EITI CANDIDACY APPLICATION FORM

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APPLICANT COUNTRY INFORMATION

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General Information	**Website: www.doi.gov/eiti** **Email: USEITI@ios.doi.gov** **Telephone: 1 (202) 208-0272**

REQUIREMENT 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.

On September 20, 2011, while in New York for the United Nations General Assembly, President Barack Obama gave an address to the Open Government Partnership, where he committed to implement the EITI in the U.S.:

> *"We're continuing our leadership of the global effort against corruption, by building on legislation that now requires oil, gas, and mining companies to disclose the payments that foreign governments demand of them. Today, I can announce that the United States will join the global initiative in which these industries, governments and civil society, all work together for greater transparency so that taxpayers receive every dollar they're due from the extraction of natural resources."*

In conjunction with the President's announcement, the U.S. unveiled its National Action Plan for the Open Government Partnership (OGP), including as one if its commitments the pledge to manage public resources more effectively by implementing the EITI. The U.S. OGP National Action Plan states:

> *"The Extractive Industries Transparency Initiative (EITI) has developed a voluntary framework under which governments publicly disclose their revenues from oil, gas, and mining assets, and companies make parallel disclosures regarding payments that they are making to obtain access to publicly owned resources. These voluntary disclosures are designed to foster integrity and accountability when it comes to development of the world's natural resources. This Administration:*
>
> - ***Is Hereby Committing to Implement the EITI to Ensure that Taxpayers Are Receiving Every Dollar Due for Extraction of our Natural Resources.*** *The U.S. is a major developer of natural resources. The U.S. collects approximately $10 billion in annual revenues from the development of oil, gas, and minerals on federal lands and offshore, and disburses the bulk of these revenues to the U.S. Treasury, with smaller portions disbursed to five federal agencies, 35 States, 41 American Indian tribes, and approximately 30,000 individual Indian mineral owners. By signing onto the global standard that EITI sets, the U.S. Government can help ensure that American taxpayers are receiving every dollar due for the extraction of these valuable public resources.*
> - ***Will Work in Partnership with Industry and Citizens to Build on Recent Progress.*** *The Administration has already made important strides in reforming the management of our natural resources to ensure that there are no conflicts of interest between the production and the collection of revenues from these resources. Signing onto the EITI initiative will further these objectives by creating additional "sunshine" for the process of collecting revenues from natural resource extraction. Industry already provides the Federal Government with this data. We should share it with all of our citizens. Toward that end, the Federal Government will work with industry and citizens to develop a sensible plan over the next two years for disclosing relevant information and enhancing the accountability and transparency of our revenue collection efforts."*

Supporting Information:

- Presidential Remarks on the Open Government Partnership
- Open Government Partnership National Action Plan

REQUIREMENT 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.

On October 25, 2011, the White House announced the appointment of the Secretary of the Interior as the senior U.S. official responsible for successful U.S. implementation of EITI:

> *"President Obama is pleased to announce that the Secretary of the Interior Ken Salazar will be the senior individual responsible for oversight of U.S. implementation of the Extractive Industries Transparency Initiative (EITI). As part of the United States Open Government National Action Plan released in September, the President announced that the United States, a long-time champion of EITI, would, itself, implement EITI in order to ensure that taxpayers receive every dollar due for extraction of our natural resources. Secretary Salazar and his staff will work with industry and civil society to develop a sensible plan to disclose relevant information about revenues from oil, gas, and mining assets and to enhance the accountability and transparency of our revenue collection efforts. Under Secretary Salazar's leadership, the Department of the Interior has a strong record of partnering with industry and citizens to make important strides in reforming the management of our natural resources, and EITI is just the latest in a long series of steps designed to make the U.S. government more open and more accountable to the American people."*

The Secretary of the Interior has relied upon the Assistant Secretary for Policy, Management and Budget Rhea Suh to carry out the day-to-day management of USEITI implementation, including as Chair of the Multi-Stakeholder Group (MSG). Assistant Secretary Suh oversees a wide variety of functions that support USEITI, chief among them the Office of Natural Resources Revenue (ONRR), as well as those parts of the organization responsible for budget; finance; human capital; information technology; collaborative action and dispute resolution; policy analysis; and international affairs. ONRR is responsible for the management of revenues associated with Federal offshore and Federal and American Indian onshore mineral leases, as well as revenues received as a result of onshore and offshore renewable energy efforts. This revenue management effort is one of the U.S. government's greatest sources of non-tax revenues.

Assistant Secretary Suh and her staff, including the Deputy Assistant Secretary for Natural Resources Revenue and the Director of ONRR, coordinate across government agencies and provide financing, personnel, and other required resources to support USEITI.

Supporting Information:

- White House Announcement
- USEITI Federal Advisory Committee Charter
- Assistant Secretary Rhea Suh
- Office of Natural Resources Revenue

REQUIREMENT 1.3

The government is required to commit to work with civil society and companies, and establish a multi-stakeholder group to oversee the implementation of the EITI.

a) The government, companies and civil society must be fully, actively and effectively engaged in the EITI process.

b) The government must ensure that there is an enabling environment for company and civil society participation with regard to relevant laws, regulations, and administrative rules as well as actual practice in implementation of the EITI. The fundamental rights of civil society and company representatives substantively engaged in the EITI, including but not restricted to members of the multi-stakeholder group, must be respected.

c) The government must ensure that there are no obstacles to civil society or company participation in the EITI process.

d) The government must refrain from actions which result in narrowing or restricting public debate in relation to implementation of the EITI.

e) Stakeholders, including but not limited to members of the multi-stakeholder group must:

i. Be able to speak freely on transparency and natural resource governance issues.
ii. Be substantially engaged in the design, implementation, monitoring and evaluation of the EITI process, and ensure that it contributes to public debate.
iii. Have the right to communicate and cooperate with each other.
iv. Be able to operate freely and express opinions about the EITI without restraint, coercion or reprisal.

f) In establishing the multi-stakeholder group, the government must:

i. Ensure that the invitation to participate in the group is open and transparent.
ii. Ensure that stakeholders are adequately represented. This does not mean that they need to be equally represented numerically. The multi-stakeholder group must comprise appropriate stakeholders, including but not necessarily limited to: the private sector; civil society, including independent civil society groups and other civil society such as the media and unions; and relevant government entities which can also include parliamentarians. Each stakeholder group must have the right to appoint its own representatives, bearing in mind the desirability of pluralistic and diverse representation. The nomination process must be independent and free from any suggestion of coercion. Civil society groups involved in the EITI as members of the multi-stakeholder group must be operationally, and in policy terms, independent of government and/or companies.
iii. Ensure that senior government officials are represented on the multi-stakeholder group.
iv. Consider establishing the legal basis of the group.

