bearing Abandoned Mine Land Reclamation Fund. The fees for coal produced for sale, transfer, or use from October 1, 2012, through September 30, 2021, are outlined in the Code of Federal Regulation [Part §870.13](#) and are shown in Table 2.4.3-7.

Table 2.4.3-7 — Abandoned mine reclamation fee amounts

Type of fee	Type of coal	Amount of fee
Surface mining fee	Anthracite; bituminous; and subbituminous, including reclaimed coal	<ul style="list-style-type: none"> If value of coal is \$2.80 per ton or more, fee is 28 cents per ton. If value of coal is less than \$2.80 per ton, fee is 10% of the value.
Underground mining fee	Anthracite, bituminous, and subbituminous	<ul style="list-style-type: none"> If value of coal is \$1.20 per ton or more, fee is 12 cents per ton. If value of coal is less than \$1.20 per ton, fee is 10% of the value.
Surface and underground mining fee	Lignite	<ul style="list-style-type: none"> If value of coal is \$4.00 per ton or more, fee is 8 cents per ton. If value of coal is less than \$4.00 per ton, fee is 2% of the value.

In situ coal mining fee	Types other than lignite	12 cents per ton based on BTUs per ton of coal in place equated to the gas produced at the site as certified through analysis by an independent laboratory.
In situ coal mining fee	Lignite	8 cents per ton based on the BTUs per ton of coal in place equated to the gas produced at the site as certified through analysis by an independent laboratory.

AML collection data for fiscal year 2012 is summarized in Table 2.4.3-8. Data for fiscal year 2013 is not yet available, but will be included in the 2015 USEITI report.

Table 2.4.3-8—AML reclamation fees collected by OSMRE for fiscal year 2012

FY 2012 AML Collection data					
	Total AML base fee coll. for FY 2012	Total AML int., admin, pen for FY 2012	Total audit base fee coll. for FY 2012	Total audit int., admin, pen for FY 2012	Total collections for FY 2012
TOTAL	248,804,223.76	6,149.95	697,193.90	217,438.70	249,725,006.31

Total AML Base Fee Coll. = Abandoned Mine Land Fee Collections

Total AML Int., Admin, Pen = Interest, Penalty, and Admin Charges on the AML Fee Collections

Total Audit Base Fee Coll. = Audit Fee Collections

Total Audit Int., Admin, Pen = Interest, Penalty, and Admin Charges on the Audit Fee Collections

Bureau of Ocean Energy Management (BOEM)

[BOEM](#) manages the environmentally and economically responsible development of federal offshore energy and mineral resources; specifically, resource evaluation, planning, and leasing. In managing the exploration and development of federal offshore resources, BOEM seeks to balance economic development, energy independence, and environmental protection through oil and gas leases, renewable energy development, and environmental reviews and studies.

In fiscal year 2013, BOEM collected approximately \$2 million in cost recovery fees related to the extraction of oil and gas from offshore leases as shown in Table 2.4.3-9.

Table 2.4.3-9— Cost recovery fees collected by BOEM for fiscal year 2013

Description	Amount
Conservation Information Document	\$240,975
Development Operations Coordination Document	\$562,518
Exploration Plan	\$653,078
G&G Exploration or Processing	\$92,552
Record Title or Assignment of Operating Rights (Transfer) Application	\$303,152
Change in Designation of Operator Application	\$150,511
Total	\$2,002,786

Federal agencies are authorized to recover the full cost of services that confer special benefits. Therefore, under DOI's implementing policy, BOEM is required to charge the full cost for services that provide special benefits or privileges to an identifiable nonfederal recipient, beyond those that accrue to the public at large. The \$2 million in cost recovery fees BOEM collected in FY 2013 were primarily charges for application processing

and service fees associated with leasing and adjudication, exploration and development plans, resource evaluation permits, and appeals. Additionally, specific fee amounts for services are available on the [BOEM public website](#). The FY 2013 total for BOEM does not include any other lease payments (e.g., royalties, bonuses, and rentals) because they are collected and reported by ONRR.

Bureau of Safety and Environmental Enforcement (BSEE)

[BSEE](#) is responsible for the oversight of exploration, development, and production operations for oil and natural gas on the OCS. BSEE's regulation and oversight of federal offshore resources is designed to govern the energy development on the OCS and confirm that it is done in a safe and environmentally responsible manner.

In fiscal year 2013, BSEE collected approximately \$70 million in fees related to the extraction of oil and gas from offshore leases. Royalties, rents, and bonuses for offshore federal leases are collected by ONRR. Table 2.4.3-10 shows the types of fees BSEE collects and the totals for fiscal year 2013.

Table 2.4.3-10— Fees collected by BSEE for fiscal year 2013

Description	Amount
Inspection fees	\$63,724,177.41
Cost recovery fees	\$6,494,000.00
Total	\$70,218,177.41

Inspection Fees

The [Outer Continental Shelf Lands Act \(OCSLA\)](#) amendments mandate that annual inspections be performed on each offshore permanent structure and drilling rig that conducts drilling, completion, or work-over operations. There are two categories of inspection fees: annual facility fees and rig inspection fees. The annual facility fees are collected for facilities that are above the waterline, excluding drilling rigs, and range from \$10,500 to \$31,500 per facility, based on the number of wells in place at the start of the fiscal year. The rig inspection fee is assessed per inspection and is either \$16,700 or \$30,500, based on water depths. ONRR collects all inspection fees on behalf of BSEE. In FY 2012 and FY 2013, the ceiling was set at \$62 million with a goal of being able to recover the total cost of the inspection program.

Cost recovery fees

Federal agencies are authorized to recover the full cost of services that confer special benefits. Under DOI's implementing policy, BSEE is required to charge the full cost for services that provide special benefits or privileges to an identifiable nonfederal recipient beyond those that accrue to the public at large. In FY 2013, BSEE collected approximately \$6.5 million in cost recovery fees. Table 2.4.3-11 shows the details of cost recovery fees collected by BSEE for fiscal year 2013. BSEE primarily charges application processing and service fees associated with various production and development applications, pipeline applications, facility and well permits, platform applications, and appeals. Specific fee amounts for services are available on the [BSEE public website](#).

Table 2.4.3-11— Cost recovery fees collected by BSEE for fiscal year 2013

Application Title	Explanation	Actual Cost Recovery FY 2013 (\$)
Appeals Process		1,800.00
Complex Surface Commingling Production Measurement Application	This application is required when a company changes any type of measurement of production where a major or complex change is made, such as redesigning the entire system.	368,480.00
Simple Surface Commingling Production Measurement Application	This type of application is required when a company changes any type of measurement of production where a simple change is made, such as swapping out metering devices.	59,737.00
Deepwater Operations Plan	A plan that provides sufficient information for MMS (BOEMRE) to review a deep water development project (greater than 400 meters water depth) and any other project that uses nonconventional production or completion technology (regardless of the water depth), from a total system approach.	23,352.00
New facility production safety system application (w/fewer than 25 components)	This form is used to pay for the installation of a new facility production safety system with fewer than 25 components. The cost is based on the number of components that will be installed.	6,644.00
New facility production safety system application (w/25–125 components)	This form is used to pay for the installation of a new facility production safety system with 25 to 125 components to be installed. The cost is based on the number of components that will be installed.	2,436.00
New facility production safety system application (w/more than 125 components)	This form is used to pay for the installation of a new facility production safety system with more than 125 components. The cost is based on the number of components that will be installed.	25,150.00
Modification Facility Production Safety System Application (w/fewer than 25 components reviewed)	This form is used to pay for the modification of a facility production safety system with fewer than 25 components to be reviewed. The cost is based on the number of components that will be reviewed.	21,590.00
Modification Facility Production Safety System Application (w/25–125 components reviewed)	This form is used to pay for the modification of a facility production safety system with 25 to 125 components to be reviewed. The cost is based on the number of components that will be reviewed.	135,171.00
Modification Facility Production Safety System Application (w/more than 125 components reviewed)	This form is used to pay for the modification of a facility production safety system with more than 25 components to be reviewed. The cost is based on the number of components that will be modified.	108,834.00
New facility production safety system application (w/more than 125 components; shipyard visit)	This form is used to pay for the installation of a new facility production safety system with more than 125 components that was observed to be necessary during a shipyard visit. The cost is based on the number of components that will be installed.	20,652.00
Application for Permit to Modify	This application is needed when a company wants to modify an existing platform.	461,293.00
Application for Permit to Drill	This application is needed when a company wants to drill on an existing platform.	789,477.00

Application Title	Explanation	Actual Cost Recovery FY 2013 (\$)
Lease Term Pipeline Modification Application	This application is needed when the lease on the pipeline has been approved, but the pipeline needs modified.	205,848.00
Application to Decommission a Rights-of-Way (ROW) Pipeline	This application is needed when a ROW pipeline needs to be taken out of service.	384,292.00
Application to Decommission a Pipeline, Lease Term	This application is needed when a lease term pipeline needs to be taken out of service.	232,980.00
Lease Term New Pipeline Application	This application is needed when a new lease term pipeline needs to be installed.	400,526.00
Pipeline Repair Notification Application	This application is needed when a pipeline repair is necessary.	60,840.00
Pipeline ROW Modification Application	This application is needed when a ROW pipeline needs to be modified.	718,890.00
Application to Remove a Platform (Structure Decommissioning)	This application is needed when a platform needs to be removed.	1,072,474.00
Platform-Fixed Structure — Platform Approval Program Application	This application is needed for a proposed installation of a fixed structure, not a caisson, and is under the terms of the platform approval program.	30,180.00
Platform Application Modification	This application is necessary for major modifications to any platform. This includes any structural changes that materially alter the approved plan or cause a major deviation from approved operations, and any modification that increases loading on a platform by 10% or more, including major repair of damage to any platform. This includes any corrective operations involving structural members affecting the structural integrity of a portion or the entire platform.	180,050.00
Platform Application — Caisson Well Protector	This application is necessary for the installation of a caisson structure that is under the platform approval program.	41,472.00
Platform Application Installation Under Platform Verification Program	This application is necessary for the installation of a platform that falls under the Platform Verification Program.	42,150.00
Pipeline ROW Grant Assignment Application	This application is necessary when an assignment may be made of a right-of-way grant, in whole or of any lineal segment.	35,496.00
Pipeline ROW Grant Application		75,985.00
Pipeline Conversion of Lease Term to ROW		2,409.00
Down Hole Commingling Request		208,923.00
500 Feet From Lease/Unit Line Production Request Application	This form is used if a company needs to drill less than 500 feet from the unit line.	86,592.00
Gas Cap Production Request		128,576.00
IPAC for Insurance Clause		15,463.00

Application Title	Explanation	Actual Cost Recovery FY 2013 (\$)
Suspension of Operations/Suspension of Production Application — SOP	This form is used when a company has a lease that is nearing its expiration and they need additional time to complete the work they are performing or request a suspension of operations, if they need more time before their production can come back online. This request can be for all or any part of a lease or unit area.	389,664.00
Unitization Revision Application	This application is used when the company needs to revise the unit agreement that is in place, such as exhibits or outlines.	41,550.00
Voluntary Unitization Proposal or Unit Expansion Application	A unit agreement is used when a company is exploring or prospecting an area, and they need to expand the area they are wanting to prospect. Units can make up multiple areas. This form is used by the company needs to expand the area over multiple units. The BOEMRE staff must then determine if the proposal or expansion request is possible.	93,584.00
Digital Well Logs		21,440.00
BSEE TOTAL		6,494,000.00

Other federal non-tax revenues

There are other federal non-tax revenues. Examples of these types of payments include penalties, fines, settlements of litigation, licenses, and payments related to patents and trademarks.

2.5 Native American extractive revenues

The United States has a specific legal and political relationship with Indian tribes and Alaska Native entities, as provided by the US Constitution, treaties, court decisions, and federal statutes.

The United States has a trust responsibility to 566 federally recognized Indian tribes. These tribes are sovereign nations, operating on a government-to-government basis with the US federal government. The United States holds approximately 56 million acres of Indian land in trust for the benefit of the tribes and allottees (individual Indian land and mineral owners). Alaska Natives' land ownership structure is different and will be discussed separately.

The [Bureau of Indian Affairs \(BIA\)](#), within DOI, is responsible for oversight of mineral leases on Indian lands, onsite compliance, appraising resources, and expert advice on drilling permits and other operational matters. BIA also conducts oil and gas lease sales, approves easements on trust lands, and processes bimonthly distribution of oil and gas royalties based on ONRR data. Indian mineral leases include oil, gas, coal, geothermal, and other non-energy minerals. The minimum Indian royalty rate is generally 16.67%, with the maximum being subject to competitive bidding or negotiation between the Indian mineral owner (tribal or individual) and the lessee. The US government is not a party to these leases. In 2012, 34 Indian tribes and approximately 30,000 individual Indian mineral owners received \$717.5 million in payments from 5,436 producing leases. Since 1982, Indian tribal and individual leases have generated about \$8.3 billion in revenues collected by DOI, 100% of which was disbursed to the Indian tribes or individual Indian mineral lease owners.

Indian Mineral Revenues

The Indian Mineral Development Act of 1982 (IMDA)³⁷ allows tribes to lease their resources, utilizing an agreement that best fits the circumstances of a tribe and a potential industry partner. The IMDA gives tribes greater flexibility to craft advantageous agreements than did the standard BIA lease agreement authorized under the Indian Mineral Leasing Act of 1938.³⁸ For example, a tribe may negotiate in an IMDA agreement that royalty rates may likely increase, as negotiated milestones are achieved. With regard to reporting requirements, under the terms of the IMDA, the decision to increase transparency or preserve the privacy of revenue information rests with each tribe, not with DOI. As such, the only data available around production or revenues on land owned by tribes is what each individual tribe has chosen to disclose, which will vary from tribe to tribe.

Alaska Native Corporations

The land ownership structure is different in Alaska for Indian tribes. The passage of the Alaska Native Claims Settlement Act³⁹ in 1971 established Native Corporations, which function somewhat like private corporations. Native Corporations' lands are generally owned in fee simple, meaning the entity has absolute title (ownership) of the property, which includes the land and any improvements to the land in perpetuity. Fee simple ownership by the Native Corporations means that those lands can be mined or developed under agreements similar to private lands in the United States. Native Corporations are the largest private landowners in Alaska, holding title to 44 million acres of selected land throughout the state in exchange for extinguishing their aboriginal claims. Native Corporations' mineral production and revenue data are confidential and not publicly available.

2.6 State and local government extractive revenues

State and local governments⁴⁰ obtain income related to the extractive industries from a variety of sources, and the breakdown changes considerably from state to state. Amounts vary based on the types of taxes and fees administered within state borders, the types of resources within the state, and the policy priorities of state and local governments.

Some states have land management programs similar to those of DOI in that a specific department or office is responsible for land and resource management, including leasing and revenue collection functions. States with extractive and natural resource leasing programs may collect royalties, rents, bonuses and other fees. However, states with valuable natural resources may also rely on taxing production of those resources.

States that rely on natural resources for a substantial share of state revenues derive revenues from both state severance taxes and resource leases on federal lands within their borders. Severance taxes are excise taxes on natural resources "severed" from the earth. They are measured by the quantity or value of the resource removed or produced. In the majority of states, the taxes are applied to specific industries, such as coal or iron mining and natural gas or oil production. They are usually payable by the severer or producer, although in a few states payment is made by the first purchaser.

³⁷ More information for Indian Mineral Development Act of 1982 (IMDA) is available at: <http://www.law.asu.edu/library/RossBlakleyLawLibrary/ResearchNow/IndianLawPortal/IndianMineralDevelopmentActof1982.aspx>

³⁸ More information for Indian Mineral Leasing Act of 1938 is available at: http://en.openei.org/wiki/Indian_Mineral_Leasing_Act_of_1938

³⁹ More information for Alaska Native Claims Settlement Act is available at: <https://www.fws.gov/laws/lawsdigest/ALASNAT.HTML>

⁴⁰ <http://www.ncsl.org/research/fiscal-policy/state-energy-revenues-update.aspx>

Resource leases on federal lands within state borders are another source of revenue for states. For the majority of onshore federal lands, states receive a portion of the revenues from the leases. ONRR makes distributions to states as it collects royalties, rents, bonuses, and other revenues.

2.7 Revenue disbursements

ONRR manages revenue collection for entities other than the federal government, including Indian tribes and individual Indian land and mineral owners; states and their counties, parishes, and boroughs; federal agencies; various special-purpose funds; and the US Treasury. Since 1982, DOI overall has distributed more than \$250 billion in revenues from onshore and offshore lands to the United States, states, and Indians. Specifically, ONRR's distribution to the US Treasury is one of the federal government's highest sources of non-tax income. Table 2.7.1-1 outlines ONRR's revenue disbursement process for some significant revenue types for offshore federal revenues, onshore federal revenues, and Indian tribes.

Table 2.7.1-1 ONRR revenue disbursement

Revenue Type	Category	Disbursement
Offshore Federal Revenues	8(g) Leases: (Lands within 3 miles of State seaward boundary)	27% to states and 73% to the US Treasury
	Leases outside of 8(g) area	Historically, 100% to the US Treasury; portions of offshore revenues to special-purpose funds (e.g., Historic Preservation, Land and Water Conservation)
	Leases subject to the Gulf of Mexico Energy Security Act, "qualified revenues" (cash bonuses, selected rentals, and royalties) are disbursed	50% to US Treasury (General Fund); 12.5% to Land and Water Conservation Fund; and 37.5% to Gulf Producing States and Coastal Political Subdivisions
Onshore Federal Revenues	N/A	49% shared with state where production occurs, except Alaska (89%); 40% to US Treasury — Reclamation Fund; 11% to US Treasury — General Fund
Indian Tribes and Allottees	N/A	100% disbursed to tribe or individual and owner

Based on an ONRR review of the data provided, funds are disbursed by Treasury or the Office of the Special Trustee to the appropriate recipients. Disbursements for fiscal years 2011 to 2013 are shown in Table 2.7.1-2.

Table 2.7.1-2 ONRR disbursements by fiscal year for 2011 to 2013



**Disbursements
FY 2011 through FY 2013**

Fund	2011	2012	2013
American Indian Tribes & Allottees	\$538,344,246.90	\$717,556,925.10	\$932,956,397.20
Historic Preservation Fund	\$150,000,000.00	\$150,000,000.00	\$150,000,000.00
Land & Water Conservation Fund	\$891,975,604.84	\$897,141,112.84	\$895,580,482.31
Reclamation Fund	\$1,532,623,172.00	\$1,646,314,405.00	\$1,592,181,337.00
State Share: Offshore	\$41,862,457.14	\$36,972,093.61	\$40,939,426.68
State Share: Onshore	\$1,957,196,095.89	\$2,088,316,004.81	\$1,964,029,388.52
U.S. Treasury	\$6,050,240,881.35	\$6,615,350,730.35	\$8,648,688,422.50
Total	\$11,162,242,458.12	\$12,151,651,271.71	\$14,224,375,454.21

Additional data on the revenue management and disbursement processes and activities for other DOI bureaus will be included in the 2015 USEITI report.

Information on the existence and extent of non-ONRR revenue disbursements, including from other DOI bureaus, has not yet been made available.

2.8 Current applicable reforms

Several ongoing domestic and international initiatives and priorities complement the ongoing commitment to EITI in the United States and may have an impact on issues currently under consideration by the MSG. These initiatives include the OGP⁴¹, the Dodd-Frank Act, and the European Union Amendments to Transparency and Accounting Directives (the “Directives”).

Open Government Partnership (OGP)

The [OGP](#) is a multilateral initiative that aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. As part of the OGP commitments, the United States launched its own domestic National Action Plan (NAP) for open government. The first US Open Government NAP⁴² was released in September 2011 and consisted of 26 concrete and tangible open government initiatives designed to increase public integrity, promote public participation, manage public resources more effectively, and improve public services. One of the featured deliverables and specific commitments in the first NAP was the implementation of EITI. The US released the second [US Open Government NAP in December 2013](#) with the implementation of EITI continuing to be a primary initiative for the United States to manage resources more effectively.

⁴¹ The OGP information is available at the following Web address: <http://www.opengovpartnership.org/>

^[A] See Memorandum Opinion for Civil Action No. 12-1668

⁴² The National Action Plan information is available at the following Web address: http://www.whitehouse.gov/sites/default/files/us_national_action_plan_final_2.pdf

Dodd-Frank Section 1504 & European Union Transparency and Accounting Directives

Section 5.2e of the EITI Standard reads, “Reporting at project level is required, provided that it is consistent with the United States Securities and Exchange Commission rules and the forthcoming European Union requirements.”

Section 1504 of the Dodd-Frank Act of 2010 added Section 13(q) to the Securities Exchange Act of 1934, which mandates the Securities and Exchange Commission (SEC) issue rules requiring resource extraction industry issuers provide information about the amount of payments made by type, by project, and by government in an annual report to the SEC. Extractive industry companies making annual filings with the SEC (Form 10-K, 20-F, and 40-F) will be required to follow the SEC rule.

In August 2012, the SEC published Rule 13q-1 under the Securities Exchange Act of 1934 to comply with Section 1504. This rule clarified timing of compliance with Section 1504, defined specific additional activities to be in the scope of Section 1504, and required that companies subject to the rule publicly disclose the information filed with the SEC. Under the rule, companies would disclose the type and amount of payments by project and by government for all payments that equal or exceed \$100,000 individually or in aggregate, with no categorical exemptions.

On July 2, 2013, the [U.S. District Court vacated Rule 13q-1](#) under the Administrative Procedure Act and remanded the rule to the SEC for further proceedings. The SEC is required by law to issue a new rule and has said that a redrafted rule could be published as soon as October 2015. However, the calendar is nonbinding and the actual timing is uncertain. The redrafted rule will be subject to public comment prior to final drafting and publication.

The first iteration of the rule required extractive companies that are registered with the SEC to make an annual disclosure to the SEC of their payments to governments, on a country-by-country basis, and on a project-by-project basis, for a company and subsidiaries or interests under that company’s control. This will remain a component of the amended rule as required by the law. The SEC released [guidance for project definition](#) with the initial rule. This guidance noted that they would leave the term “project” undefined but that resource extraction issuers routinely enter into contractual arrangements to develop natural resources and that “The contract defines the relationship and payment flows between the resource extraction issuer and the government, and therefore, it would serve as the basis for determining a project.” The types of payments anticipated to be required include taxes (not usage/sales), royalty payments, production entitlements, fees, bonuses, and infrastructure contributions and dividends.

In 2013, the [European Commission](#) approved two amendments to the EU Transparency and Accounting Directives. These amendments included a requirement for the public disclosure of payments to governments by certain large undertakings and public interest entities engaged in natural resource extraction or logging. EU member countries are currently in the process of transposing these requirements into their domestic laws. Several of the companies that will be included in the USEITI report are incorporated or listed in the EU and will therefore be subject to the new laws in EU countries.

3. USEITI scope

3.1 Independent Administrator

Subsection 1.3 of Requirement 1 of the EITI Standard outlines the responsibility of the MSG to approve the appointment of an IA.

Selection of Independent Administrator

Requirement 5 of the EITI Standard states, “The EITI requires a credible assurance process applying international standards.” This requirement seeks to facilitate a credible reporting process so that the EITI report contains reliable data. The MSG should endorse the appointment of an IA to reconcile the data submitted by companies and government entities. The MSG endorsed the appointment of Deloitte & Touche as the IA during the MSG meeting on September 9, 2014.

ONRR serves as the DOI entity responsible for procuring and administering the IA contract. At DOI’s request, the MSG developed a TOR to provide direction for what the Request for Quotes (RFQ) should include to meet the EITI requirements. DOI then published a public Request for Information (RFI). Per the minutes from the [April 2014 MSG meeting](#), DOI received three responses to the RFI, two of which were already on the relevant GSA schedule (GSA Schedule 520, Category 7). DOI received no responses from small businesses, so the procurement, which was a competitive bid, was not a Small Business Set-Aside⁴³ but a full and open competitive process, which allows for responses from any qualified firm, regardless of size.

The Statement of Work released by the federal government as part of the RFQ process states “it is a requirement that the IA is found to be credible, trustworthy, and technically competent, and can operate without conflicts of interest (Requirement 5.1).” As part of the government evaluation process, it was necessary to review all responses against this statement to determine if a potential contractor would meet these stated criteria.

The DOI Technical Evaluation Committee reviewed and ranked the responses to the RFQ in June 2014. In July 2014, the DOI Contracting Officer (CO) analyzed this evaluation for price and technical capability to determine a contractor that would meet the standard of best value. Best value is a combination of technical approach, key personnel, and price, each of which is given approximately equal importance. DOI awarded the contract to serve as the IA for the USEITI implementation through the competitive bidding process to Deloitte & Touche. DOI and Deloitte & Touche formally executed the contract on August 12, 2014, and DOI announced the award to the public through a news release on [September 4, 2014](#).

The award of the contract to Deloitte & Touche through the federal government competitive procurement process is indicative that Deloitte & Touche was viewed by DOI as the best value to the federal government to serve as the IA for the USEITI implementation and meets the requirements that were set forth in the statement of work. In accordance with requirement 5.2 of the EITI Standard, Deloitte & Touche formally acknowledges and accepts the TOR as set forth by the MSG.

⁴³Subpart 19.5—Set-Asides for Small Business http://www.acquisition.gov/far/html/Subpart%2019_5.html

As the IA, Deloitte & Touche has a plan to manage conflicts of interest, both perceived and actual. Deloitte & Touche also understands the need for transparency in the overall USEITI program. Our proposed protocol for managing conflicts of interest and transparency is outlined herein.

Conflicts of interest

Deloitte & Touche is part of a global professional services organization and one of the “Big Four” accounting firms. Accordingly, Deloitte & Touche and its affiliates, not unlike its competitors, serves companies in the extractive industries in different capacities, performing both attest and non-attest activities. In this regard, Deloitte & Touche and its affiliates perform services for various entities that are represented by the MSG. Thus, there is the potential for the appearance of and or actual conflict of interest for Deloitte & Touche.

We believe this potential conflict can be mitigated and/or eliminated. Given our experiences from other DTTL member firms who have served in the role of IA for two other EITI countries, we proposed a conflict mitigation plan within our response to the government-issued RFQ that was accepted by DOI as appropriate and acceptable. This plan will be used to mitigate potential conflicts throughout our engagement as the IA. In general, we will not assign full-time resources to the project who previously served the reporting entities (as identified during initial as well as subsequent scoping) within the last two years. These resources, as long as they are assigned to this project, will not serve the identified companies (both initially and subsequent scoping).

As a large firm with many clients, Deloitte & Touche faces potential conflicts of interest on a regular basis and has established and effective ways to negate the conflicts. We will utilize our standard conflict-checking procedure, which is designed to identify organizational conflicts of interest (OCI). This includes conflicts defined in Federal Acquisition Regulation (FAR) Subpart 9.5 as well as applicable business, professional, independence, or regulatory conflicts (including those that may arise due to the rules and regulations of the SEC, American Institute of Certified Public Accountants (AICPA), or other licensing and regulatory entities). Should this conflict-checking procedure identify any actual or potential conflict, we will make a full disclosure in writing to the CO. This disclosure shall include a description of the actions that we have taken, or propose to take, after consultation with the CO, in order to reach a mutually agreeable approach designed to avoid, mitigate, or neutralize the actual or potential conflict. In compliance with requirements of the FAR and other conflict and independence requirements, we will not perform any task where we have identified a potential OCI that cannot, after consultation with ONRR, and in the case of professional independence issues in the sole opinion of Deloitte & Touche, be avoided, neutralized, or mitigated.

For transparency purposes, when a task is identified with a potential OCI that cannot be avoided, neutralized, or mitigated, a notification will be provided to the MSG. Due to competitive purposes and client privacy issues, Deloitte & Touche will not release the name of the client(s) that have caused the OCI to occur.

Transparency

To assist with the transparency efforts of the USEITI, we will work to conduct the activities that we perform in a transparent manner. The activities that we will conduct during the USEITI effort include preparing deliverables defined in the TOR necessary to meet the EITI Standard. We are contracted solely by the Department of Interior under federal procurement and contracting statutes, rules, and regulations. However, we are required to work in close and ongoing consultation with the MSG to enable the multi-sector approach outlined in the TOR and as required by the EITI Standard. As it applies to communications and activities conducted between the MSG and IA:

- Deloitte & Touche will, at all times, work in a fair and non-partisan manner.

- Members of the Deloitte & Touche team will have sufficient backgrounds so that experience from each sector is represented within the team.
- Deloitte & Touche will conduct its primary interaction with the whole MSG at MSG meetings. Between MSG meetings, Deloitte & Touche will meet with the Co-Chairs from all three sectors and DOI representatives, as necessary; DOI representatives will be the CO, the contracting officer's representative (COR), alternate COR, or representatives designated by the CO or COR.
- Deloitte & Touche will participate in Subcommittee or Work Group meetings upon request and approval by the Co-Chairs depending on subject matter and need.
- Deloitte & Touche will not respond to individual MSG member or alternate MSG member requests or communications directly. Communication to individual MSG members will be coordinated with the COR and MSG Co-Chairs.
- Deloitte & Touche will meet on a scheduled basis with DOI representatives serving in the role as the contracting entity.
- Deloitte & Touche will produce and present to the MSG various deliverables during the USEITI effort for approval as required under the EITI Standard and per the established timeline in the TOR. The information sources that are used to produce these documents will be acknowledged to the extent that it does not disclose or compromise the confidentiality of data collected as part of the reporting process. Questions and feedback about such documents will be coordinated with the Co-Chairs, and relevant feedback will be incorporated as required to meet the EITI Standard.
- Deloitte & Touche will work with the MSG Co-Chairs to address any questions about performance or transparency as they arise through the process of creating the USEITI report.

To address a specific question raised by the MSG, Deloitte & Touche has worked with the MSG to provide information and biographies to demonstrate our capabilities and experience in each of the sectors represented by the MSG.

IA Inception phase activities

In addition to reviewing the historical materials and decisions of the MSG and having discussions with each of the sectors, we have performed a number of additional efforts. We spent considerable time consulting with specialist members of our team on many issues related to the USEITI implementation. This has included conversations with our international member firm individuals who have experience serving in roles as an IA or Validator for other countries implementing EITI as well as consulting with various other professionals in our US firm with experience and knowledge in tax policy, extractive industries, civil sector, and regulatory compliance. We have sought input from each of these sources in developing the analysis and recommendations within this Inception Report.

3.2 Overview of USEITI scoping process

Subsection 1.4 of Requirement 1 of the EITI Standard outlines the responsibility of the MSG to address the scope of EITI reporting. The following sections of the Inception Report lay out the deliberations and decisions of the MSG around scope for the USEITI program.

After extensive considerations and discussions within and across stakeholder sectors to attain consensus, the MSG came to agreement on certain issues regarding scope and materiality for the 2015 USEITI report and around the expected direction of the 2016 USEITI Report. The MSG started the scoping process with the development of a general understanding of the extractive industries in the United States, as is outlined in the

Background section of this Inception Report. The MSG collected relevant information on the size of the extractive sector in the United States and its contribution to government revenues. The MSG utilized this information to consider the decisions on the scope areas of the USEITI program. Many of these scoping decisions are outlined in the Candidacy Application. The remaining decisions are noted within the MSG and subcommittee meeting minutes and materials published on the [MSG website](#). **By letter dated March 28, 2014, the International EITI Board approved the USEITI Candidacy Application, including the scoping, materiality, and adapted implementation proposals contained therein.**

We have summarized each of the MSG's relevant scoping decisions in the following sections. At the request of the MSG, we have also reviewed and provided our independent analysis and recommendations on the scoping decisions. This analysis has been included throughout the sections below as well as a broad analysis of each specific decision in **Appendix D — Scoping analysis**. Additional analysis, including our recommendations, can be found in **Section 6 — Observations and recommendations**.

3.3 Revenue streams and materiality

The MSG reviewed and identified revenue streams received by government agencies from extractive sector companies in order to determine which revenue streams should be included in-scope for the 2015 USEITI report. The MSG identified DOI bureaus as the single federal government source for collection of non-tax extractive revenues. They noted that the only other government agency receiving significant extractive revenues was the IRS, which receives corporate income tax payments from extractive companies. The MSG requested that all DOI bureaus put together presentations with background on the revenues they collect, how material they are, and how they collect them. These presentations occurred at the MSG meetings between May and July 2013, and assisted the MSG in developing the required understanding of the types of extractive revenue streams to include as in-scope.