g) The multi-stakeholder group is required to agree on clear public Terms of Reference (TOR) for its work. The ToRs should at a minimum, include provisions on:

The role, responsibilities and rights of the multi-stakeholder group:

i. Members of the multi-stakeholder group should have the capacity to carry out their duties.

ii. The multi-stakeholder group should undertake effective outreach activities with civil society groups and companies, including through communication such as media, website and letters, informing stakeholders of the government's commitment to implement the EITI, the central role of companies and civil society, as well as widely disseminating the public information that results from the EITI process such as the EITI Report.

iii. Members of the multi-stakeholder group should liaise with their constituency groups.

Approval of workplans, EITI Reports and annual activity reports:

iv. The multi-stakeholder group is required to approve annual workplans, the appointment of the Independent Administrator, the Terms of Reference for the Independent Administrator, EITI Reports and annual activity reports.

v. The multi-stakeholder group should oversee the EITI reporting process and engage in Validation in accordance with chapter 3.

Internal governance rules and procedures:

vi. The EITI requires an inclusive decision-making process throughout implementation, with each constituency being treated as a partner. Any member of the multi-stakeholder group has the right to table an issue for discussion. The multi-stakeholder group should agree procedures for nominating and changing multi-stakeholder group representatives, decision-making, the duration of the mandate and the frequency of meetings. This should include ensuring that there is a process for changing group members that respects the principles set out in Requirement 1.3(f).

vii. There should be sufficient advance notice of meetings and timely circulation of documents prior to their debate and proposed adoption.

viii. The multi-stakeholder group must keep written records of its discussions and decisions.

SEPTEMBER 2011 TO FEBRUARY 2012

In the U.S. National Action Plan for the Open Government Partnership, released in September 2011, the U.S. committed to working with civil society and companies to implement EITI:

> *"Will Work in Partnership with Industry and Citizens to Build on Recent Progress… the Federal Government will work with industry and citizens to develop a sensible plan over the next two years for disclosing relevant information and enhancing the accountability and transparency of our revenue collection efforts."*

In October 2011, the Secretary of the Interior underscored the same commitment in a White House blog:

> *"A critical component of our reform efforts is the President's commitment to implementing what*

is known as the Extractive Industries Transparency Initiative (EITI)... Our work under this initiative is only beginning, and I look forward to working closely with industry, stakeholders, and the public on EITI as we move forward."

From November 2011 to February 2012, a U.S. government team began a "get smart" phase on the EITI. They met with past and current EITI Board members and the EITI International Secretariat, travelled to and observed a Board meeting in the UK, and visited Oslo to meet with Norwegian counterparts and obtain lessons learned on EITI implementation. The government also hired an independent facilitator, Consensus Building Institute (CBI), to assist with the design and execution of a neutral stakeholder assessment. The CBI is a not-for-profit organization founded in 1993 by leading practitioners and theory builders in the fields of negotiation and dispute resolution

FEBRUARY 2012 TO JULY 2012

From February to June of 2012, the U.S. government and its neutral facilitator conducted extensive public outreach with stakeholders to understand the composition of our EITI stakeholders in the U.S., what types of people and organizations could represent them, and how to best form a multi-stakeholder group (MSG) to implement EITI in the U.S. The U.S. government undertook this work in order to fulfill Step 4 of the EITI process: *"The government is required to establish a multi-stakeholder group to oversee the implementation of the EITI."* During two public comment periods, they:

- Held seven public listening sessions in places where resources extraction occurs and/or where extractives companies are headquartered: Anchorage, Alaska; Denver, Colorado; Houston, Texas; New Orleans, Louisiana; Pittsburgh, Pennsylvania; St. Louis, Missouri; and Washington, DC)
- Conducted a webinar to reach stakeholders throughout the country who could not attend in-person sessions
- Hosted a day-long workshop in Washington, DC, for members of government, civil society, and industry constituencies
- Solicited public comment via a Federal Register Notice, by email, and on the Department of the Interior website

In addition, from February 2012 onward, Interior, given its trust responsibilities to American Indian tribes, including the collection of extractive revenues on behalf of numerous tribes and individual Indian mineral owners from their lands, also conducted tribal outreach through:

- Official correspondence with tribal government leaders, including through official letters to tribal leaders: informed tribal leaders of the EITI initiative (2/16/12); outlined how EITI may impact Indian country and provided an opportunity to comment (5/21/12); announced the formation of the MSG and provided an opportunity to comment and submit nominees (7/27/12); announced the appointment of MSG members and the date of the first MSG meeting and invited tribal participation (2/1/13); and provided an update on the status of EITI implementation and invited tribal participation (5/10/13)
- Briefings and meetings with tribal governments, including in-person informational meetings with the Navajo Nation, Cherokee Nation, Osage Nation, Choctaw Nation, Alaska Native Regional, and Village Corporations
- Information sessions before the National Congress of American Indians, the Tribal Budget Advisory Committee, the State and Tribal Royalty Audit Committee, and the Alaska Federation of Natives
- Informational phone calls to the Three Affiliated Tribes, Fort Peck Tribe, Montana-Wyoming Tribal Leader's Council, Council on Energy Resource Tribes, United South and Eastern Tribe, and Oklahoma Indian Land/Mineral Owners of Associated Nations (OILMAN)

JULY 2012 TO DECEMBER 2012

Based on the stakeholder assessment that incorporated feedback from public outreach and stakeholder interviews with neutral facilitators, the final report recommended convening a MSG of twenty-one (21) members comprised of seven (7) members per sector. After extensive stakeholder input, the report concluded that this number was the absolute minimum number necessary to adequately represent the range of interests within and across sectors. Based on these findings, in July 2012, the Secretary of the Interior established an Advisory Committee under the Federal Advisory Committee Act of 1972 (FACA) to serve as the USEITI MSG. In establishing the Committee, the Charter named the Assistant Secretary for Policy, Management and Budget Rhea Suh as the Chair of the Committee.