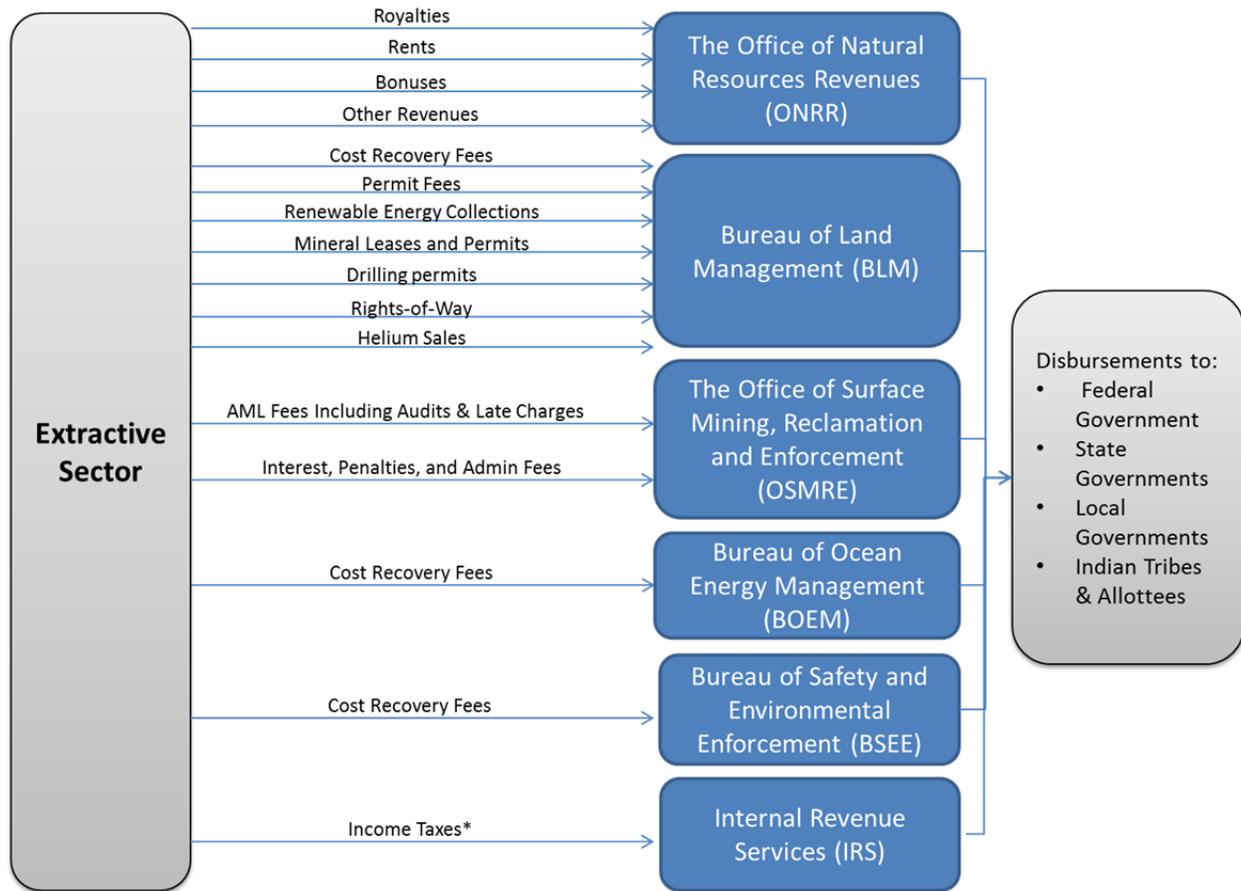
We have reviewed the MSG's scoping process to determine whether there might be issues related the completeness or accuracy of identifying all government extractive revenues. We have completed an initial assessment of the payment streams and decisions reached by the MSG depicted below and accept that such information is a credible representative of the non-tax payments received by various DOI Bureaus related to the extractive industries. However, we have not yet affirmed to ourselves that these are the only non-tax payments of a material nature made by extractive companies to the federal government that might be within the scope of USEITI.

We understand that the MSG assessed the Department of Transportation (DOT), the Federal Energy Regulatory Commission (FERC), and other government agencies that collect revenues, fees, or fines from extractive industries and determined that these payments were not related directly to leasing, exploration or extraction and were thus not material. We recommend that the MSG document the results of their review, including the rationale to support the determinations, as it is not addressed well in the publicly available MSG meeting minutes and materials. We believe that documentation of the MSG decisions on non-tax payments, as referenced in requirement 4.1 of the EITI Standard would support USEITI implementation. We look forward to working with the MSG to continue to evaluate and document these considerations and decisions.

3.3.1 Flow chart of payment flows

Based on the understanding developed by the MSG, the flow of payments from companies in the extractive sector to the US federal government is detailed in Figure 3.3.1-1.

Figure 3.3.1-1 Payment flows



We agree that this graphic correctly represents the extractive revenue streams agreed upon by the MSG as in-scope for the USEITI report.

3.3.2 Extractive sector-specific non-tax revenues collected by DOI

The MSG determined which specific non-tax revenue streams generated by the companies should be considered for inclusion and reconciliation in the 2015 USEITI Report. This analysis was based on the magnitude of the payment streams and the relative complexity of gathering and reporting the data. The DOI revenue streams are detailed in Table 3.3.2-1. We understand that ONRR may also administer some of these payment streams for the other DOI bureaus and offices.

Table 3.3.2-1 In-scope extractive sector revenues

Department	In-scope payments
DOI — ONRR	<ul style="list-style-type: none"> • Bonuses • Rents • Royalties • Other payments (including but not limited to settlements, penalties, and fees)
DOI — BLM	<ul style="list-style-type: none"> • Cost Recovery Fees • Permit Fees • Renewable Energy Collections • Rights-of-Way • Helium Sales
DOI — OSMRE	<ul style="list-style-type: none"> • AML Fees Including Audits and Late Charges • Civil Penalties Including Late Charges
DOI — BOEM	<ul style="list-style-type: none"> • Cost Recovery Fees
DOI — BSEE	<ul style="list-style-type: none"> • Inspection Fees • Cost Recovery Fees • Civil Penalties including Late Charges

3.3.3 Tax revenues

The EITI Standard requires reporting on profits taxes, or taxes on income, where material. As stated in the USEITI Candidacy Application, “The MSG has agreed that taxes will be reported as a part of USEITI, but the details for how to do so remain to be agreed upon by the MSG prior to the publication of the first EITI report.” The issue of inclusion of tax revenues has required significant consideration by the MSG to identify potential resolutions, primarily due to the legal constraints and complex tax structure in the United States.

The MSG identified potential legal constraints with respect to tax reporting:

- Section 6103 of the IRC provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is applicable. The IRC imposes civil and criminal penalties for violations of the disclosure prohibitions. Nonetheless, taxpayers may consent to have their tax information disclosed to specific parties.
- The Privacy Act of 1974 only allows the IRS to gather information that is used for tax administration purposes. If the IRS were to collect information or develop new systems and processes for EITI, these actions would need to support tax administration objectives consistent with the Privacy Act.

The MSG considered and agreed to include corporate tax payments, those paid by C corporations, as a part of the USEITI. The MSG agreed to exclude taxes paid by flow-through entities. We believe that this is appropriate and in line with the EITI Standard as taxes paid by flow-through entities are not paid at the entity level.

The MSG requested that we evaluate what information is publicly available on the tax payments made by C corporations, specifically those C corporations included in the list of proposed in-scope companies, to determine if public information could be used for reconciliation and disclosure. We performed this analysis and determined that this was not a feasible solution. The detailed results of the analysis are documented in **Appendix F — Analysis of publicly available tax information.**

The MSG approved the following approach for addressing taxes in the 2015 USEITI Report:

- Request companies report the sum of all corporate income tax payments/refunds (based on 13 identified IRS transaction codes) made by or on behalf of all of the companies included in the annual consolidated federal income tax return for the 2015 USEITI Report.
 - The IA reports on the number of companies that did or did not report
 - The IA assesses the willingness of companies to reconcile
 - The IA provides a summary report for the MSG to consider
- Encourage reconciliation
 - Robust outreach will be needed to maximize participation
 - The IA positively highlights companies that choose to reconcile and to be named in the 2015 USEITI Report (companies can choose to pilot reconciliation without being named in the 2015 USEITI Report)

We believe that this is an appropriate approach for the 2015 USEITI Report. However, we have the following additional concern for the MSG on taxes:

- Extractive company income taxes paid in the United States in a given tax or calendar year may represent income from a range of activities that are not extractive in nature, will not generally reflect company activity only on public lands in the United States, and will correspond to activities in multiple tax reporting periods. As such, the taxes paid by these companies may be made at a consolidated level and not related solely to their extractive incomes.

3.3.4 Materiality threshold

The MSG thoroughly explored the issue of materiality and documented the options considered and the rationale for the agreed materiality definition and thresholds in the minutes of the MSG meetings.

The MSG began to consider the idea of materiality at the May 2013 MSG meeting. The MSG reviewed the EITI's [guidance on materiality](#). The EITI International Secretariat also provided a list of [four options](#) on how to define materiality. These options were 1) comprehensive reconciliation, 2) to set an aggregate payment threshold based on the total payments made by a company/government entity, 3) to set disaggregated payment thresholds, and 4) unilateral government disclosure. The MSG considered the positives and negatives of each of these approaches, and even considered some additional approaches, such as using different thresholds for different entities.

A presentation was delivered to the [June 2013 MSG](#) meeting identifying that ONRR collects approximately 95% of DOI's extractive-related revenues. Therefore, the MSG used ONRR's reported revenues as a proxy for DOI revenues to establish the materiality threshold. For the purposes of establishing and discussing the materiality threshold, ONRR and DOI are used interchangeably.

The MSG believes that the materiality threshold defined (and approved by the MSG [at the July 2013 MSG meeting](#)) balances the scale of reconciliation and feasibility of compliance with the value of the collected data. The reconciliation process is intended to start at a level that will reconcile approximately 80% of ONRR collected natural resources revenues based on a materiality threshold of \$50 million total annual revenues reported to ONRR by a parent company, including its subsidiaries. For the second year, the materiality threshold for reconciliation will be \$20 million total revenues reported to ONRR by parent companies, including subsidiaries, which will represent approximately 90% of DOI natural resources revenues.

We recommend that the MSG document the results of their materiality determinations, specifically, the decision to not establish an overall materiality threshold based on all government revenues. We look forward to working with the MSG to continue to evaluate and document these considerations and decisions.

3.4 Extractive companies and government entities

Requirement 4.2 of the EITI Standard defines which companies and government entities are required to report as part of the reconciliation. Materiality thresholds, as well as in-scope commodities and revenue streams, affect the companies and agencies that are included in the 2015 USEITI report and reconciliation.

3.4.1 Extractive companies for 2015 USEITI report reconciliation

Based on the materiality threshold defined by the MSG for reconciliation in the 2015 USEITI report, described in Section 3.3.4, ONRR identified 44 companies for inclusion in the reconciliation. A letter was sent to the CEO of each of these companies on November 26, 2014, notifying them of their inclusion in the USEITI reconciliation. Each of these companies meets the minimum materiality threshold of \$50 million in total reported revenues to ONRR in calendar year (CY) 2013. ONRR reviewed and validated the reported revenue data for CY 2013 and the proposed list of companies is presented in Table 3.4.1-1 below. The table presents the total reported revenue for those companies to ONRR for CY 2013 and also includes company reported revenue as a percentage of ONRR's total CY 2013 reported revenues. We acknowledge that ONRR continues to review and validate the data and the numbers are subject to additional changes prior to the completion of the 2015 USEITI Report.

Table 3.4.1-1 Reporting company listing for the 2015 USEITI Report

Company name	Company CY 2013 Reported Revenues to ONRR	Company Reported Revenues as a % of Total CY 2013 Reported Revenues (\$12,262,210,746)
CHEVRON CORP	\$949,907,641	7.75%
SHELL	\$906,905,162	7.40%
BP AMERICA INC	\$868,730,681	7.08%
EXXON MOBIL CORP	\$741,744,591	6.05%
FIELDWOOD ENERGY LLC	\$536,181,423	4.37%
PEABODY ENERGY CORP	\$465,446,423	3.80%
ANADARKO PETROLEUM CORP	\$456,446,358	3.72%
BHP BILLITON LTD	\$424,223,330	3.46%
CONOCOPHILLIPS	\$416,912,730	3.40%
FREEMPORT-MCMORAN O&G LLC	\$400,355,414	3.26%
LLOG EXPLORATION OFFSHORE INC	\$316,260,981	2.58%
ARCH COAL INC	\$246,423,094	2.01%
STATOIL	\$208,810,510	1.70%
ENERGY XXI LLC	\$208,491,770	1.70%
HESS CORP	\$205,934,809	1.68%
CLOUD PEAK ENERGY INC	\$199,802,355	1.63%
STONE ENERGY	\$170,017,576	1.39%

Company name	Company CY 2013 Reported Revenues to ONRR	Company Reported Revenues as a % of Total CY 2013 Reported Revenues (\$12,262,210,746)
MARATHON OIL CORP	\$166,121,421	1.35%
ENCANA CORP	\$161,072,622	1.31%
DEVON ENERGY CORP	\$125,200,154	1.02%
SANDRIDGE ENERGY INC	\$121,891,671	0.99%
ENI USA INC	\$115,821,408	0.94%
W & T OFFSHORE INC	\$115,730,651	0.94%
EPL OIL & GAS INC	\$112,978,099	0.92%
ULTRA PETROLEUM	\$101,640,093	0.83%
NOBLE ENERGY INC	\$98,411,061	0.80%
QEP RESOURCES COMPANY	\$95,780,734	0.78%
EOG RESOURCES INC	\$92,480,506	0.75%
CONCHO RESOURCES INC	\$89,269,414	0.73%
ARENA ENERGY	\$88,061,388	0.72%
WPX ENERGY INC	\$87,870,009	0.72%
WALTER OIL & GAS CORP	\$85,104,061	0.69%
LINN ENERGY LLC	\$83,369,953	0.68%
BOPCO LP	\$78,740,886	0.64%
OCCIDENTAL PETROLEUM CORP	\$75,317,559	0.61%
ALPHA WYOMING LAND COMPANY LLC	\$71,840,511	0.59%
CIMAREX ENERGY INC	\$70,778,522	0.58%
VENARI OFFSHORE LLC	\$68,445,024	0.56%
TALOS ENERGY LLC	\$65,182,262	0.53%
COBALT INTERNATIONAL ENERGY LP	\$64,189,485	0.52%
NEWFIELD EXPLORATION COMPANY	\$60,294,923	0.49%
ANKOR ENERGY LLC	\$58,254,730	0.48%
CONTINENTAL RESOURCES INC	\$51,849,289	0.42%
REPSOL E&P USA INC	\$50,298,991	0.41%
TOTAL	\$10,178,590,275	83.01%

3.4.2 Government reporting entities

The MSG determined that all DOI bureaus that receive extractive-related revenues from companies meeting the materiality threshold are in-scope and their revenues will be included for reporting and reconciliation. Based on these criteria, the MSG identified the following government entities as in-scope for the USEITI reconciliation:

- US Federal Government DOI bureaus, including:
 - ONRR
 - BLM

- OSMRE
 - BSEE
 - BOEM
- US Federal Government Treasury Department agencies, including:
 - IRS

We understand that these entities will provide the data on the revenues collected from company payments for disclosure and reconciliation in the USEITI report. We understand that, even though the IRS is listed here, it cannot yet be confirmed that this agency will be providing any data to us for disclosure or reconciliation. Due to federal privacy laws, this will require companies to authorize the IRS to release any data. It is unknown at this time how many, if any, companies may consent to this activity and the process for obtaining the authorization is not yet defined.

The MSG also determined that all payments that are received by DOI for in-scope commodities would be reported separately in a unilateral disclosure. ONRR published an initial online unilateral disclosure report in December 2014 as part of the release of a new online Data Portal. This pilot unilateral disclosure report by DOI included calendar year 2013 revenue data, which published revenue data disaggregated by company. This level of data disclosure is only available for ONRR.

The revenue data publicly available on the websites for other DOI bureaus is limited. We recommend that historical revenue collection data from across all DOI bureaus be made available in a consistent and easily accessible manner; much like the data from ONRR is currently available. The online data portal may be a solution for other DOI bureaus to utilize to make their information easily accessible to the public as part of the unilateral disclosure report in future years.

3.5 In-scope extractive commodities

Based on the consensus of the MSG members, the commodities determined in-scope for USEITI and included in the 2015 USEITI Report are oil, gas (including natural gas liquids and dry gas), coal, other leasable minerals, Non-fuel minerals, geothermal, solar, and wind. In-scope commodities will be included in the publicly sourced narrative, will be unilaterally disclosed, and will be reconciled assuming the companies in-scope have made payments to the in-scope government entities related to those commodities.

Table 3.5.1 In-scope extractive commodities for 2015 USEITI Report

In-Scope Extractive Commodities Included in 2015 USEITI Report
Oil
Gas
Coal
Other Leasable Minerals
Non-fuel Minerals
Geothermal
Solar
Wind

Details on the considerations of the MSG in determining the commodities to be included in the 2015 USEITI report can be found in the [meeting minutes and materials](#) of the MSG.

The MSG continues to discuss revenues from forestry and fisheries for potential inclusion in future USEITI reports.

3.6 Reporting period and basis

The MSG examined and considered several options for defining the reporting period to be used for the reconciliation. These included the following:

- The fiscal year of the US federal government and its agencies (October 1 through September 30)
- A variable fiscal year (utilizing separate reporting periods for the different fiscal years adopted by each reporting entity)
- Calendar year (January 1 through December 31)

The MSG discussed during the [September 2014 MSG meeting](#) that the majority of companies that will be asked to provide data for reconciliation are likely to use a calendar year as their accounting fiscal year. Thus, by using a calendar year reporting for reconciliation, industry compliance costs will be reduced. Additionally, we believe that calendar year reporting is an easier format for the public to understand.