From mid-July to mid-October, the Department of the Interior solicited nominations for the Committee and from civil society, industry, and the government, and the neutral facilitator worked with stakeholders from industry and civil society to recruit nominees and to submit endorsements. To ensure adequate representation, on December 22, 2012, the Secretary, in compliance with FACA, appointed 21 primary and 20 alternate members to the USEITI MSG from the nominations made by each sector. All of the civil society representatives appointed were operationally and in policy terms independent of both government and industry. Upon receipt of nominations, the Secretary appointed eight (8) representatives from industry, eight (8) representatives from civil society, and five (5) representatives for the government sector. The Secretary purposely did not fill all eight (8) government sector vacancies in order to allow for future State and Tribal representation.

FEBRUARY 2013 TO AUGUST 2013

In February 2013, the Department of the Interior hosted an informational teleconference for MSG members to provide an orientation to EITI, while each of the sectors also conducted internal pre-meetings to provide further background and to prepare for the first meeting. At the first MSG meeting, hosted by the Secretary of the Interior on February 13, 2013, in Washington, DC, the group reviewed the terms of reference (TOR) detailing the way in which they would work together in a consensus-based fashion, discussed a timeline for completing work in 2013, and formed a subcommittee to carry out work between MSG meetings, including the drafting of this application.

In April, the MSG convened by teleconference to further review and revise the TOR. Subsequent meetings of the MSG were held in May, June, and July 2013 in Washington, DC, and convened by Assistant Secretary Rhea Suh. At these meetings, the MSG:

- Adopted a TOR
- Agreed to a timeline for meetings and completion of a USEITI candidacy application
- Discussed the scope and mechanisms for USEITI reporting, as well as thresholds for reconciliation in the first and second reports
- Decided to seek adapted implementation at the application stage for payments to subnational entities
- Decided to continue tribal outreach and consultation with the nation's tribal governments and communities
- Decided to develop a mechanism for state governments and tribal governments to opt-in to the federal reporting process
- Decided to conduct a public comment period to solicit feedback and input on the candidacy application and issue a Federal Register Notice to the public announcing a public comment period from September 18, 2013, to November 4, 2013. The public comment period was extended to November 18, 2013, due to a lapse in appropriations on October 1, 2013.

SEPTEMBER 2013 TO DECEMBER 2013

At its September 2013 meeting, the USEITI MSG approved a draft USEITI Candidacy Application that was posted on the USEITI website and used to solicit comments, recommendations, and feedback during the public comment period from September 19, 2013, through November 18, 2013. During this time, members of the public and stakeholders were invited to attend five (5) public listening sessions held in New Orleans, LA; Houston, TX; Denver, CO; Anchorage and Fairbanks, AK; and Pittsburgh, PA. At these listening sessions, members of the MSG co-facilitated an outreach presentation followed by a question-and-answer session.

In addition, members of the USEITI MSG conducted outreach at the State and Tribal Royalty Audit Committee; with the Three Affiliated Tribes of Fort Berthold Reservation, North Dakota; and via an online webinar.

Members of the public were given the option to submit their comments on the draft Candidacy Application in writing or via the USEITI website. Many members of the public expressed support for the involvement of the United States in the EITI program. In addition, more specific comments and questions from the public were received about the following topics:[1]

- Purpose and process of USEITI
- Representation and communication with regards to the USEITI MSG
- Scope and materiality of reporting (including unilateral reporting, public narrative, reconciled reporting)
- Reporting structure
- Application revision suggestions

With regards to the draft candidacy application, the following comments were submitted:

- Requirement 1.1:
  - Include additional statements of support
- Requirement 1.3:
  - Encourage greater outreach to Tribes
  - Take more steps (to involve the public, including non-English speaking groups
  - USEITI is setting the bar too low for reporting requirements when the U.S. has the opportunity to be a global leader
- Requirement 1.4
  - Stronger justification for adaptive implementation and subnational reporting
  - Clear opt-in process for States and Tribes

In response, the USEITI MSG reviewed the September 2013 draft and made changes where appropriate. For example, on the topic of Adapted Implementation, the MSG revised both the narrative in Section 1.4 and Annex three (3) to reflect the need for a more a robust justification.

A large majority of the comments received were directly related to the scope and materiality of reporting. These comments will be considered during the implementation phase of USEITI as indicated in the tasks and actions of the Country Workplan.

[1] Additional comments were received about topics not directly related to the USEITI draft candidacy application. These can be found in the meeting summaries from each of the public and stakeholder meetings and in the written comments, all posted on-line at: http://www.doi.gov/eiti/FACA/outreach.cfm

All public comments received during the public outreach period including a summary of the listening sessions is available online at: http://www.doi.gov/eiti/FACA/outreach.cfm.

On December 11, 2013, the USEITI MSG held final deliberations on the draft USEITI Candidacy Application and approved a final version for submission to the EITI International Secretariat.

Following FACA guidelines, information about all USEITI MSG meetings is available to the public via Federal Register Notice at least 15 days prior to each meeting. All meeting agendas, materials, and minutes are posted for the MSG and the public online at http://www.doi.gov/eiti/FACA/meetings.cfm. In addition, summaries of all subcommittee meetings are also posted online at http://www.doi.gov/eiti/FACA/useiti-subcommittee.cfm. All MSG meetings are open to the public, and teleconference lines are provided for the public to listen while presentations are displayed via WebEx. Designated public comment times are allocated at each meeting for the public to share their views with the MSG on any matters at hand. Members of the general public have attended each MSG meeting in person or by phone.