We understand that the relevant government agencies that will be required to submit data for reconciliation, such as the bureaus in DOI, have the capability to produce data in a calendar year format. We understand that ONRR will serve as the primary point of contact to obtain data from other DOI bureaus and ONRR has confirmed that all data from all sources is available by calendar year.

The basis of reporting shall be actuals, meaning revenues paid, received, or reported during the period under consideration (calendar year 2013 for the first report). The reporting currency will be US dollars.

3.7 Subnational payments and transfers

Subsections 4.2(d) and (e) of Requirement 4 of the EITI Standard require implementing countries to report on subnational revenues in two ways. Rule 4.2(d) requires reporting and reconciliation of material company payments to subnational government entities and the receipt of these payments. Separately, Rule 4.2(e) requires reporting on mandatory revenue transfers from national governments to subnational governments.

The Global EITI Board approved the USEITI Candidacy Application and, as part of it, adapted implementation of the EITI Standard for sub-national reporting. The approved adapted implementation considered that the USEITI reporting will comply with Rule 4.2(e)'s requirements by reporting 100% of extractives-specific revenues collected by the US federal government and transferred to US state governments. However, payments made by companies to state governments (4.2 (d)) and revenues collected by state governments directly will not be included in the report, unless the scope is modified or the states opt-in to participate in the USEITI process.

Adapted implementation for sub-national reporting for USEITI was approved because of significant practical barriers to complying with Rule 4.2(d) resulting from the size and complexity of the state extractive sector. The EITI Standard allows for adapted implementation "where the country faces exceptional circumstances that necessitate deviation from the implementation requirements" (Requirement 1.5).

Under the terms of the approved adapted implementation, the USEITI reporting will partially comply with Rule 4.2(d)'s requirement to disclose material extractive revenues directly collected by states through a two-phased approach:

- Under Phase I of USEITI's implementation of Rule 4.2(d), publically available information about state extractives revenue collection will be included in USEITI reports.
- Phase II of Rule 4.2(d) implementation involves encouraging states to participate in USEITI through a voluntary "opt-in" process.

The publicly available information about state extractive revenues will be included as a part of the contextual information required in the USEITI report. The MSG and IA are continuing to work to understand the scope of information that is available and will be included.

The MSG continues to consider the design of the "opt-in" process for states and tribes. The MSG identified 18 states with significant extractive industry activities with the in-scope commodities that may be candidates for opting into the USEITI program. The MSG identified these 18 states by looking at the levels of production and revenue collection for all states and specifically tried to identify the top five states in oil, gas, coal, and Non-fuel minerals production, and/or in severance tax collection.

The MSG determined that the first step was sending "outreach" letters to state and tribal leaders. The letters to tribal leaders were sent out in July 2014, and the MSG continues to work to develop a communications and outreach plan to engage with tribes around the letter (see Section 3.6.2 for additional detail). The MSG approved a draft letter that was sent out to [US State Governors](#). The MSG designed the letter to ask for the states' support and encouragement for the MSG to use publicly available data and information and ask for the states' support in gathering that contextual data.

The MSG's request for adapted implementation is detailed in the USEITI Candidacy Application. The EITI Board approved the adapted implementation request for the first two USEITI reports in March 2014. We believe the initial approach taken by the MSG to comply with the requirements on sub-national transfers and payments is appropriate. As the MSG continues to work to design and implement the opt-in process, they will have to consider a long-term approach to meeting Requirement 4.2(d) beyond the current adapted implementation.

3.8 Tribal payments and revenues

The MSG also considered the issue of revenues collected on behalf of Indian tribes and individual Indian mineral owners, which are currently part of the overall collection and reporting responsibilities of the federal government. Companies in the extractives sector may also have direct relationships with tribes on issues of leasing, reporting, and other activities.

As previously described, the United States has a specific legal and political relationship with Indian tribes and Alaska Native entities, as provided by its Constitution, Indian treaties, court decisions, executive orders, and federal statutes. Within the government-to-government relationship, DOI provides services directly or through contracts, grants, or compacts to 566 federally recognized tribes with a service population of about 1.9 million Indian and Alaska Natives. On November 5, 2009, President Obama issued a presidential memorandum directing each federal agency to develop a plan of action for the conduct of tribal outreach and consultation on federal policies and programs that have implications for tribes.

Following the guidelines in its plan of action, DOI conducted extensive outreach with tribal governments and tribal leaders regarding the benefits of EITI and invited tribes to observe or participate in USEITI. In response, tribal governments have primarily asked to be kept informed of USEITI. At the September 2014 MSG meeting,

it was announced that a representative of the Shoshone & Arapaho tribes was nominated to fill a seat on the MSG as a tribal representative on the government sector.

The MSG intends to continue to perform outreach to tribal governments and communities and to seek their input on the potential design of a process for tribes to voluntarily participate and opt-in to reporting tribal data. In the interim, USEITI reporting regarding revenues from tribal lands will be limited to the unilateral and unreconciled disclosure of the aggregate revenues collected on behalf of the tribes, which DOI publishes annually under existing authorities.

3.9 Project-level reporting

Requirement 5.2(e) of the EITI Standard states that the MSG is required to agree on the level of disaggregation for the publication of data and that EITI data must be presented by individual company, government entity, and revenue stream. The standard does not provide a specific definition of “project” but states that reporting at the project-level is required, provided it is consistent with the SEC rules and European Union requirements.

The MSG determined that the 2015 USEITI Report should follow the first part of Requirement 5.2(e) of the EITI Standard. Specifically, that the data should be presented and reconciled by individual company, government entity and revenue stream, but that no definition be assigned for project level at this time. Furthermore, the MSG committed to undertake a thorough review of the level of disaggregation for each revenue stream identified for disclosure by the MSG in order to prepare a future recommendation for project definition that will satisfy Requirement 5.2(e) for use in future USEITI reports.

We agree that the MSG’s approach for the 2015 USEITI Report is appropriate. We acknowledge that the MSG will have to come up with an agreement on a definition for project level at some point in the future in order to be compliant with Requirement 5.2(e). However, as the requirement states regarding project level reporting, it is required “provided that it is consistent with the United States Securities and Exchange Commission rules and the forthcoming European Union requirements.” Therefore, we advise that the MSG cannot develop a final definition of project level until the SEC rule is released.

We agree, however, that the exercise of beginning to consider the level of disaggregation possible by revenue stream is an appropriate interim approach and that the implementation in other countries may serve as a helpful data point in that exercise.

3.10 Other scope decisions

Social expenditures

Subsection 4.1(e) of Requirement 4 of the EITI Standard states that the EITI Report must disclose and reconcile, where possible, material social expenditures made by companies that are mandated by law or by the contracts with the government entity that administers the extractive investment. We have performed some research on this issue and are not aware of any social expenditures required by Federal law. However, we have not performed a full contract review for all contracts held with the government to determine if there is a required social expenditure provision with any entity. Based on our review, we do not believe that the Requirement is applicable in the United States.

Transportation revenues

Subsection 4.1(f) of Requirement 4 of the EITI Standard states that where revenues from the transportation of oil, gas, and minerals constitute one of the largest revenue streams in the extractive sector, the government-

and state-owned enterprises (SOEs) are expected to disclose the revenues received. We understand that the [MSG determined](#) transportation revenues are not one of the largest government revenue streams and will not be included in the scope for USEITI. We recommend that the MSG document the rationale for this decision.

In-Kind transactions

We advise that subsection 4.1(c) of the EITI Standard, which refers to the sale of the state's share of production or other revenues collected in-kind, is not applicable to the United States. To our knowledge, there are no government-owned extractive companies in the United States. Additionally, we do not believe the US federal government currently has any programs allowing revenues to be paid through an in-kind arrangement and we have not received guidance otherwise from the MSG.

However, we recognize that certain state governments may have in-kind programs where they may accept production in kind from companies. We suggest that the MSG may need to consider this for any states that ultimately choose to opt-in for future reports.

Infrastructure provisions and barter arrangements

We understand that subsection 4.1(d) of the EITI Standard, which refers to infrastructure provisions and barter arrangements by the government, is not applicable within the United States. These types of arrangements do not exist as defined by the EITI Standard.

4. Contextual information

Requirement 3 of the EITI Standard states, “The EITI requires EITI reports that include contextual information about the extractive industries.” This requirement was implemented by EITI to make reports more comprehensible and useful to the public by including contextual information about the extractive industries of the reporting country. Requirement 3 outlines that the contextual information should include information on the following:

- A summary description of the legal framework and fiscal regime (3.2)
- Overview of the extractive industries (3.3)
- The extractive industries’ contribution to the economy (3.4)
- Production data (3.5)
- State participation in the extractive industries (3.6)
- Revenue allocations and the sustainability of revenues (3.7–3.8)
- License registers and license allocations (3.9–3.10)
- Applicable provisions related to beneficial ownership (3.11) and contracts (3.12)

The MSG intends that the USEITI report will make data and information that is already publicly available from US federal government agencies and other authoritative sources more accessible and understandable in order to provide context for the extractive industries. The reports will also include information for additional types of natural resources that will not be reconciled under USEITI.

The MSG has, through its working groups and subcommittees, given substantial consideration to the scope of the contextual narrative information to be included in the 2015 USEITI report. The MSG documented its approved recommendations around how the 2015 USEITI report will approach the requirements and recommendations for contextual information in a [Contextual Narrative](#) document.

It is our understanding that we must work with the MSG to agree on the procedures for incorporating and analyzing contextual and other non-revenue information in the USEITI Report. To that end, we reviewed the MSG’s recommended approach for complying with EITI contextual information requirements to evaluate the feasibility of implementing the recommendations and to begin to identify potential data sources that may be appropriate. We have also identified areas where there may be potential constraints and considerations to be discussed as the contextual narrative is created to meet the EITI requirements. The results of this review and analysis are detailed in **Appendix E — Contextual Narrative Analysis**. In addition, Appendix E includes an initial list of potential sources of data that may be used to create the contextual narrative. While the sources of information are being included in the Inception Report, a final decision of data use resides with the MSG.

We acknowledge that this analysis is not intended to be a comprehensive review of all potential data sources and that additional information that should be considered for inclusion in the report will be identified as the MSG and IA work together to define the level of detail for the contextual information. This analysis serves as a high-level initial review of the MSG’s recommendations to identify any potential concerns about the feasibility of implementation. We anticipate that we will work directly with the MSG through appropriate subcommittees and workgroups over the next several months to define and develop the plan for identifying appropriate sources of contextual data and information and to develop the plan for collecting and presenting that data.

In particular, there are two issues that we believe the IA and MSG should begin to work through as we refine the approach to contextual information:

- **Level of Detail.** The standard is not specific about the level of detail for the contextual narrative. For example, the requirement in 3.8(c) to report on “fiscal impacts related to public services and infrastructure” is fairly broad and does not specify the level of detail to be provided. For the contextual narrative, we recommend that we conduct initial research into the availability of public data for discussion and decision by the MSG. The requirement in the EITI Standard is that the information in the report “must be clearly sourced” (3.1).
- **County and Local Jurisdiction Data.** For some sections of the contextual narrative (e.g. 3.4a &d; 3.8c-d), the MSG has decided to examine revenues and other data at a county level, focusing on counties that account for significant revenue for each in scope commodity. We believe this is a feasible approach, but also are aware that there may be significant differences in the type, level and quality of data available at a county level. Therefore, we would like to work with the MSG to select potential counties as soon as possible so that we can provide some further research on data availability and recommend potential options for data to be included in the contextual narrative report.

We look forward to providing additional context and options for the MSG on these decisions.

5. Data collection and reconciliation

5.1 Overview of data collection and reconciliation

During the data collection and reconciliation phase, we will collect and reconcile the payment and revenue data from the in-scope reporting companies and government agencies. The reconciliation process is outlined in the five steps below:

1. Plan the data analysis and procedures
2. Request data
3. Manage data received
4. Reconcile
5. Review results and prepare reconciliation report

Each of these steps will be documented in detail during phase two of the USEITI reporting process in a data collection and reconciliation plan, as required by the TOR.

This process will require that the MSG finalize decisions based on the feedback and recommendations included in this Inception Report. It will be necessary for us to have this information in order to complete the plan for data analysis and procedures.

Step 1 is to plan the data analysis and data collection procedures, including the development of the reporting template and reporting processes that will be used by in-scope reporting companies and government entities. These procedures will also include developing a protocol around the safeguarding of confidential information. We will document the planned procedures in the data collection and reconciliation project plan due in January 2015. The completeness of revenues and payments to be included in-scope will drive the specific activities. Based on validation experience in other countries, completeness of information pursuant to the EITI Standard has been a challenge in successful implementation and validation.

Requirement 5.2(d) of the EITI Standard specifies the need to consider and agree upon appropriate provisions and techniques to safeguard confidential information received from participating companies and government entities. We propose that the MSG agree to implement the following provisions during the data collection and reconciliation phases to appropriately safeguard confidential information. These include:

- The IA will only request and obtain data required to perform the reconciliation activities. The IA will delete or destroy any non-relevant information provided inadvertently.
- The IA will work on security-encrypted laptops and email communications will be through encrypted email servers.
- The IA will delete or destroy all source data information after the 2015 USEITI report is delivered and accepted.
- The IA will only allow core team members who have a need to use the data and who have passed the appropriate federal government background checks to access the data.
- The IA will send password protected reporting templates to the reporting companies.
- The IA will require that the authorized representative of the company obtain the password to the template.
- Each template will have a unique password that meets current government encryption standards.

- Reporting templates sent to the government agencies, if utilized, will include a letter from an authorized representative directing and allowing the government agencies to insert the relevant details in the template.
- Reporting entities will submit completed reporting templates to the IA directly.
- The IA will follow these same provisions when making any additional requests for information from either government entities or reporting companies to resolve reconciling differences.

Step 2 involves requesting the data to be used in the reconciliation. We have developed a proposed reporting template contained in Appendix B. The template will be distributed to reporting companies according to the protocols established as part of the data collection procedures. Should there be a change from the MSG regarding which revenue streams are in-scope, additional templates will likely be necessary.

Step 3 encompasses the activities needed in order to manage the data received. As part of the data management procedures, a set of procedures will be employed as data is received in order to check the completeness and reasonableness of the data that is being submitted.

Step 4 is a reconciliation of the data. In order to facilitate the exercise, a reconciliation tool encompassing current and emerging technology (e.g. Structured Query Language, ACL, Statistical Analysis System, and Tableau) will be developed. The tool will be utilized to bring in the data from all entities, perform the reconciliation and provide meaningful output. The tool will also provide insight to the patterns in the data collected. This understanding will be used to identify potential areas needing further analysis and the ability to compare data from year to year, specifically identifying anomalies and data irregularities. See below for reconciliation considerations.

Step 5 involves reviewing the outputs of the reconciliation. The outputs that do not reconcile will be considered for further action, including additional research and/or reconciliation reporting. The reconciliation report will focus primarily on the non-reconciling items: those items identified that do not match between the reporting company's submitted data and the data provided by the appropriate government entity, as well as any data analysis or research performed. We expect to see the following types of non-reconciling items:

- Reporting entities reported amounts sent to the government less than what the government reported
- Reporting entities reported amounts sent to the government greater than what the government reported
- Amounts reported by reporting entities but not reported by the government
- Amounts reported by government but not reported by the reporting entity
- Other differences between reporting entity payment and the government recording

In deciding the appropriate course of action, further research or reporting, we will work closely with the MSG to establish a threshold within the data collection and reconciliation project plan. Materiality in this step is different from the materiality calculated to determine the reporting entities. In this step, where non-reconciling items appear and are of a material amount, the reporting company or government entity will be contacted by the IA and asked to provide details of the amounts (dates and figures) of the non-reconciling item(s). We will retrieve the required information in order to enable support of an explanation for the non-reconciling item(s). If the item is open as a non-reconciling item, the item will be included, along with the research involved, in the 2015 USEITI report.

As the steps are being performed, several factors need to be considered:

1. The requirements, implementation, and ongoing maintenance of the data analysis tool.

2. Analytical skills along with computer technology and data mining techniques will be needed to enhance the process and the value of information provided.
3. Data submitted by the reporting entities and government will be collected and categorized within the tool per the reporting template.
4. Specific details will be provided and finalized as part of the data collection and reconciliation project plan, which will be completed as the second phase in the 2015 USEITI reporting process per the TOR.

5.2 Reconciliation process

The reconciliation process related to USEITI reporting will be performed with a tool developed specifically for this project using the previously mentioned technology. The tool will systematically compare data submitted by the government agencies and the reporting entities in order to determine if there is a discrepancy between the two sources for the determined applicable data elements, which will be based upon the in-scope revenues to be reported. The USEITI reconciliation tool will be developed and customized specifically based on our understanding of USEITI requirements, as well as leading practice data management and collection techniques. The following capabilities will be included:

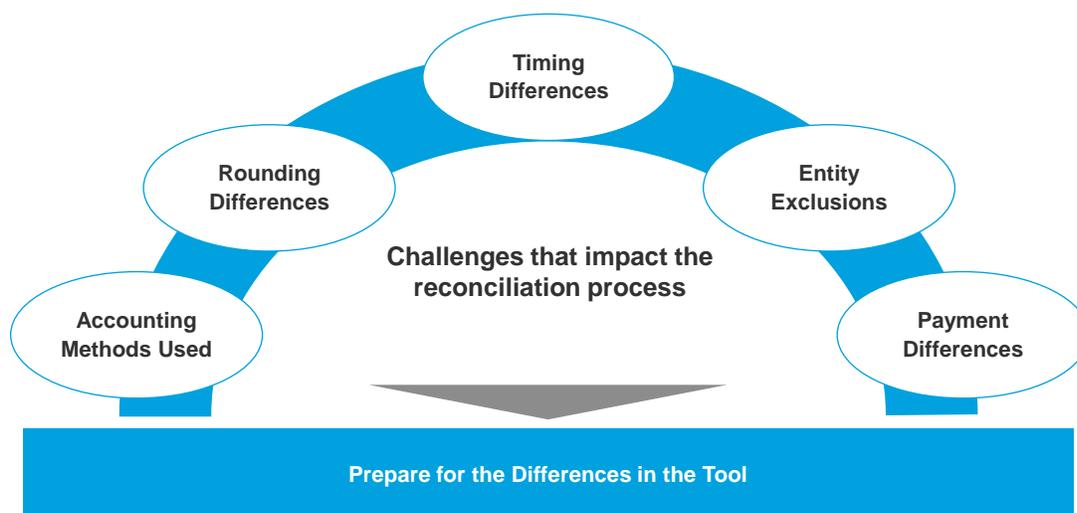
- Reconciliation of payment data from authorities and reporting entities for the applicable revenue streams: rents, royalties, bonuses, and fees collected by government in relation to the commodities of oil, gas, coal, other leasable minerals, Non-fuel minerals (hard rock, sand, and gravel), geothermal, and other renewables (solar/wind)
- Reconciliation of corporate income taxes (to be determined based on voluntarily participation by companies for the 2015 USEITI Report)

The process will include gathering the data collected into the identifying revenue stream categories from each of the government and company reporting entities and comparing that data for matches using analytical comparisons and queries developed based on our understanding of the USEITI process. The identifiers described will be for each data type (tax, royalty, fee, and bonus).

Because many reporting entities have hundreds of different transaction types, reconciling the amounts submitted by the reporting entities with the amounts from the government entities will be challenging. The tool to be developed will support the goal of having the reconciliation be as automated, effective, and efficient as possible. Appropriately configured data collection templates will help with this process. However, the expectation of differences should be noted.

The reconciliation process will be complex due to the differences in the data to be received. Examples of these differences are shown in Figure 5.2-1. These types of considerations will need to be built into the logic of the reconciliation tool as much as possible. Our planned process for reconciliation will be laid out in detail in a Data Collection and Reconciliation Plan that the IA is required to develop and deliver to ONRR in January 2015.

Figure 5.2-1: Reconciliation differences



5.3 Assess credibility of the data

We understand that it is necessary that the data obtained and reconciled should be complete and accurate in order to provide reliable, useful information to support the 2015 USEITI Report. Requirement 5.2(b) of the EITI Standard requires the examination of the audit and assurance procedures in companies and government entities participating in the USEITI reporting process. This includes review of relevant laws and regulations, review of any reforms planned or underway, and whether these procedures are in line with international standards.

We will take into account the existence and applicability of international and US professional accounting and auditing standards, as well as US laws and regulations, to assist in evaluating the reliability of the data collected and used in the reconciliation. The relevant laws, regulations, and professional standards that are anticipated to be applicable to companies included in the USEITI program are outlined in the following section.

Through the data collection process, we will attempt to confirm the organizational structure of each reporting company to identify what regulations may be applicable to each company. For clarification in this document, private and public companies will be defined as:

- Private company: A company where the shares are privately held and not traded publicly
- Public company: A company whose shares are traded freely on a stock exchange

As part of the reconciliation process, we will include an assessment on the comprehensiveness and reliability of the data presented. This assessment will include whether each company and government entity within the agreed scope of the EITI reporting process provided the requested information. Any gaps or weaknesses in reporting to the IA must be disclosed in the 2015 EITI Report and an assessment of whether this is likely to have had a material impact on the comprehensiveness of the report.

Additionally, requirement 5.3(e) of the EITI standard calls for the EITI Report to document whether the participating companies and government entities had their financial statements audited in the financial year(s) covered by the EITI Report. Any gaps or weaknesses relevant to USEITI and its revenue streams must be disclosed. Where audited financial statements are publicly available, it is recommended that the EITI Report provide information on how to access them.

We will not make any conclusions on the audited financial statement reports of the reporting entities. The purpose of obtaining audit reports is to identify anything that could affect the reliability of the data provided by the entities and confirm that the auditing standards are consistent with the EITI requirements. We will work with the MSG to define the necessary information requests to reporting companies, as well as how findings should be reported as part of the 2015 USEITI Report.

Relevant laws, regulations, and professional standards

In the United States, there are laws, regulations, and professional standards enforced to uphold the reliability of company and government entity data. The table below outlines the governing bodies:

Table 5.3-1 Relevant laws, regulations, and professional standards

Law, regulation, or standards professional	Acronym	Description
US Generally Accepted Accounting Principles	GAAP ⁴⁴	Created in the early 1970s, GAAP is the standardized accounting rule set for publicly traded or privately traded companies. GAAP enables stakeholders to compare accounting statements for different companies and industries by using a standard methodology. Confidence in the company financial numbers will be critical to this initiative. The IA will rely on the fact that company management, audit committees, and internal and external auditors play important review and attestation roles for the reliability of the financial reports and underlying account balance and classes of transactions that are released by these companies. The requirements for GAAP adherence are reinforced by regulators, including the SEC and the PCAOB ⁴⁵ to provide additional oversight of the auditors of the public companies.
Securities and Exchange Commission	SEC ⁴⁶	By regulation of the SEC, public companies must have their financial statements prepared in accordance with GAAP and they must be audited each year by independent auditors, which include having certified accountants who examine, on a test basis, evidence supporting the amounts and disclosures in the financial statements. Many times, privately held companies do the same as public companies given the requirements from banks. The auditors provide a written opinion on whether the company's financial statements are, in all material respects, fairly presented in accordance with GAAP. When companies are audited by their external auditors, the auditors will check for appropriate application of GAAP over the company's financial reporting.
Sarbanes-Oxley Act	SOX ⁴⁷	In the case of larger public companies (large accelerated filers and accelerated filers), the auditor must also express an opinion on whether the company maintained, in all material respects, effective internal control over its financial reporting, as of a specified date.

⁴⁴ More information for GAAP can be found in: <http://www.fasb.org/home>

⁴⁵ More information for PCAOB can be found in: <http://pcaobus.org/Pages/default.aspx>

⁴⁶ More information for SEC can be found in: <http://www.sec.gov/>

⁴⁷ More information for SOX can be found in: <http://www.soxlaw.com/>

Law, regulation, or standards professional	Acronym	Description
		<p>The company's chief financial officer has to sign off on the integrity of the financial statements. The internal controls requirement comes from a regulation known as SOX. SOX is an act passed by Congress in 2002 to further protect investors from fraudulent accounting activities by public companies; SOX requires all financial reports for larger public companies to include an Internal Controls Report by company management and an attestation by the auditor. The application of SOX requirements shows that a company's financial data is accurate and has adequate controls in place to safeguard financial data. A SOX auditor is required to audit the effectiveness of internal controls, policies, and procedures during a SOX audit. Note that the CPA that signs an audit report is personally liable for the results conveyed in that audit report. Inappropriate or misrepresentation of financial figures or facts could result in fines and/or jail time.</p>
Public Company Accounting Oversight Board	PCAOB	<p>The PCAOB exists to confirm that the auditors are auditing the financial statements and internal controls performed by the public companies in accordance with established auditing standards. The PCAOB is a nonprofit corporation established by Congress to oversee the audits of public companies in order to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports.</p>
American Institute of CPAs	AICPA ⁴⁸	<p>In the United States, private companies are required to comply with the standards released by the AICPA. The AICPA has released mandatory audit and attest standards for conducting, planning, and reporting on audit and attestation engagements of private companies.</p>
Financial Accounting Standards Board and Private Company Council	FASB ⁴⁹ PCC	<p>The FASB has created a council known as the PCC. The PCC and the FASB work jointly to mutually agree on a set of criteria to decide whether and when alternatives within GAAP are warranted for private companies. Currently, there are no differences with respect to accounting for oil and gas activities between private and public companies under GAAP, other than with respect to financial statement disclosure requirements.</p>
International Financial Reporting Standards	IFRS ⁵⁰	<p>IFRS are a set of accounting standards developed by the International Accounting Standards Board (IASB) that is intended to establish a consistent global standard for the preparation of public company financial statements. The IASB is an independent accounting standard-setting body, based in London. It is funded by contributions from major accounting firms, private financial institutions and industrial companies, central and development banks, national funding regimes, and other international and professional organizations throughout the world. Approximately 120 nations and reporting jurisdictions permit or require IFRS for domestic listed companies, although approximately 90 countries have fully conformed with IFRS as promulgated by the IASB and include a statement acknowledging such conformity in audit reports. The SEC, which is responsible for the supervision and</p>

⁴⁸ More information for the AICPA can be found in: <http://www.aicpa.org/Pages/default.aspx>

⁴⁹ More information for the FASB can be found in: <http://www.fasb.org/home>

⁵⁰ <http://www.ifrs.org/Pages/default.aspx>

Law, regulation, or standards professional	Acronym	Description
		regulation of the securities industry and has oversight responsibility for the FASB, is currently considering whether it will incorporate IFRS into the financial reporting system for US issuers. There is currently no estimated date for when such a decision might be made.

Reporting companies and applicable standards

We have conducted preliminary analysis using publicly available information of the list of 44 companies that meet the materiality threshold for reconciliation in the 2015 USEITI Report. Table 5.3-2 shows a preliminary analysis of the entity type and the accounting standards for each of the companies. This information will be confirmed by the IA with each company during the data collection phase.

Table 5.3-2 Reporting Company, Entity Type, and Applicable Accounting Standards

Company name	Public or private company	Entity type	Applicable accounting standard
CHEVRON CORP	Public	Corporation	US GAAP
SHELL	Public	Foreign corporation	IFRS
BP AMERICA INC	Public	Foreign corporation	IFRS
EXXON MOBIL CORP	Public	Corporation	US GAAP
FIELDWOOD ENERGY LLC	Private	Limited liability company	US GAAP
PEABODY ENERGY CORP	Public	Corporation	US GAAP
ANADARKO PETROLEUM CORP	Public	Corporation	US GAAP
BHP BILLITON LTD	Public	Foreign corporation	IFRS
CONOCOPHILLIPS	Public	Corporation	US GAAP
FREEPORT-MCMORAN O&G LLC	Public	Subsidiary of public corporation	US GAAP
LLOG EXPLORATION OFFSHORE INC	Private	Limited liability company	To be identified during data collection
ARCH COAL INC	Public	Corporation	US GAAP
STATOIL	Public	Foreign corporation	IFRS
ENERGY XXI LLC	Public	Subsidiary of public corporation	US GAAP
HESS CORP	Public	Corporation	US GAAP
CLOUD PEAK ENERGY INC	Public	Corporation	US GAAP
STONE ENERGY	Public	Corporation	US GAAP
MARATHON OIL CORP	Public	Corporation	US GAAP
ENCANA CORP	Public	Foreign corporation	IFRS
DEVON ENERGY CORP	Public	Corporation	US GAAP

Company name	Public or private company	Entity type	Applicable accounting standard
SANDRIDGE ENERGY INC	Public	Corporation	US GAAP
ENI USA INC	Public	Foreign corporation	IFRS
W & T OFFSHORE INC	Public	Corporation	US GAAP
EPL OIL & GAS INC	Public	Corporation	US GAAP
ULTRA PETROLEUM	Public	Foreign corporation	US GAAP
NOBLE ENERGY INC	Public	Corporation	US GAAP
QEP RESOURCES COMPANY	Public	Corporation	US GAAP
EOG RESOURCES INC	Public	Corporation	US GAAP
CONCHO RESOURCES INC	Public	Corporation	US GAAP
ARENA ENERGY	Private	Limited partnership	To be identified during data collection
WPX ENERGY INC	Public	Corporation	US GAAP
WALTER OIL & GAS CORP	Private	Corporation	To be identified during data collection
LINN ENERGY LLC	Public	Limited liability company	US GAAP
BOPCO LP	Private	Limited partnership	To be identified during data collection
OCCIDENTAL PETROLEUM CORP	Public	Corporation	US GAAP
ALPHA WYOMING LAND COMPANY LLC	Public	Subsidiary of public corporation	US GAAP
CIMAREX ENERGY INC	Public	Corporation	US GAAP
VENARI OFFSHORE LLC	Private	Limited liability company	To be identified during data collection
TALOS ENERGY LLC	Private	Subsidiary of limited liability company	To be identified during data collection
COBALT INTERNATIONAL ENERGY LP	Public	Limited liability company	US GAAP
ANKOR ENERGY LLC	Public	Corporation	US GAAP
CONTINENTAL RESOURCES INC	Public	Subsidiary of foreign corporation	US GAAP
REPSOL E&P USA INC	Public	Corporation	US GAAP
CHEVRON CORP	Public	Subsidiary of foreign corporation	US GAAP

Proposed information to be requested from the participating entities by the IA

We have developed a proposed reporting template to obtain company payment data for reconciliation in accordance with the proposed scoping determinations for the 2015 USEITI report, as indicated in Requirement 5.2(a) of the EITI Standard. We will work with the MSG to revise the proposed reporting template to facilitate efficient and effective reporting by the government and reporting companies. Additionally, with guidance and input from the MSG, we will develop a set of reporting template guidance procedures to include with the reporting template to assist companies in completing the reporting template.

In order to comply with Requirement 5.2(c) of the EITI Standard to obtain appropriate assurances to confirm the credibility of data submitted, the IA will work with the MSG to define an acceptable set of procedures to be followed as part of the data collection process. We believe that the set of acceptable procedures should be outlined in the proposed reporting template, defined in detail in the accompanying reporting template guidelines, and otherwise adequately communicated to all participating companies and government entities.

6. Observations and recommendations

We have spent considerable time reviewing the recent published EITI reports for other countries and reviewing the lessons learned and the issues encountered to try to identify items that may be helpful for consideration by the MSG for the USEITI program. We have also had considerable discussions with our DTTL member firm team members with EITI experience on these matters. We have summarized some of the issues we believe are significant and applicable to the USEITI implementation.

1. Guidance on Reporting by companies

a. Better instructions for reporting templates

In addition to providing detailed instructions of how to complete the reporting templates, the IA recommends that an additional effort be established to create an open informational session for all reporting companies prior to the dispatching of reporting templates. During this workshop, the reporting template can be discussed and instructions and guidance can be reviewed for the preparation of the payment reports. We suggest this approach as a means to help achieve the overall objectives of the USEITI.

b. Accuracy of completion of templates

EITI Requirement 5 seeks to ensure a credible EITI reporting process so that the EITI Report contains reliable data that is appropriately sourced and documented. The reporting entities and relevant government agencies should have controls in place over the EITI reporting template preparation to confirm that they are complete and accurate before submission.

We recommend that the MSG establish a communication plan for reporting companies to make sure that the companies are aware of the importance of the data they are providing and that due care and attention is paid during the preparation of these reports. With regard to the governmental agencies, it is recommended that written assurance of the DOI Chief Financial Officer and potentially written assurance by DOI's audit firm be provided for reference in the report for government reported data.

c. Clearly defined deadlines

A clearly defined deadline should be set up and written in the letter sent out by the MSG and the reporting template sent out by IA. At least one reminder of the reporting deadline should be sent out to the reporting companies and related government agencies. The mailing list of the reporting companies should be updated to confirm and document that all relevant companies are included as a part of the overall population.

d. Voluntary disclosure of supporting information

As a guideline to the reporting, the companies should be encouraged to attach detailed specifications on each reporting item specifying amounts and payment dates, to simplify the reconciliation work. Detailed specifications increase the efficiency of the reconciliation process, reduce the need for follow up with companies and can help to improve the quality of the reported data. For a more reliable EITI reporting, the instructions sent out with the reporting templates to extractive companies will indicate that when compiling their templates, extractive entities and related government agencies are encouraged to provide the IA with schedules showing a breakdown of all amounts included.