Supporting Information:

- Open Government Partnership National Action Plan
- White House Blog Post: Leading the World in Transparency in Natural Resource Revenues
- USEITI Public Comment Period: February 25-April 9, 2012
- USEITI Public Comment Period: May 18-June 29, 2012
- Stakeholder Assessment: USEITI Implementation and Formation of a Multi-Stakeholder Group
- Press Release: Interior Establishes USEITI Multi-Stakeholder Group Advisory Committee
- Federal Advisory Committee Act Charter: USEITI Multi-Stakeholder Group
- News Release: Appointment of USEITI Multi-Stakeholder Group Members
- USEITI Multi-Stakeholder Group Terms of Reference
- Fall 2013 Outreach Summaries and Public Comments
- USEITI Multi-Stakeholder Group Meeting Agendas, Summaries, and Materials
- USEITI Multi-Stakeholder Group Candidacy Application Subcommittee Meeting Summaries

REQUIREMENT 1.4

The multi-stakeholder group is required to maintain a current workplan, fully costed and aligned with the reporting and Validation deadlines established by the EITI Board. The workplan must:

a) Set EITI implementation objectives that are linked to the EITI Principles and reflect national priorities for the extractive industries. Multi-stakeholder groups 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.

b) Reflect the results of consultations with key stakeholders, and be endorsed by the multi-stakeholder group.

c) Include measurable and time bound activities to achieve the agreed objectives. The scope of EITI implementation should be tailored to contribute to the desired objectives that have been identified during the consultation process. The workplan must:

i. Assess and outline plans to address any potential capacity constraints in government agencies, companies and civil society that may be an obstacle to effective EITI implementation.
ii. Address the scope of EITI reporting, including plans for addressing technical aspects of reporting, such as comprehensiveness and data reliability (Requirements 4 and 5).
iii. Identify and outline plans to address any potential legal or regulatory obstacles to EITI implementation, including, if applicable, any plans to incorporate the EITI Requirements within national legislation or regulation.

d) Identify domestic and external sources of funding and technical assistance where appropriate, in order to ensure timely implementation of the agreed workplan;

e) Be made widely available to the public, for example published on the national EITI website and/or other relevant ministry and agency websites, in print media or in places that are easily accessible to the public;

f) Be reviewed and updated annually. In reviewing the workplan, the multi-stakeholder group should consider extending the detail and scope of EITI reporting including addressing issues such as revenue management and expenditure (3.7-3.8), transportation payments (4.1.f), discretionary social expenditures (4.1.e), ad-hoc subnational transfers (4.2.e), beneficial ownership (3.11) and contracts (3.12)[2]. In accordance with requirement 1.3 (g)(viii), the multi-stakeholder group is required to document its discussion and decisions;

[2] See *The EITI Standard* for specifications of these issues: http://eiti.org/document/standard,p. 35-39.

g) Include a timetable for implementation that is aligned with the EITI reporting and Validation deadlines established by the EITI Board[3] and that takes into account administrative requirements, such as procurement processes and funding.

Scope and Materiality

During its meetings in May, June, and July 2013, the USEITI MSG heard and discussed a number of presentations about federal, state, and tribal extractive revenue payments and collections, as well as the legal authorities and restrictions for public disclosure and reconciliation of these payments and collections. After extensive negotiations and compromises within and across stakeholder sectors to attain consensus, the MSG made decisions regarding scope and materiality for its first report and the expected direction of the second report. The MSG also agreed to a timeline for seeking candidacy, compliance, and validation. These decisions are reflected in the fully costed work plan attached to this application and also summarized below.

Based on the decisions made by the MSG, the commodities deemed to be within the scope of USEITI and to be included in the first USEITI report are oil, gas, coal, other leasable minerals, and non-fuel minerals (such as hard rock, sand, and gravel), geothermal, solar, and wind. From this list, payments to the U.S. Department of the Interior, as noted below, for oil, gas, coal, other leasable minerals, and non-fuel minerals, where they meet the materiality definition agreed upon by the MSG, will be independently reconciled. Payments (or payment information) from all in-scope commodities will be unilaterally disclosed by the Department of the Interior, also as noted below. Other resources that have been tabled for further discussion and potential inclusion in the second USEITI report are forestry and fisheries.

Government and company disclosure and third party reconciliation will compare data from companies on their payments to government with data from government on revenues collected from companies. USEITI Reports will include a reconciliation of U.S. Federal Government Department of the Interior revenues, such as rents, royalties, bonuses, and fees collected by the Bureau of Land Management (BLM), Office of Natural Resources Revenues (ONRR), and Office of Surface Mining Reclamation and Enforcement (OSM) for in-scope commodities within a reporting materiality threshold. The materiality threshold established by the MSG will balance 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 all revenues within the scope received by DOI for the first year and to increase to 90% of such revenues in the second year.

We will be including federal tax revenues in the USEITI report, but the MSG is still working on the details of the inclusion (see MSG legal constraints, below).

Extending EITI to Increase Comprehensiveness

In addition to reconciliation, the U.S. intends, as part of its EITI process, to provide additional data, where meaningful and feasible. These disclosures are intended to provide an unprecedented level of detail about revenue collections and reporting, demonstrating a robust and credible transparency framework. This will include:

- *A publicly sourced narrative*: USEITI Reports will make more accessible and understandable data and information that is currently publicly available from U.S. government agencies and other authoritative sources in order to give context and a well-rounded picture of the extractive industries in

[3] See *The EITI Standard, paragraph 1.6 a) EITI reporting deadlines, p. 15.*

the U.S. This will include information for additional types of natural resources that will not be reconciled under USEITI. Consistent with the goals and standards established by the September 20, 2011, U.S. National Action Plan for the Open Government Partnership, USEITI Reports will make more accessible and understandable data and information that is currently publicly available. This narrative will give context and a well-rounded picture of the extractive industries in the U.S., and will include information for additional types of natural resources that will not be reconciled under USEITI.

- *Unilateral disclosure of government revenue collection records:* In USEITI Reports, the U.S. Department of the Interior will disclose complete, reliable data, disaggregated by commodity, company, revenue stream, and by project (to the extent allowable by law and by existing parameters of reporting to Interior). This will apply to 100% of extractive revenues collected by Interior that are determined to be within scope by the MSG, regardless of the materiality threshold. It represents a level of government disclosure not previously seen in EITI.

Legal and Other Constraints

The MSG received from the Departments of the Interior and Treasury and discussed an analysis of the legal parameters and other potential constraints to U.S. implementation of the Extractive Industries Transparency Initiative (USEITI). There are legal considerations depending on the type of payment being disclosed.

DOI Payments and Revenues:
Companies currently report royalty and related non-tax payments to ONRR, and a summary of this information is already publicly disclosed. The Trade Secrets Act (TSA) governs types of information that can be disclosed by the U.S. government.

So long as MSG proposals for defining company or project-level reporting are consistent with the TSA, DOI may disclose reported revenues at a company or project-level to a third-party reconciler, and the information can then be made public. Similarly, there are no federal statutory or regulatory legal barriers prohibiting companies from voluntarily and independently disclosing DOI- reported revenue payments directly to a third-party reconciler, which can then be made public.

Federal Corporate Income Tax Payments and Revenues:
Potential legal constraints were identified with respect to tax reporting:

- Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC applies. 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 Internal Revenue Service (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 has agreed that taxes will be reported as part of USEITI, but the details for how to do so remain to be agreed upon by the MSG prior to publication of the first EITI report. Complicating reporting from a practical point of view, there are differing tax reporting requirements that currently exist between the IRC and the Securities Exchange Act. In addition, many extractives company tax payments to the IRS are consolidated payments that do not solely reflect their upstream extractive activities in the U.S. for a given period of time. In other words, extractives company tax payments in the U.S. in a given tax or calendar year represent, for many companies, a range of activities that are not all extractive in nature, do not reflect

company activity only in the U.S., and correspond to activities in multiple tax reporting periods. One approach under consideration is the use of the reporting of tax payments under Section 13(q) of the U.S. Securities Exchange Act of 1934 (as amended by Dodd-Frank Section 1504), which may include data on actual cash payments consistent with the Global EITI Standard.

Adapted Implementation

Sub-national Payments and Revenues:
Rule 4.2(d) and (e) of the May 2013 EITI Standard requires Implementing Countries to report on sub-national revenues from oil, gas, and mining in two ways. Rule 4.2(d) requires reporting on revenues received directly by sub-national governments from companies working in the extractives sector. Separately, Rule 4.2(e) requires reporting on revenues transferred from national governments to sub-national governments.

USEITI reporting will exceed Rule 4.2(e)'s requirements by reporting 100% of extractives-specific revenues collected by the federal government and transferred to states as required by law. In addition to reporting material transfers from the U.S. federal government to U.S. state governments, USEITI will report on all legally-required transfers of extractive revenues from the federal government to state governments and local government units.

Due to the significant practical barriers resulting from the size and complexity of the state extractive sector, 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 fully participate in USEITI through a voluntary "opt-in" process.

Accordingly and for reasons more fully explained in the request for adapted implementation attached as Annex 3, the USEITI MSG respectfully requests approval for adapted implementation regarding the requirement for sub-national reporting under Rule 4.2(d).

Tribal Payments and Revenues:
The U.S. has a unique 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, the Department of the Interior provides services directly or through contracts, grants, or compacts to 566 federally recognized tribes with a service population of about 1.9 million American 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, the Department of the Interior has conducted extensive outreach with tribal governments and tribal leaders regarding the benefits of EITI and inviting tribes to observe or participate in USEITI. To date, tribal governments have asked to be kept informed of USEITI but have chosen not to observe or to participate. The MSG intends to continue outreach with tribal governments and communities and will seek their input on whether and how to design a process for tribes to voluntarily participate and opt-in to reporting with 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.

During the public comment period, a multitude of stakeholders referred to the value of including State and Tribal revenues in the USEITI framework. In response, the USEITI Workplan includes action items for expanding communication, outreach and engagement with USEITI stakeholders, specifically, State and Tribal outreach activities. The USEITI Workplan also includes an action item for the USEITI MSG to develop a clear opt-in process for interested State and Tribes to participate in voluntary USEITI reporting.

Supporting Information:

- Fully Costed Workplan 2014-2017 (Annex 2)
- USEITI Request for Adapted Implementation (Annex 3)
- USEITI Multi-Stakeholder Group Meeting Agendas, Summaries, and Materials
- USEITI Multi-Stakeholder Group Candidacy Application Subcommittee Meeting Summaries

ANNEX 1: INFORMATION ABOUT THE MSG

Provide a list of members from the national Multi-Stakeholder Group, their organizational affiliation and contact details. If appropriate, attach information regarding additional government, civil society, and private sector stakeholders involved in the sign-up process.

GOVERNMENT SECTOR

Name	Appt. Type	Organization	Contact Details
Greg Gould	Primary Co-Chair	Department of the Interior	202-208-3096 greg.gould@onrr.gov
Mitch Baer	Primary	Department of Energy	202-586-5167 mitchell.baer@hq.doe.gov
Curtis Carlson	Primary	Department of the Treasury	202-622-0130 curtis.carlson@treasury.gov
Greg Conrad	Primary	Interstate Mining Compact Commission	703-709-8654 gconrad@imcc.isa.us
Mike Smith	Primary	Interstate Oil and Gas Compact Commission	405-525-3556 mike.smith@iogcc.state.ok.us
Mike McDonald	Alternate	Department of the Treasury	202-622-1785 mike.mcdonald@treasury.gov
Blair Mersinger	Alternate	Department of Energy	202-586-9013 blair.mersinger@hq.doe.gov
Debbie Gibbs Tschudy	Alternate	Department of the Interior	303-231-3301 deborah.gibbs.tschudy@onrr.gov
Marina Voskanian	Alternate	California State Lands Commission	562-590-5291 marina.voskanian@slc.ca.gov

INDUSTRY SECTOR

Name	Appt. Type	Organization	Contact Details
Veronika Kohler	Primary Co-Chair	National Mining Association	202-463-2600 vkohler@nma.org
Phil Denning	Primary	Shell Oil Company	713-241-9329 phillip.denning@shell.com
Mike Flannigan	Primary	Peabody Energy	314-342-3431 mflannigan@peabodyenergy.com
Susan Ginsberg	Primary	Independent Petroleum Association of America	202-857-4728 sginsberg@ipaa.org
Aaron Padilla	Primary	Chevron Corporation	925-790-3511 aaron.padilla@chevron.com
Bob Reynolds	Primary	BP America	281-366-7623 reynolra@bp.com
Jim Roman	Primary	ConocoPhillips	281-293-5915 jim.p.roman@conocophillips.com

Brent Roper	Primary	Rio Tinto	801-204-2737 brent.roper@riotinto.com
Chris Chambers	Alternate	Freeport-McMoRan Copper & Gold Inc.	602-366-7625 Christopher_chambers@fmi.com
Nicholas Cotts	Alternate	Newmont Mining	720-207-4002 nicholas.cotts@newmont.com
John Harrington	Alternate	Exxon Mobil Corporation	713-656-6506 harrhollow@comcast.net
Amanda Lawson	Alternate	Walter Energy Inc.	205-745-2000 amanda.lawson@walterenergy.com
Walt Retzsch	Alternate	American Petroleum Institute	202-682-8598 retzsch@api.org
John Sardar	Alternate	Noble Energy Inc.	281-943-1517 jsardar@nobleenergyinc.com
Mark Smith	Alternate	Ultra Petroleum Corp.	281-876-0120 msmith@ultrapetroleum.com
Bob Wilkinson	Alternate	ConocoPhillips	918-661-4381 robert.o.wilkinson@conocophillips.com