2. Appropriate communication with and buy-in from reporting companies in advance of reconciliation

The IA suggests that the success of the reconciliation exercise and EITI reporting will rely on the engagement of stakeholders. In order to have better communication on the EITI reporting processes and to minimize the misunderstanding between stakeholders, the IA suggests that the MSG develop a plan for performing outreach to obtain buy-in from reporting companies in advance of the reconciliation effort.

The IA suggests that this outreach is necessary to attempt to clarify any ambiguities on the reporting requirements with the reporting entities in advance to attempt to avoid the issues being uncovered during the reconciliation process.

3. Scoping process

The IA suggests that a clearly defined and laid out scoping process with evidence and rationale to support scoping decisions is a key component in implementing countries ultimately achieving validation. The IA recommends that the MSG consider this in reviewing and evaluating the scoping decisions they have made to date.

Appendix A — Glossary and abbreviations

This document uses the following acronyms and abbreviations:

Abbreviation	Definition
AICPA	American Institute of Certified Public Accountants
AML	Abandoned Mine Land Reclamation Program
BIA	Bureau of Indian Affairs
BLM	Bureau of Land Management
BOEM	Bureau of Ocean Energy Management
BSEE	Bureau of Safety and Environmental Enforcement
CO	Contracting Officer
COR	Contracting Officer's Representative
CPA	Certified Public Accountant
DOI	Department of the Interior
EIA	Energy Information Administration
EITI	Extractive Industries Transparency Initiative
FASB	Financial Accounting Standards Board
FACA	Federal Advisory Committee Act
FY	Fiscal Year
GAAP	Generally Accepted Accounting Principles
GAO	Government Accountability Office
GDP	Gross Domestic Product
IA	Independent Administrator
IASB	International Accounting Standards Board
IFRS	International Financial Reporting Standards
IMDA	Indian Mineral Development Act
IRC	Internal Revenue Code
IRS	Internal Revenue Service
LLC	Limited Liability Corporation
MSG	Multi-Stakeholder Group
NEPA	National Environmental Policy Act
OCI	Organizational Conflicts of Interest
OGP	Open Government Partnership
OMB	Office of Management and Budget

Abbreviation	Definition
ONRR	The Office of Natural Resources Revenue
OSMRE	The Office of Surface Mining, Reclamation and Enforcement
OST	Office of the Special Trustee
PCAOB	Public Company Accounting Oversight Board
PCC	Private Company Council
RFI	Request for Information
RFQ	Request for Quotes
SEC	Securities and Exchange Commission
SMCRA	Surface Mining Control and Reclamation Act
SOX	Sarbanes-Oxley Act
TOR	Terms of Reference
USEITI	United States Extractive Industries Transparency Initiative
US GAAS	United States Generally Accepted Auditing Standards
USGS	United States Geological Survey

Appendix B — Draft reporting template

Included here is a draft version of a reporting template for companies that has been developed by the IA based on information on scoping decisions made by the MSG. The IA acknowledges that this reporting template will require further discussion and consideration between the IA and MSG before it is agreed upon by all parties and finalized. The IA suggests that these deliberations should begin to occur now as the plan for the reconciliation effort is being considered and developed.

United States Extractive Industries Transparency Initiative (USEITI)
 Company Payment Reporting Template

Corporate Entity Name _____
 Entity Type _____
 Accounting Method _____
 Period for Reporting 1/1/2013 -12/31/2013 _____
 Commodity Types _____

Benefit Streams		Note*	Amount Paid (USD \$)
1	Payments to Office of Natural Resource Revenue (ONRR)	1	
	Royalties (Less Allowance)	1a	
	Rents	1b	
	Bonuses	1c	
	Other Revenues	1d	
2	Payments to Bureau of Land Management (BLM)	2	
	Cost Recovery Fees	2a	
	Permit Fees	2b	
	Renewable Energy Collections	2c	
	Mineral Leases and Permits	2d	
	Drilling Permits	2e	
	Rights-of-Way	2f	
	Helium Sales	2g	
3	Payments to The Office of Surface Mining, Reclamation and Enforcement (OSM)	3	
	AML Fees Including Audits and Late Charges	3a	
	Civil Penalties Including Late Charges	3b	
4	Payments to Bureau of Ocean Energy Management (BOEM)	4	
	Cost Recovery Fees	4a	
5	Payments to Bureau of Safety and Environmental Enforcement (BSEE)	5	
	Cost Recovery Fees	5a	
6	Voluntary Disclosure		
	Corporate Tax Payments to Internal Revenue Service (IRS)		
	Any other material payments, as defined in the reporting guidelines, to Government Entities not listed above		

Voluntary Disclosure - All information provided on the reporting template shall be treated on a confidential basis and is only for the use of the USEITI Independent Administrator and U.S. Government solely for the purposes of EITI reporting requirements. No information shall be disclosed to any third party without the reporting entity's written consent, unless disclosure is required by law.

* Please refer to the Reporting Guidelines that were provided to accompany this Reporting Template for instructions on how to complete the template and for explanations and definitions of terms included on this template.

Additional Requests 1) Please provide a list of all individual payor entities that comprise the corporate entity, as well as their payor ID's, if applicable
 2) Please provide explanation for any payments listed in the category of 'Other'

_____ We have attached further information to assist you in reconciling the payments made to the records of the relevant government agencies:
 Yes/No

Management Sign Off
 I acknowledge for and on behalf of the Board of Directors (or similar body) our responsibility for the truthful and fair presentation of this Reporting Template in accordance with the reporting guidelines provided.

Name: _____ Signature: _____
 Title/Position: _____ Date: _____

Appendix C — List of applicable laws

The following is a list of major statutes we have identified as relevant or potentially relevant to the extractive industries and EITI implementation in the United States. This is not intended to be a comprehensive list and we acknowledge that there are other statutes not included here that may be of limited relevance, such as statutes governing very small numbers of mineral leases that have specific characteristics in a particular state. These statutes are subject to confirmation from the MSG of their relevance and comprehensiveness prior to development of the final USEITI report.

- The Privacy Act (Pub.L.93-579, 88 Stat. 1896, 5 USC. § 552a)
- Trade Secrets Act (18 U.S.C. § 1905)
- Uniform Trade Secrets Act (enacted in state codes)
- Economic Espionage Act (Pub.L. 104-29418 U.S.C. §§ 1831 et seq., 110 Stat. 3488, H.R. 3723)
- IRS Code 6103 Disclosure of Individual Taxpayer Return Data (26 USC. § 6103)
- Freedom of Information Act (Pub.L. 89-554, 80 Stat. 378, 5 USC. § 552)
- Paperwork Reduction Act of 1980 (Pub. L. No. 96-511, 94 Stat. 2812, 44 USC. §§ 3501-3521)
- Federal Oil and Gas Royalty Management Act of 1982 (PUBLIC LAW30 U.S.C. §§ 1701 et seq., ub.. 97-451, 96 STATtat. 2447)
- Royalty Simplification and Fairness Act of 1996 (Public Law. 104-185)
- Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub.L. 111-203, H.R. 417315 U.S.C. § 78m,)
- General Mining Act of 1872(Sess. 2, ch. 152, 17 Stat. 91–96)
- Indian Minerals Leasing Act of 1909 (25 U.S.C. § 396)
- Indian Mineral Leasing Act of 1938 (25 U.S.C. 396§§ a et seq.)
- Mineral Leasing Act of 1920 (MLA) (30 U.S.C. §§ 181, et seq.)
- Bankhead-Jones Farm Tenant Act of 1937 (BJFTA) (7 U.S.C. § 1012)
- Mineral Lands Leasing Act for Acquired Lands of 1947 (MLAAL) (30 U.S.C. 355)§§1 et seq.
- OCSLA of 1953 (43 U.S.C. §§ 1331, et seq.)
- Geothermal Stream Act of 1979 (30 U.S.C. §§ 1001, et seq.)
- Indian Minerals Development Act of 1982 (25 U.S.C. §§ 2101 et seq.)
- Federal Onshore Oil and Gas Leasing Reform Act of 1987 (FOOGLRA) (30 U.S.C. §§ 181 et seq.)
- Gulf of Mexico Energy Security Act of 2006 (Pub L. 109-432)
- Energy policy act of 2005 pub. l. no. 109-58
- Deepwater Royalty Relief Act (Pub L. 104-58)
- Mineral Revenue Payments Clarification Act of 2000 (Pub L. 106-393)

- 16 U.S.C. §§ 499 and 500
- Flood Control Act of 1936 (33 U.S.C. §§ 701 et seq.)

Appendix D — Contextual narrative analysis

The IA acknowledges that this analysis is not intended to be a comprehensive review of feasibility or all potential sources for contextual data. This analysis serves as a high-level initial review of the MSG's recommendations to support discussion and identify potential concerns.

Req. Ref	EITI Language	Required	Rec	MSG Approved Approach	Description	IA Assessment
1.1-1.3	<p>1.1 The government is required to issue an unequivocal public statement of its intention to implement the EITI. The statement must be made by the head of state or government, or an appropriately delegated government representative.</p> <p>1.2 The government is required to appoint a senior individual to lead the implementation of the EITI. The appointee should have the confidence of all stakeholders, the authority and freedom to coordinate action on the EITI across relevant ministries and agencies, and be able to mobilize resources for EITI implementation.</p> <p>1.3 The government is required to commit to work with civil society and companies, and establish a MSG to oversee the implementation of the EITI.</p>	X	X	High-level, brief summary of these activities through application captured in detail in the application, and work plan, with a brief summary of relevant public comments with appropriate links to the actual documents <i>(NOTE: This is required in the work plan and desired in the contextual narrative)</i>		<p>The IA believes it is feasible to:</p> <ul style="list-style-type: none"> Issue an unequivocal public statement of its intention to implement the EITI Appoint a senior individual to lead the implementation of the EITI Commit to work with civil society and companies, and establish a MSG to oversee the implementation of the EITI
1.4a	<p>The work plan must:</p> <p>a) Set EITI implementation objectives that are linked to the EITI Principles and reflect national priorities for the extractive industries. MSGs are encouraged 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.</p>	X		Include as well international EITI principles (Page 9) without interpretation as the guidance for this contextual narrative is in this section	List of stated principles from eiti.org	<p>The IA believes it is feasible to:</p> <ul style="list-style-type: none"> Set EITI implementation objectives that are linked to the EITI Principles and reflect national priorities for the extractive industries Increase the comprehensiveness of EITI reporting and public understanding of revenues Encourage high standards of transparency and accountability in public life, government operations, and in business.

Req. Ref	EITI Language	Required	Rec	MSG Approved Approach	Description	IA Assessment
1.4b	b) Reflect the results of consultations with key stakeholders, and be endorsed by the MSG.	X				The IA believes it is feasible to include results of consultations with key stakeholders, and be endorsed by the MSG in the work plan.
3	The EITI requires EITI Reports that include contextual information about the extractive industries.	X			Sites that provide background/context on extractive industries	The IA believes it is feasible to include contextual information about the extractive industries in the EITI Reports because this contextual information is readily available.
3.1	Compiling contextual information: The MSG should agree the procedures and responsibilities for the preparation of the contextual information for the EITI Report. The information should be clearly sourced.	X				The IA believes it is feasible to include contextual information about the extractive industries in the EITI Reports because this contextual information is readily available.
3.2	The EITI Report must describe the legal framework and fiscal regime governing the extractive industries.	X			Commodity Exchange Act outlines laws and regulations for commodity exchange trading. Title 15 of the Code of Federal Regulations details the regulations associated with commerce and federal trade and addresses many of the topics posed for recommendations. http://www.doi.gov/intl/ita/p/upload/session-01-01-financing-unconventional-gas-development-us-asia-regional-workshop.pdf	The IA believes it is feasible for the EITI Report to describe the framework and fiscal regime governing the extractive industries. Fiscal regime and regulations for EI also vary state by state. Sources listed should provide necessary information, and the List of Applicable Laws in Appendix C will provide necessary information as well.

Req. Ref	EITI Language	Required	Rec	MSG Approved Approach	Description	IA Assessment
3.2a	This information must include a summary description of the fiscal regime, including the level of fiscal devolution, an overview of the relevant laws and regulations, and information on the roles and responsibilities of the relevant government agencies.	X		<ul style="list-style-type: none"> Level of fiscal devolution (3.2a) Explanatory overview of different revenue types. Clarification of terminology and definition and function Overview of revenue type by commodity Land ownership structure and mineral rights Federal agency roles and responsibilities Relationship between different levels of government Relevant laws at national level (including exemptions for certain commodities) 		<p>The IA believes it is feasible for the EITI Report to include a summary description of the fiscal regime, including the level of fiscal devolution, an overview of the relevant laws and regulations, and information on the roles and responsibilities of the relevant government agencies.</p> <p>The fiscal regime in the US is quite complex, including many sub-national entities; the IA and MSG will need to further discuss the scope for this section and the level of detail that will be appropriate.</p>
				<p>Descriptive national overview of the legal framework (statute, regulation, policy) for the US fiscal regime by commodity, including such items as: fair market value determination for lease sales, royalty and tax rates, tax expenditures, and revenue policy provisions, e.g., royalty relief and other deferred revenues, such as the percentage depletion allowance. http://www.boem.gov/Oil-and-Gas-Energy-Program/Leasing/Regional-Leasing/Pacific-Region/Index.aspx</p>	<p>Commodity Exchange Act outlines laws and regulations for commodity exchange trading.</p> <p>Title 15 of the Code of Federal Regulations details the regulations associated with commerce and federal trade and addresses many of the topics posed for recommendations</p>	<p>The IA believes the recommendation is feasible.</p>

Req. Ref	EITI Language	Required	Rec	MSG Approved Approach	Description	IA Assessment
				<p>National overview of the types of legal frameworks and fiscal regimes in the states that have been identified by the MSG as important for each commodity (including any exemptions for certain commodities). Relevant fiscal regulatory processes and pathfinders (links) to the states which have been identified as important for each commodity (including exemptions for certain commodities), focused on the states prioritized by the MSG.</p> <p>General description of the federal fiscal and legal regime in the tribal context, including the flow and control of revenues, the approval process for extractive industry agreements on tribal land, and the processes that the federal government uses to track production and track and manage revenues, federal data bases used to track production and revenues, and the kinds of information held in these data bases. Describe US trust responsibility and confidentiality/proprietary constraints on tribal data.</p> <p>Details would also be provided for any state or tribe that opts in.</p>		The IA believes the recommendation is feasible.
3.2b	Where the government is undertaking reforms, the MSG is encouraged to ensure that these are documented in the EITI Report.		X	Requirement language cited [NOTE: More granular data specifications in Data Guidelines column]	Links from SEC and IRS provide overview of Section 1504 and proposed rules for implementation	The IA believes it is feasible to document current governmental reforms.