CIVIL SOCIETY SECTOR

Name	Appt. Type	Organization	Contact Details
Danielle Brian	Primary Co-Chair	Project on Government Oversight	202-347-1122 dbrian@pogo.org
Rebecca Adamson	Primary	First Peoples Worldwide	540-899-6545 radamson@firstpeoples.org
Paul Bugala	Primary	Calvert Investments	301-961-4755 paul.bugala@calvert.com
Michael LeVine	Primary	Oceana	907-586-4050 mlevine@oceana.org
Deborah Rogers	Primary	Energy Policy Forum	817-821-0975 deborah300@sbcglobal.net
Keith Romig, Jr.	Primary	United Steelworkers	615-831-6786 kromig@usw.org
Michael Ross	Primary	Revenue Watch Institute	646-929-9750 mlross@polisci.ucla.edu
Veronica Slajer	Primary	North Star Group	202-544-6355 vaslajer@northstargrp.com
Neil Brown	Alternate	The Lugar Center	515-850-0030 neil@neilrobertbrown.com
Richard Fineberg	Alternate	Research Associates	907-479-7778 fineberg@alaska.net
David Goldwyn	Alternate	Goldwyn Global Strategies LLC	202-696-1420 dgoldwyn@goldwynstrategies.com

Jennifer Krill	Alternate	Earthworks	202-887-1872 jenniferkrill@gmail.com
Rebecca Morse	Alternate	Revenue Watch Institute	212-506-0038 rebecca.alinda@gmail.com
Brian Sanson	Alternate	United Mine Workers of America	703-291-2420 bsanson@umwa.org
Laura Sherman	Alternate	Transparency International - USA	202-589-1616 lsherman@transparency-usa.org
Betsy Taylor	Alternate	Virginia Polytechnic Institute and State University	859-229-2404 betsy.taylor@gmail.com

ANNEX 2: COUNTRY WORKPLAN

					Estimated Direct Costs*				
Activity	**Task or Action Item**	**Timeframe**	**Responsible Entity**	**EITI Requirements Addressed**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**FY 2017**
OBJECTIVE 1: LAUNCH INITIATIVE									
Endorse EITI		**Sept. 2011 - Jan. 2012**		**EITI Requirement 1.1 and 1.2**					
	Announce Commitment	September 20, 2011	White House						
	Appoint senior official to lead USEITI	October 25, 2011	White House						
	Commitment to work with civil society and industry	October 25, 2011	DOI						
	DOI Assessment & Education	Nov. 2011 - Jan. 2012	DOI						
	Initial Stakeholder Outreach	Nov. 2011 - Jan. 2012	DOI						
	Implementation Planning	Nov. 2011 - Jan. 2012	DOI						
	Meet with the International Secretariat	Nov. 2011 - Jan. 2012	DOI						
Conduct a Stakeholder Assessment		**Feb. 2012 - July 2012**							
	Public Outreach & Education	Feb. 25-April 9, 2012	DOI						
	Review Public Comment	April 9 - May 18, 2012	DOI						
	Draft Assessment	May 18, 2012	DOI						
	Public Outreach & Comment	May 18- June 29, 2012	DOI						
	Final Assessment	July 10, 2012	DOI						

Activity	Task or Action Item	Timeframe	Responsible Entity	EITI Requirements Addressed	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Establish the MSG		**July 2012 - Dec. 2012**		**EITI Requirement 1.3**					
	Charter Multi-Stakeholder Group	July 26, 2012	DOI						
	Call for Nominations	July 26- Oct. 11, 2012	DOI						
	Stakeholder Outreach	July 26- Oct. 11, 2012	DOI						
	Review Nominees	Oct. 11-Dec. 20, 2012	DOI						
	Appoint Members	December 21, 2012	DOI						
OBJECTIVE 2: APPLY FOR EITI CANDIDACY									
Hold Regular MSG Meetings					**$109,900**				
Provide Neutral Facilitator Support					**$58,000**				
	Review Terms of Reference & Timeline	February 13, 2013	DOI & MSG						
	Continue Review of TORs	April 11, 2013	DOI & MSG						
	Adopt Terms of Reference, Discuss Scope and Legal Considerations	May 1-2, 2013	DOI & MSG						
	Discuss Scope/Materiality, Decide Timeline & Adapted Implementation for States	June 12-13, 2013	DOI & MSG	EITI Requirement 1.5					
	Decide Scope/Materiality, Discuss Adapted Implementation for Tribes and Outreach	July 23-24, 2013	DOI & MSG	EITI Requirement 1.5					
	Review and Approve Draft Application for Public Comment	September 10, 2013	DOI & MSG						

Activity	Task or Action Item	Timeframe	Responsible Entity	EITI Requirements Addressed	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
	Obtain Input from International Secretariat on Draft Application	October 1-2, 2013	DOI & MSG						
	Develop the Country Workplan	Summer 2013	DOI & MSG	EITI Requirement 1.4					
	Prepare the EITI Application	Fall 2013	DOI & MSG	Application submitted in Dec. 2013					
	Apply for EITI Candidacy	December 2013	DOI & MSG	Considered for Approval in Feb. 2014					
OBJECTIVE 3: ESTABLISH UNITED STATES EITI NATIONAL SECRETARIAT									
Staffing**									
	Develop a staffing and funding plan to support a DOI-based National USEITI Secretariat	FY 2013	DOI						
	Design, Establish and Maintain Permanent USEITI Website	FY 2013 & Ongoing	USEITI Secretariat						
	Support the work of the USEITI MSG	Ongoing	MSG & USEITI Secretariat						
	Publish an Annual USEITI Activity Report	Annually	MSG & USEITI Secretariat	EITI Requirement 7.2					

	Task or Action Item	Timeframe	Responsible Entity	EITI Requirements Addressed	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
OBJECTIVE 4: COMMUNICATION, OUTREACH AND ENGAGEMENT									
Conduct Public/Tribal Outreach						**$40,000-$110,000**			
	Develop a Communication, Outreach and Engagement Plan	FY 2013	DOI & MSG						
	Conduct Public Outreach	FY 2014	DOI & MSG						
	New Orleans Public Meeting	Sept 24, 2013							
	Houston Public Meeting	Sept 24, 2013							
	Public Webinar	Oct 2, 2013							
	Pittsburg Public Meeting	Oct 10, 2013							
	Denver Public Meeting	Oct 22, 2013							
	Anchorage Public Meeting	Oct 23, 2013							
	Conduct Tribal Outreach	FY 2014	DOI & MSG						
	NCAI Presentation	TBD							
	AFN Presentation	TBD							
	STRAC Meeting	Oct 23, 2013							
	Meeting w/the Three Affiliated Tribes	TBD							
	Conduct Congressional Outreach	FY 2014	DOI & MSG						
	Conduct State & Subnational Outreach	FY 2014	DOI & MSG						

	Task or Action Item	Timeframe	Responsible Entity	EITI Requirements Addressed	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
OBJECTIVE 5: PRODUCE INITIAL USEITI REPORT									
Hold Regular MSG Meetings						**$90,000-$120,000**	**$90,000-$120,000**		
Provide Neutral Facilitator Support						**$120,000-$150,000**	**$120,000-$150,000**		
	Develop a methodology for meeting the new EITI requirements	FY 2014	MSG & USEITI Secretariat	EITI Requirements 3.1 - 3.12					
	Agree on the procedures for preparing contextual information (Requirement 3.2 through 3.12)	FY 2014	MSG & USEITI Secretariat	EITI Requirements 3.1 - 3.12					
	Develop a Process for Tribes and Subnational (State, County, etc) Governments to Opt-In to USEITI	FY 2014	MSG & USEITI Secretariat	EITI Requirement 4.2					
	Finalize scope & materiality - determine the entities (government and industry that are required to report)	FY 2014	MSG & USEITI Secretariat	EITI Requirement 4.1 & 4.2					
	Develop the reporting template for government agencies and extractive industries	FY 2014	MSG & USEITI Secretariat	EITI Requirement 5.2.a					
	Agree on the Accounting Period Covered	FY 2014	MSG & USEITI Secretariat	EITI Requirement 2.3					

	Task or Action Item	Timeframe	Responsible Entity	EITI Requirements Addressed	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Hire Reconciler/Publish USEITI Report* **						**$200,000-$375,000**	**$400,000-$750,000**		
	Prepare Statement of Work for a third-party reconciler to produce the initial USEITI report	FY 2014	MSG & USEITI Secretariat	EITI Requirement 5.2					
	Issue a contract with a third-party reconciler to produce the initial USEITI report	mid FY 2014	USEITI Secretariat	EITI Requirement 5.1					
	US Government agencies and extractive industries report to the third-party reconciler	FY 2015	DOI, Treasury, Extractive Industries	EITI Requirement 4.2					
	Reconciliation: US government agencies and extractive industries report material payments/revenues to the reconciler for the report	FY 2015	DOI, Treasury, Extractive Industries	EITI Requirement 4					
	Unilateral Disclosure: US government agencies report all payments/revenue as part of the EITI report to be prepared by the reconciler	FY 2015	DOI, Treasury	EITI Requirement 4					
	The third-party reconciler prepares the initial USEITI report	FY 2015	Reconciler	EITI Requirements 2.1 , 5.3					
	Report must cover data no older than the second to last complete accounting period	FY 2015	Reconciler	EITI Requirement 2.2					

	Task or Action Item	Timeframe	Responsible Entity	EITI Requirements Addressed	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
	Publish/disseminate the initial USEITI Report	FY 2016	MSG & USEITI Secretariat	EITI Requirements 2.1, 2.2, 2.3, and 5.4					
Conduct Public/Tribal Outreach							**$40,000-$110,000**	**$40,000-$110,000**	
	Conduct Communication/Outreach around the Initial USEITI Report	FY 2016	MSG & USEITI Secretariat	EITI Requirement 6.1 and 6.2					
	Seek public and stakeholder input on the initial report	FY 2016	MSG & USEITI Secretariat	EITI Requirement 6.1 and 6.2					
OBJECTIVE 6: PRODUCE ANNUAL USEITI REPORTS									
Hold Regular MSG Meetings								**$90,000-$120,000**	
Provide Neutral Facilitator Support								**$120,000-$150,000**	
	Develop a work plan to address any recommendations presented in the initial USEITI report or provided by stakeholders	FY 2016	MSG & USEITI Secretariat	EITI Requirement 7.1					
	Evaluate/renew the contract with the third-party reconciler	FY 2016	MSG & USEITI Secretariat						
Hire Reconciler/Publish USEITI Report								**$400,000-$750,000**	**$400,000-$750,000**
	US Government agencies and extractive industries report to the third-party reconciler	FY 2016	DOI, Treasury, Extractive Industries						

	Task or Action Item	Timeframe	Responsible Entity	EITI Requirements Addressed	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
	Reconciliation: US government agencies and extractive industries report material payments/revenues to the reconciler for the report	FY 2016	DOI, Treasury, Extractive Industries						
	Unilateral Disclosure: US government agencies report all payments/revenue as part of the EITI report to be prepared by the reconciler	FY 2016	DOI, Treasury						
	The third-party reconciler prepares the second US EITI report	FY 2016	Reconciler						
	Publish/disseminate the second USEITI Report	FY 2017	MSG & USEITI Secretariat						
	Publish Annual USEITI Activity Report	Annually	MSG & USEITI Secretariat						
Conduct Public/Tribal Outreach									**$40,000-$110,000**
	Conduct Communication/Outreach around the second USEITI Report	FY 2017	MSG & USEITI Secretariat						
	Seek public and stakeholder input on the second report	FY 2017	MSG & USEITI Secretariat						

	Task or Action Item	Timeframe	Responsible Entity	EITI Requirements Addressed	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
OBJECTIVE 7: VALIDATE IMPLEMENTATION AND PROGRESS OF USEITI PROGRAM									
Hold Regular MSG Meetings									**$90,000-$120,000**
Provide Neutral Facilitator Support									**$120,000-$150,000**
	Work with International Secretariat regarding independent validator to evaluate the progress of USEITI implementation.	FY 2016	MSG & USEITI Secretariat						
	Publish and disseminate the USEITI validation report	FY 2017	Validator	EITI Requirement 1.6					
	Respond to the validator's assessment and develop a work plan to address any concerns or recommendations	FY 2017	MSG & USEITI Secretariat						
				Total Estimated Direct Costs	**$167,900**	**$450,000 - $755,000**	**$650,000-$1,130,000**	**$650,000-$1,130,000**	**$650,000-$1,130,000**

*Funding Source: ONRR's EITI Allocation. The allocation for EITI is derived from ONRR's annual appropriated funds. This iteration of the workplan does not incorporate the costs to other Federal agencies and other sectors.