Req. Ref	EITI Language	Required	Rec	MSG Approved Approach	Description	IA Assessment
3.3	The EITI Report should provide an overview of the extractive industries, including any significant exploration activities.	X		<ul style="list-style-type: none"> • Exploration activities and emerging trends (Req. 3.3) • Overview of each in-scope commodity • Overview of each commodity at national and subnational scales 	World Bank explores emerging trends for commodities and overall macroeconomic forecasts	The IA believes it is feasible to include an overview of the extractive industries, including any significant exploration activities.
				<ul style="list-style-type: none"> • Sector summaries: Explanation of terminology and overview of reputable data sources designed for ordinary citizens who lack knowledge about EI and about governance systems for EI (such explanatory information can be distributed throughout the report, or consolidated in one place) (Principle 4) 	Explanatory information of extractive industries providing context for EITI	The IA believes the recommendation is feasible.
3.4	The EITI Report must disclose, when available, information about the contribution of the extractive industries to the economy for the fiscal year covered by the EITI Report. This information is expected to include:	X				

Req. Ref	EITI Language	Required	Rec	MSG Approved Approach	Description	IA Assessment
3.4a	Size of the extractive industries in absolute terms and as a percentage of GDP, including an estimate of informal sector activity	X		<p>*EI in absolute terms and as percentage of GDP, by commodity, at each scale >National, federal, tribal, subnational (when publically available).</p> <p>>For illustrative purposes, show for most recent year's (first year report) highest government revenue counties (all federal, state, and county revenues) for each of oil, gas, coal, copper, iron ore, and gold (six in total), as well as the revenue/production data in each of those counties over the last 10 years. Intent is to carry these counties over to later year reports to illustrate trends.</p> <p>*Estimation of "informal sector activity"</p>	Various charts and studies on oil and gas revenues in the United States and their effect on overall economy in terms of GDP and other economic metrics. Also included is the revenue from individual commodities broken down by state/territory.	<p>The IA believes it is feasible to disclose revenue from the extractive industries, as both a whole and as a percentage of GDP, including an estimate of informal sector activity:</p> <ul style="list-style-type: none"> Revenues are available for each commodity at national and federal level. There is some data available for tribal revenues for some commodities, but it is not as readily available as nontribal revenues. <p>Potential Constraints:</p> <ul style="list-style-type: none"> Data for tribal entities will be limited as it will not all be publicly disclosed. Availability of data will likely vary significantly from state-to-state and county-to-county. The IA will work with the MSG to propose potential counties as soon as possible and identify availability data. The IA will then propose options we believe are feasible both for the 2015 USEITIA report and for "carry forward" analysis.
3.4b	Total government revenues generated by the extractive industries (including taxes, royalties, bonuses, fees, and other payments) in absolute terms and as a percentage of total government revenues	X		<p>*EI public revenues by commodity, including taxes, royalties, bonuses, fees, and other payments. Where revenues are associated with more than one commodity or activity (e.g., corporate income taxes), revenues may be reported at a more aggregate level. EI revenues as a percentage of total government revenues.</p>	All revenues from all types of commodities broken down by commodity type and revenue from individual states and US territories census shows exports by commodities.	<p>Potential constraint: The IA believes it will be feasible to report most government revenue by commodity. However, we believe it may not be feasible to disclose tax revenue by commodity as this information is generally not publicly available.</p>
				*Federal, subnational, and tribal government revenues	Government revenues broken down by state and aggregated federally	<p>Potential constraint: There are potential policy issues for tribal data, and disaggregated data for individual tribes may not be possible without tribal opt-in.</p>

Req. Ref	EITI Language	Required	Rec	MSG Approved Approach	Description	IA Assessment
3.4c	Exports from the extractive industries in absolute terms and as a percentage of total exports	X		*Exports from EI in absolute terms and as percentage of national exports	Export data broken down by industry/commodity	The IA believes it is feasible to disclose exports from the extractive industries in absolute terms and as a percentage of total exports.
3.4d	Employment in the extractive industries in absolute terms and as a percentage of the total employment	X		*Direct employment (job numbers) in the EI in absolute terms at national, MSG-prioritized states, six counties identified by government revenues/commodities (Section 3.4a) including 10-year data, and MSG-prioritized tribal lands (<i>top 5 in most recent year?</i>), if available *Direct employment (job numbers) in the EI as percentage of total employment at national, MSG-prioritized states, and six counties identified by government revenues/commodities (Section 3.4a) including 10-year data, and MSG-prioritized tribal lands (<i>top 5 in most recent year?</i>), if available *Employment: Description of key EI job types/categories as defined by US government sources (such as, US Census and Bureau of Labor Statistics)	Bureau of Labor Statistics (BLS) provides some employment data on extractive industries.	The IA believes it is feasible to disclose employment figures in the extractive industries in both absolute terms and as a percentage of total employment because the BLS provides direct employment data on EI. Potential Constraints: There are differences in methodology for collection of employment data at the Federal, State and County levels, and State-level employment data do not always tally to national totals. In addition, BLS labor codes will need to be mapped to the relevant extractives industries. There may be some need to account for employees who work but do not live in the selected counties. Once the MSG selects the counties, the IA will perform some initial analysis of the data and recommend potential data to be included in the contextual narrative.
3.4e	Key regions/areas where production is concentrated	X		*Geography of extraction: Key regions/areas where production is concentrated (3.4e)	Complete breakdown of energy production by state	The IA believes it is feasible to disclose the key regions/areas where production is concentrated. The EIA provides energy production data for every state.
3.5	The EITI Report must disclose production data for the fiscal year covered by the EITI Report, including:	X			Production volumes and revenues broken down by states/regions	The IA believes it is feasible to disclose production data for the fiscal year. ONRR provides production data by commodity.

Req. Ref	EITI Language	Required	Rec	MSG Approved Approach	Description	IA Assessment
3.5a	Total production volumes and the value of production by commodity, and, when relevant, by state/region	X			Production volumes and revenues broken down by states/regions	The IA believes it is feasible to disclose total production volumes and the value of production by commodity and by state/region (when relevant) for the fiscal year. This information can be provided by ONRR.
3.5b	Total export volumes and the value of exports by commodity, and, when relevant, by state/region of origin	X			Total export volumes and export revenues federally and by state	The IA believes it is feasible to disclose: <ul style="list-style-type: none"> • Total export volumes • The value of exports by commodity • Export volumes by state/region of origin (when relevant) The census.gov provides value of exports for all states but not a volume of exports for states.
3.6	Where state participation in the extractive industries gives rise to material revenue payments, the EITI Report must include... [N/A]			Not applicable	Not applicable	Not applicable
3.7	The EITI Report must describe the distribution of revenues from the extractive industries.	X			Links discuss management and distribution of revenues (particularly pertaining to natural resources)	The IA believes this is likely feasible. There is limited information publicly available on how revenues from EI are distributed by all DOI bureaus. The IA obtained information on how ONRR's revenues are distributed, but there is limited published related distribution information for other bureaus.
3.7a	The EITI Report should indicate which extractive industry revenues, whether cash or in-kind, are recorded in the national budget. Where revenues are not recorded in the national budget, the allocation of these revenues must be explained, with links provided to relevant financial reports as applicable; e.g., sovereign wealth and development funds, subnational governments, state-owned companies, and other extra-budgetary entities.	x		Requirement language cited	Links to budget projections and structure, including extractive industries. Also included on the last link listed are various studies and statistics on oil and gas revenues and the effect on the overall economy.	Potential Constraint: The national budget is publicly available, but information about revenue allocations is not recorded in the budget. The data available from the IRS is not timely. The IA will propose potential options to comply with this portion of the standard.

Req. Ref	EITI Language	Required	Rec	MSG Approved Approach	Description	IA Assessment
3.7b	MSGs are encouraged to reference national revenue classification systems and international standards, such as the IMF Government Finance Statistics Manual.		x	Requirement language cited	Link to IMF, OECD, and IRS websites for references to revenue classifications	Potential Constraint: Some classification information is available; however, there are limitations on industry classification on tax return.
3.8	The MSG is encouraged to include further information on revenue management and expenditures in the EITI Report, including:		X	Requirement language cited	See (3.8a-3.8c)	See (3.8a-3.8c)
3.8a	A description of any extractive revenues earmarked for specific programs or geographic regions. This should include a description of the methods for ensuring accountability and efficiency in their use.		X	Requirement language cited	GAO is responsible for ensuring accountability for responsible and efficient use of revenues from extractive industries. A link to their website is provided along with the budget of the US government from the GPO. The third link includes several statistics pertaining to how oil and gas revenues are used for government programs/public services in the western United States.	Potential Constraint: The IA is not aware of a comprehensive list of earmarks that would be relevant under this standard. We look forward to discussing implementation with the MSG.
3.8b	A description of the country's budget and audit processes and links to the publicly available information on budgeting, expenditures, and audit reports		X	Requirement language cited	Various links to government websites that detail budgeting and auditing process in United States	The IA believes it is feasible to implement this recommendation. There is information available on government budgeting and audit processes.

Req. Ref	EITI Language	Required	Rec	MSG Approved Approach	Description	IA Assessment
3.8c	Timely information from the government that will further public understanding and debate around issues of revenue sustainability and resource dependence		X	Look at federal and MSG-prioritized states and counties for extractives revenue as percentage of total government revenues and trends over 10 years. For MSG-selected counties, prepare a factual description of revenue sustainability, including USGS/EIA "proven" reserves and fiscal impacts related to public services and infrastructure (for instance, transportation/roads, water, reclamation, emergency services, etc.). IA should explain definition and limitations of "proven" reserve estimates.	Information on resource management and natural reserve assessments in the United States. Limited information found on fiscal impacts of public reserves in relation to public services and infrastructure.	Potential Constraint: Data on the fiscal impact to policy services may be unavailable or difficult to obtain
3.8c	This may include the assumptions underpinning forthcoming years in the budget cycle and relating to projected production, commodity prices, and revenue forecasts arising from the extractive industries and the proportion of future fiscal revenues expected to come from the extractive sector.		X		Link to World bank forecast and EIA short-term energy outlooks. Forecasts for commodity prices can be found on a various business websites	The IA believes it is feasible to implement this recommendation. Forecasting of EI revenue is available from several sources, including the World Bank. However, there is an opportunity for proprietary analysis.
3.9	Register of licenses				See 3.9a-3.9c	
3.9a	The term license in this context refers to any license, lease, title, permit, or concession by which the government confers on a company(ies) or individual(s) rights to explore or exploit oil, gas, and/or mineral resources.				Details of oil and gas leasing laws and regulations	Potential Constraint: The Bureau of Land Management provides information on oil and gas leasing regulations. Many regulations regarding EI (leases, licensing, etc.) are done on the state level.

Req. Ref	EITI Language	Required	Rec	MSG Approved Approach	Description	IA Assessment
3.9b	Implementing countries are required to maintain a publicly available register or cadastre system(s) with the following timely and comprehensive information regarding each of the licenses pertaining to companies covered in the EITI Report: i. license holder(s); ii. coordinates of the license area; iii. date of application, date of award, and duration of the license; and iv. in the case of production licenses, the commodity being produced.	X		Link to 3.9b items i-iv	See (3.9a)	Potential Constraint: A register of license holders/specific licensing information may not be public record. The IA does note that this may exist in some states. For example, North Dakota maintains a list of active drilling rigs.
	It is expected that the license register or cadastre includes information about licenses held by all entities, including companies and individuals or groups that are not included in the EITI Report, i.e., where their payments fall below the agreed materiality threshold. Where there are significant legal or practical barriers preventing such comprehensive disclosure, this should be documented and explained in the EITI Report, including an account of government plans for seeking to overcome such barriers and the anticipated timescale for achieving them.	X		Document and explain legal or practical barriers		Potential Constraint: The IA could not find specific disclosure laws that require the disclosure of the requested information. Publicly available information on licenses may be limited or inconsistent.
3.9c	Where the information set out in 3.9(b) above is already publicly available, it is sufficient to include a reference or link in the EITI Report. Where such registers or cadastres do not exist or are incomplete, the EITI Report should disclose any gaps in the publicly available information and document efforts to strengthen these systems. In the interim, the EITI Report itself should include the information set out in 3.9(b) above.	X		Gap analysis of publicly available information and efforts to improve these systems where registers do not exist or are incomplete (3.9c)		The IA believes that this recommendation is feasible. However, based on preliminary analysis, the IA believes that there are many gaps in the publicly available information that is required for EITI.
3.10	Allocation of licenses				See 3.10a to 3.10d	

Req. Ref	EITI Language	Required	Rec	MSG Approved Approach	Description	IA Assessment
3.10a	Implementing countries are required to disclose information related to the award or transfer of licenses pertaining to the companies covered in the EITI Report, including the following: a description of the process for transferring or awarding the license; the technical and financial criteria used; information about the recipient(s) of the license that has been transferred or awarded, including consortium members where applicable; and any nontrivial deviations from the applicable legal and regulatory framework governing license transfers and awards.	X		Requirement language cited.	BLM/BOEM websites contain certain information on leasing and licenses.	Potential Constraint: Detailed award and transfer information on leasing is limited.
3.10b	Where licenses are awarded through a bidding process during the accounting period covered by the EITI Report, the government is required to disclose the list of applicants and the bid criteria.	X		<ul style="list-style-type: none"> Requirement language cited List of applicants and the bid criteria 	BLM/BOEM websites contain certain information on leasing and licenses.	Potential Constraint: A detailed list of applicants and bid criteria is limited.
3.10c	Where the requisite information set out in 3.10(a) and 3.10(b) above is already publicly available, it is sufficient to include a reference or link in the EITI Report.	X		Requirement language cited	N/A	See potential constraints for 3.10a and 3.10b.
3.10d	The MSG may wish to include additional information on the allocation of licenses in the EITI Report, including commentary on the efficiency and effectiveness of these systems.		X	Provide overview of DOI efforts to improve disclosure and transparency (Principle 8,9)		The IA believes it is feasible to include additional information on the allocation of licenses in the EITI Report, including commentary on the efficiency and effectiveness of these systems.
3.11	Beneficial ownership					See 3.11 a to 3.11d

Req. Ref	EITI Language	Required	Rec	MSG Approved Approach	Description	IA Assessment
3.11a	It is recommended that implementing countries maintain a publicly available register of the beneficial owners of the corporate entity(ies) that bid for, operate or invest in, extractive assets, including the identity(ies) of their beneficial owner(s) and the level of ownership. Where this information is already publicly available, e.g., through filing to corporate regulators and stock exchanges, the EITI Report should include guidance on how to access this information.		X	Describe the applicable federal and state laws that aim to prevent preferential treatment of private companies by federal or subnational government entities regarding leasing, terms, etc. — conflict of interest laws, financial disclosure laws, competitive tendering, etc.? Also, describe US legalities regarding disclosing ownership of privately held companies	Myriad laws and regulations describing applicable laws governing fair treatment of companies, financial disclosure, conflict of interest, etc.	The IA believes it is feasible to implement this recommendation.
3.11b	Where such registers do not exist or are incomplete, it is recommended that implementing countries request companies participating in the EITI process provide this information for inclusion in the EITI Report		X	See above for general approach to the beneficial ownership issue in the United States.		See above analysis
3.11c	It is required that the government and/or SOEs disclose their level of beneficial ownership in oil, gas, and mining companies operating within the country, and any changes in the level of ownership during the accounting period covered by the EITI Report (Requirement 3.6(c)).	X		See above for general approach to the beneficial ownership issue in the United States.		See above analysis
3.11d	Definition of beneficial ownership: I. A beneficial owner in respect of a company means the natural person(s) who directly or indirectly ultimately owns or controls the corporate entity.					See above analysis

Req. Ref	EITI Language	Required	Rec	MSG Approved Approach	Description	IA Assessment
	II. Where the MSG addresses beneficial ownership, the MSG should agree an appropriate definition of the term beneficial owner. The definition should be aligned with 3.11(d)(i) above and take international norms and relevant national laws into account.			See above for general approach to the beneficial ownership issue in the United States.		See above analysis
	III. Publicly listed companies, including wholly owned subsidiaries, are not required to disclose information on their beneficial owner(s).					See above analysis
	IV. In the case of joint ventures, each entity within the venture should disclose its beneficial owner(s), unless it is publicly listed or is a wholly owned subsidiary as per 3.11(d)(iii). Each entity is responsible for the accuracy of the information provided.			See above for general approach to the beneficial ownership issue in the United States.		See above analysis
3.12 Contracts						
3.12a	Implementing countries are encouraged to publicly disclose any contracts and licenses that provide the terms attached to the exploitation of oil, gas, and minerals.		X	Publicly disclose publicly available contracts and licenses that provide the terms attached to the exploitation of oil, gas, coal, other leasable minerals, Non-fuel minerals (such as hard rock, sand, and gravel), geothermal, solar, and wind.	Information on general laws regarding contract disclosure. There seems to be little information available on publicly available contracts and license for EI industries.	Publicly available leases can be aggregated and disclosed for purposes of this approach.

Req. Ref	EITI Language	Required	Rec	MSG Approved Approach	Description	IA Assessment
3.12b	It is a requirement that the EITI Report documents the government's policy on disclosure of contracts and licenses that govern the exploration and exploitation of oil, gas, and minerals. This should include relevant legal provisions, actual disclosure practices, and any reforms that are planned or underway. Where applicable, the EITI Report should provide an overview of the contracts and licenses that are publicly available, and include a reference or link to the location where these are published.	X		<p>*Government's policy on disclosure of contracts and licenses that provide the terms attached to the exploitation of oil, gas, coal, other leasable minerals, Non-fuel minerals (such as hard rock, sand, and gravel), geothermal, solar, and wind.</p> <p>>Include relevant legal provisions</p> <p>>Actual disclosure practices</p> <p>>Any reforms that are planned or underway</p> <p>*Where applicable, provide an overview of contracts and licenses that are publicly available</p> <p>>Include reference or link to where these are published</p>	It does not appear that the FOIA currently requires full disclosure of oil and gas contracts, although there has been a push for transparency. The links discuss possible reforms. Information on current EI contracts could not be found.	The policies on disclosure of contracts and licenses that govern the exploration and exploitation of oil, gas, and minerals can be collected.
3.12c	The term contract in 3.12(a) means:					
	*the full text of any contract, concession, production-sharing agreement, or other agreement granted by, or entered into by, the government which provides the terms attached to the exploitation of oil, gas, and mineral resources					
	*the full text of any annex, addendum, or rider, which establishes details relevant to the exploitation rights described in 3.12(c)(i) or the execution thereof					
	*the full text of any alteration or amendment to the documents described in 3.12(c)(i) and 3.12(c)(ii)					
	The term license in 3.12(a) means:					
	*the full text of any license, lease, title, or permit by which a government confers on a company(ies) or individual(s) rights to exploit oil, gas, and/or mineral resources					

Req. Ref	EITI Language	Required	Rec	MSG Approved Approach	Description	IA Assessment
	*the full text of any annex, addendum, or rider that establishes details relevant to the exploitation rights described in in 3.12(d)(i) or the execution thereof					
	*the full text of any alteration or amendment to the documents described in 3.12(d)(i) and 3.12(d)(ii)					
4	The EITI requires the production of comprehensive EITI Reports that include full government disclosure of extractive industry revenues and disclosure of all material payments to government by oil, gas, and mining companies.	X			Data on extractive industry revenue. Disclosure of material payments to government by oil, gas, and mining companies could not be found.	The IA believes this is feasible for non-tax revenue. Potential Constraint: The disclosure of tax payment to the government may not be available.
4.1	Defining the taxes and revenues to be covered in the EITI Report			Note work of Implementation Subcommittee on this matter	Definition of non-tax revenue	The IA believes it is feasible to define the taxes and revenues to be covered in the EITI Report: - Non-tax revenue definition can be found in ONRR handbooks - "Profit tax" in EITI Standard can be interpreted as corporate income tax
4.1f	Transportation: Where revenues from the transportation of oil, gas, and minerals constitute one of the largest revenue streams in the extractive sector, the government and SOEs are expected to disclose the revenues received. The published data must be disaggregated to levels commensurate with the reporting of other payments and revenue streams (Requirement 5.2.e).			Since transportation revenues are not one of the largest government revenue streams, not applicable in the United States.	Not applicable in United State per row F	The IA understands that the MSG has determined this as not applicable as transportation revenues are not one of the largest government revenue streams in the United States.
7	The EITI requires the multi stakeholder group to take steps to act on lessons learnt and review the outcomes and impact of EITI implementation.	x		EITI implementation benefits, and outcomes and impact so far (Req. 7) [including explicit MSG annual assessment of lessons, impact, etc.]		The IA believes it is feasible for the MSG to take steps to act on lessons learned and review the outcomes and impact of EITI implementation.