** Due to the constrained budget environment under sequestration, the USEITI National Secretariat is being staffed by redirecting 4 ONRR, DC-based FTE (current onboard staff and vacant FTE). To date, all payroll costs associated with implementing USEITI are being absorbed by multiple Federal Departments (Interior, Treasury, State, and Energy) from their annual funding appropriations, not paid for with ONRR's EITI allocation.

*** In FY 2014, the budget includes only half of the costs for the reconciler/USEITI Report.

ANNEX 3: REQUEST FOR ADAPTED IMPLEMENTATION

Rule 4.2(d) and (e) of the May 2013 EITI Standard requires Implementing Countries to report on sub-national revenues from oil, gas, and mining in two ways: Rule 4.2(d) requires reporting on revenues received directly by sub-national governments from companies working in the extractives sector; separately, Rule 4.2(e) requires reporting on revenues transferred from national governments to sub-national governments.

The USEITI Candidacy Application explains the U.S. approach for sub-national transfers and payments, which will fully comply with Rule 4.2(e) and partially comply with Rule 4.2(d). Accordingly, and for the reasons explained below, the USEITI requests adapted implementation for a portion of Rule 4.2(d)'s requirements.

I. Relevant EITI Requirements

Rule 4.2(d):

> Sub-national payments: It is required that the multi-stakeholder group establish whether or not direct payments, within the scope of agreed upon benefit streams, from companies to sub-national government entities are material. **Where material, the multi-stakeholder group is required to ensure that company payments to sub-national government entities and the receipt of these payments are disclosed and reconciled in the EITI Report.** [Emphasis added]

Rule 4.2(e):

> Sub-national transfers: **Where transfers between national and sub-national government entities are related to revenues generated by the extractive industries and are mandated by a national constitution, statute, or other revenue-sharing mechanism, the multi-stakeholder group is required to ensure that material transfers are disclosed in the EITI Reports.** [Emphasis added] The EITI Report should disclose the revenue-sharing formula, if any, as well as any discrepancies between the transfer amount calculated in accordance with the relevant revenue-sharing formula and the actual amount that was transferred between the central government and each relevant sub-national entity. The multi-stakeholder group is encouraged to reconcile these transfers. The multi-stakeholder group is encouraged to ensure that any material discrepancy or ad-hoc transfers are also disclosed and, where possible, reconciled in the EITI Report. **Where there are constitutional or significant practical barriers to the participation of sub-national government entities, the multi-stakeholder group may seek adapted implementation in accordance with Requirement 1.5.** [Emphasis added]

II. Overview of state resource production and extractive revenues.

This proposal for Adapted Implementation takes into account the unique private vs. public ownership of minerals in the U.S., the federal structure of the U.S. Government, and considerations of materiality of sub-national extractive industry revenues. In the United States, minerals may be owned privately by individuals or corporations or by federal, state, local, or Tribal governments. Private ownership of minerals in the U.S. differentiates the U.S. from nearly all other countries. Private mineral ownership is widespread in the U.S., which means that significant extractives industry revenues flow directly to private citizens and corporations rather than to the Federal or subnational governments.

In analyzing which states collected material revenues under Rule 4.2(d), USEITI considered two factors: the absolute size of extractives revenues directly collected by the state and the amount of mineral resources produced. These factors were considered exclusive of sub-national transfers from the U.S. federal government to state governments. These sub-national transfers are within scope for USEITI and include approximately $2 billion in disbursements made to states for extractive revenues generated on Federal lands.

Using production as a measure, 33 states produce oil, gas, or coal, while almost every state produces some non-fossil minerals. Many individual states have larger mineral extractive sectors than entire EITI implementing countries. For example, the state of Texas produces more natural gas than Norway, and eight U.S. states produce more natural gas than Azerbaijan.[4] Implementing EITI at the state level in the U.S. would, in magnitude, be akin to one government implementing EITI in several different countries simultaneously.

Under the U.S. Federal Constitutional structure, states maintain ownership of some lands and minerals; develop their own taxation and royalty systems applicable to oil, gas, and mining; and collect extractive revenues directly. Each state has a unique revenue-collection regime. In many cases, revenue collections include royalties on minerals produced from state lands and severance taxes on the value of all minerals extracted in a state.

Using the materiality threshold adopted by the USEITI MSG for reporting on revenues generated from federal resource extraction, at least 18 U.S. states collect $50 million or more in extractive industries revenues.[5] These collections serve as a significant revenue source for many states.

III. USEITI reporting will exceed Rule 4.2(e)'s requirements for disclosure of Sub-national transfers.

The U.S. will exceed Rule 4.2(e)'s requirements by representing 100% of extractives-specific revenues collected by the federal government and transferred to states as required by law. In addition to reporting *material* transfers from the U.S. federal government to U.S. state governments, USEITI will report on *all* legally-required transfers from the federal government to state governments and local government units of extractives revenues.

By law, the U.S. federal government is required to return a percentage of revenues collected by the federal government from oil, gas, and mining activities to the state where the extraction occurs. This percentage varies depending on which mineral leasing law applies and ranges from 0% (offshore oil and gas production in certain areas) to 90% (onshore oil and gas production in Alaska). Thirty-five (35) states receive transfers from the federal government covered by these requirements, totaling over $2 billion in

[4] Norway produced 5,061,700 million cubic feet (MCF) of natural gas in 2011 while Texas produced 7,112,863 MCF in 2011. Azerbajian produced 744,790 MCF of natural gas in 2011 while the following states each produced more than 1 million MCF of natural gas during 2011: Texas, Louisiana, Wyoming, Oklahoma, Colorado, Pennsylvania, New Mexico, and Arkansas. Sources: U.S. Energy