Appendix E — Analysis of publicly available tax information

The MSG approved the following approach for addressing taxes in the 2015 USEITI Report:

- Request companies report the sum of all corporate income tax payments/refunds (based on 13 identified IRS transaction codes) made by or on behalf of all of the companies included in the annual consolidated federal income tax return for the 2015 USEITI Report.
 - The IA reports on the number of companies that did or did not report
 - The IA assesses the willingness of companies to reconcile
 - The IA provides a summary report for the MSG to consider
- Encourage reconciliation
 - Robust outreach will be needed to maximize participation
 - The IA positively highlights companies that choose to reconcile and to be named in the 2015 USEITI Report (companies can choose to pilot reconciliation without being named in the 2015 USEITI Report)

At the request of the MSG, the IA has performed some analysis to identify specifically what tax payment information may be publicly available for C corporations and then assessed the feasibility of utilizing the publicly available tax information for reporting and reconciliation of tax revenues.

Publicly available tax information for C corporations

SEC filings, such as Form-10K, 20-F, and 40-F, and annual reports to shareholders provide the primary sources of information useful in assessing the financial position of an entity.

The federal securities laws require publicly traded companies to disclose information on an ongoing basis. For example, domestic issuers (other than small business issuers) must submit annual reports on Form 10-K, quarterly reports on Form 10-Q, and current reports on Form 8-K for a number of specified events and must comply with a variety of other disclosure requirements.⁵¹

Foreign private issuers that have listed equity shares on US exchanges must file Form 20-F to meet disclosure requirements. A foreign company will qualify as a foreign private issuer if it meets the share ownership and business contact test as defined in Rule 405 of Regulation C under the Securities Act and Rule 3b-4 under the Exchange Act. For certain Canadian issuers who qualify for the multi-jurisdictional disclosure system setup between the SEC and the provincial securities regulators in Canada, Form 40-F may be used as an annual report and a registration statement under Section 12(b) or 12(g) of the Exchange Act. If a company does not qualify as a foreign private issuer, it is subject to the same registration and disclosure requirements applicable to domestic US entities.⁵²

⁵¹ Domestic U.S. issuer: <http://www.sec.gov/answers/form10k.htm>

⁵² Foreign private issuers: <http://www.sec.gov/divisions/corpfin/internatl/foreign-private-issuers-overview.shtml>

Annual reports to shareholders typically include four basic financial statements (income statement, balance sheet, stockholders equity or retained earnings statement, and cash flow statement), related notes, report of independent accountants if the statements are audited, and certain nonfinancial information. Since the SEC sets minimum disclosure standard for the financial section of the annual report on Form 10-K for public companies, it usually contains more detailed information about the company's financial condition.

We have conducted preliminary analysis of publicly available financial and tax information for the 44 companies included in the 2015 USEITI Report. Publicly available SEC filings, such as Form-10K, 20-F, 40-F, and annual reports to shareholders have been identified and analyzed. Table F-1 shows the details of the research result.

Table F-1 Analysis of publicly available financial statements for 44 in-scope companies

Company name	Public or private company	Entity type	Applicable regulations	Form 10-K	Annual report	Form 20-F	Form 40-F
CHEVRON CORP	Public	Corporation	US GAAP	✓	✓		
SHELL	Public	Foreign corporation (UK)	IFRS		✓	✓	
BP AMERICA INC	Public	Foreign corporation (England)	IFRS		✓	✓	
EXXON MOBIL CORP	Public	Corporation	US GAAP	✓	✓		
FIELDWOOD ENERGY LLC	Private	Limited liability company	Unknown				
PEABODY ENERGY CORP	Public	Corporation	US GAAP	✓	✓		
ANADARKO PETROLEUM CORP	Public	Corporation	US GAAP	✓			
BHP BILLITON LTD	Public	Foreign corporation (Australia)	IFRS		✓		
CONOCOPHILL IPS	Public	Corporation	US GAAP	✓	✓		
FREEMONT-MCMORAN O&G LLC	N/A	Subsidiary of public corporation	US GAAP	✓			
LLOG EXPLORATION OFFSHORE INC	Private	Limited liability company	Unknown				
ARCH COAL INC	Public	Corporation	US GAAP	✓			
STATOIL	Public	Foreign corporation (Norway)	IFRS		✓	✓	
ENERGY XXI LLC	N/A	Subsidiary of public corporation	US GAAP	✓			
HESS CORP	Public	Corporation	US GAAP	✓			

Company name	Public or private company	Entity type	Applicable regulations	Form 10-K	Annual report	Form 20-F	Form 40-F
CLOUD PEAK ENERGY INC	Public	Corporation	US GAAP	✓	✓		
STONE ENERGY	Public	Corporation	US GAAP				
MARATHON OIL CORP	Public	Corporation	US GAAP				
ENCANA CORP	Public	Foreign corporation (Canada)	US GAAP		✓		✓
DEVON ENERGY CORP	Public	Corporation	US GAAP	✓			
SANDRIDGE ENERGY INC	Public	Corporation	US GAAP	✓			
ENI USA INC	Public	Foreign corporation (Italy)	IFRS		✓		
W & T OFFSHORE INC	Public	Corporation	US GAAP	✓			
EPL OIL & GAS INC	Public	Corporation	US GAAP	✓			
ULTRA PETROLEUM	Public	Foreign corporation (Canada)	US GAAP	✓			
NOBLE ENERGY INC	Public	Corporation	US GAAP	✓			
QEP RESOURCES COMPANY	Public	Corporation	US GAAP	✓			
EOG RESOURCES INC	Public	Corporation	US GAAP	✓			
CONCHO RESOURCES INC	Public	Corporation	US GAAP	✓			
ARENA ENERGY	Private	Limited partnership	Unknown				
WPX ENERGY INC	Public	Corporation	US GAAP	✓			
WALTER OIL & GAS CORP	Private	Unknown	Unknown				
LINN ENERGY LLC	Public	Limited liability company	US GAAP	✓			
BOPCO LP	Private	Limited partnership	Unknown				
OCCIDENTAL PETROLEUM CORP	Public	Corporation	US GAAP	✓			

Company name	Public or private company	Entity type	Applicable regulations	Form 10-K	Annual report	Form 20-F	Form 40-F
ALPHA WYOMING LAND COMPANY LLC	Inapplicable	Subsidiary of public corporation	US GAAP	✓			
CIMAREX ENERGY INC	Public	Corporation	US GAAP	✓			
VENARI OFFSHORE LLC	Private	Limited liability company	Unknown				
TALOS ENERGY LLC	Inapplicable	Subsidiary of LLC	Unknown				
COBALT INTERNATIONAL ENERGY LP	Public	Corporation	US GAAP	✓			
ANKOR ENERGY LLC	Public	Corporation	US GAAP	✓	✓		
CONTINENTAL RESOURCES INC	Inapplicable	Subsidiary of foreign corporation	Unknown				
REPSOL E&P USA INC	Public	Corporation	US GAAP	✓			

The entity types and tax classifications for the proposed 44 reporting companies will be confirmed during the data collection phase. These companies may be subject to check-the-box regulations that allow certain business entities to choose their classification for federal tax purposes under an elective regime.⁵³

Findings and limitations of the publicly available tax information

The IA has reviewed SEC filings and annual reports of the reporting companies to find out what, if any, information regarding corporate income tax payments to the federal government is publicly available. The following sections describe the findings and limitations of the publicly available information regarding corporate income tax payments for USEITI reporting.

Public companies

The information regarding federal corporate income tax payments that is public is limited and not completely accurate with regard to what the company actually paid to the federal government on its tax return. There are disclosures available; however, the information is insufficient to determine the exact federal corporate income tax payments made in the accounting period.

⁵³ Check-the-box regulations http://www.irs.gov/irm/part4/irm_04-061-005.html

In the financial section of the SEC filings and annual reports, tax information normally can be found in the income statement, balance sheet, cash flow statement, and related notes. Detailed explanation on the limitations of using publicly available tax information in the financial statements is provided below.

- **Tax information in income statement and related notes**

The federal income tax expenses that corporations report in their financial statements for a given year do not necessarily reflect the actual tax liabilities and payments that they reported on their federal tax return for that year.⁵⁴ This is primarily because a corporation's federal income tax liability as reported on Form 1120 (tax) is based on the IRC, while the corporation's income tax expense as reported on its financial statements (book) is based on GAAP. The book-tax difference is caused by any or all of the following: difference in reporting entities included in the calculation, different accounting methods, and different definition of taxes included in the income tax expense amount.

- **Different Reporting Entities**

It can be difficult to compare financial statements with tax returns for the 44 companies because of differences in reporting entities included. Corporations must use different consolidation rules for financial and tax reporting.⁵⁵ The thresholds for consolidating entities are different for book and tax purposes, so the entities included under each can differ.

A corporate group must consolidate all US and foreign subsidiaries within a single financial statement for book purpose when the parent corporation controls more than 50% of the voting power of those subsidiaries.⁵⁶ In cases where the parent corporation owns between 20% and 50% of another corporation, the parent corporation currently records its share of the subsidiary's income or loss for the year.⁵⁷ In cases where the corporations own less than 20% of other corporations, the corporations include income only when actual dividends are received.

For federal tax purpose, a US corporation may elect to include any domestic subsidiaries that are 80% or more owned in its consolidated US tax return.⁵⁸ The income of foreign subsidiaries and less than 80% owned domestic subsidiaries is not included in the consolidated tax return. The share of income from other corporations is reported only when actual or constructive dividends are received.

Therefore, the book income in the financial statements and the taxable income in tax return may be different. The current income tax expense based on book income and the tax liability based on taxable income is a source of book-tax difference.

- **Different Accounting Methods**

Financial statements for a corporation are prepared in accordance with GAAP or IFRS. The purpose and objectives of these statements are quite different from the objective of the corporation's income tax return.

Under Accounting Standards Codification (ASC) 740, *Income Taxes* (formerly, Financial Accounting Standards Board (FASB) Statement No. 109, *Accounting for Income Taxes*)⁵⁹, the total book income tax expense on income statement is made up of both current and deferred taxes. Deferred taxes expense or deferred tax benefit represent estimated taxes that will be paid (or refunded) in a future year connected with income reported in the current-period financial statements.

⁵⁴ GAO Corporate Income Tax- Effective Tax Rates can Differ Significantly from the Statutory Rate
<http://www.gao.gov/assets/660/654957.pdf>

⁵⁵ Federal Tax and Extractive Industry: http://www.doi.gov/eiti/FACA/upload/Treasury-Presentation_05-01-13.pdf

⁵⁶ Consolidation, ASC Topic 810 (formerly Consolidation of All Majority Owned Subsidiaries, Statement of Financial Accounting Standards No. 94) certain adjustment are made to reduce book income for the after-tax income related to minority shareholders.

⁵⁷ Investments—Equity Method and Joint Ventures, ASC Topic 323 (formerly The Equity Method of Accounting for Investment in Common Stock, Accounting Principles Board Opinion No.18)

⁵⁸ §§1501-1504. The election to consolidate an 80% or more owned subsidiary can be changed only with the permission of the IRS.

⁵⁹ ASC 740 (formerly known as FASB Statement No. 109: Accounting for Income Taxes):
<http://www.fasb.org/summary/stsum109.shtml>

The current tax expense on income statement theoretically represents the taxes actually payable to (or refund receivable from) the government authorities for the current period. However, the current portion of the book income tax expense rarely matches the taxpayer's actual tax payment. The actual tax liability can differ from the current tax expense for a number of reasons, including the fact that corporations include an amount for "uncertain tax positions" in their current tax expenses.⁶⁰ These amounts are not paid to the IRS in the current year; they simply indicate to shareholders how much additional tax may have to be paid to the IRS, such as taxes due as the result of a future audit.

- **Tax information in balance sheet**

The balance sheet reports the amount of assets, liabilities, and stockholder's equity of an accounting entity at a point of time. Income tax payable is a liability that is shown on the balance sheet. It is used to record any income tax amount that companies owe but have not yet paid to the appropriate taxing authority at a point of time.

The tax information on a balance sheet cannot be used for reconciliation purpose because it is not for the entire accounting period. For example, the entities may have paid estimated taxes during the accounting period. The income tax payable on balance sheet may only represent part of the actual tax liability by the end of year.

- **Tax information in cash flow statement and related notes**

The cash flow statement reports the inflows and outflows of cash during the accounting period in the categories of operating, investing, and financing. Although both US GAAP and IFRS allow entities to use the direct method or the indirect method to prepare cash flow statement, most companies choose to use the indirect method because it is easier to prepare and provides less detailed information to competitors. The indirect method begins with net income and adjusts it for significant non-cash income statement items, such as depreciation, amortization, and gains and losses from sales, and for net changes in current asset, current liability, and income tax accounts.⁶¹ Unlike direct method, it does not require entities to include item like cash payment for income tax.

In cases where the cash flow statements or notes to the financial statements include the cash taxes paid, it represents what companies actually paid in taxes in the current year. However, they do not necessarily relate to the current year's income. For example, additional payments for earlier tax years resulting from IRS audit adjustments may be included in the cash taxes paid for the accounting period. It may also include payments of multiple types of taxes to various entities, not just corporate income taxes paid to the IRS.

For a few of the 44 companies, there was information regarding actual taxes paid on the consolidated statement of cash flows. However, as noted above, this information is available with limited detail and is stated in one lump sum for income taxes for the year. There is no break out of the federal, state, or foreign government taxes paid.

- **Different definition of taxes**

The income tax expense reported on a corporation's financial statement is the combination of the entity's federal, state, local, and foreign income taxes. The income tax expense computed on the federal income tax return is the US federal income tax expense.

⁶⁰ GAO Corporate Income Tax- Effective Tax Rates can Differ Significantly from the Statutory Rate
<http://www.gao.gov/assets/660/654957.pdf>

⁶¹ Statement of Cash flow (Statement of Financial Accounting Standards No.95)
<http://www.fasb.org/cs/BlobServer?blobkey=id&blobwhere=1175820920892&blobheader=application/pdf&blobcol=urldata&blobtable=MungoBlobs>

A few of the 44 companies elected to disclose their federal, state, local, and foreign income taxes in detail in a related note in the financial statements. However, this detailed information is not readily available for the majority of the reporting companies.

Private companies

There is no public information available regarding financial data for private companies. Since the entity has no filing requirement with the SEC, it is at the discretion of each particular company if they choose to publish their financial information on their own website, although the IA could not find any companies that chose to do so.

These private companies are most likely pass-through entities, such as an LP, LLP, MLP, or subsidiary of LLC. These entities are pass-through entities that do not pay corporate tax, unless they elect to be taxed as a corporation. The MSG has agreed that only federal corporate tax payments will be reported as part of USEITI. If the tax statuses of these private entities are confirmed as pass-through entities, they do not need to report their tax information.

Subsidiary companies

Some of the 44 in-scope companies are a subsidiary of a different public company or private company. In the case where the reporting company is operating as a subsidiary of a public C corporation, tax information specifically related to the subsidiary may not be explicitly found in the parent company's consolidated financial statements.

In the case the reporting company is a subsidiary of a private company, there is no public information available.

IA's Conclusion

Without receiving specific tax payment information from the IRS, the IA notes that it is not possible to determine the exact amounts companies actually paid in taxes to the federal government for any given year from publicly available information.

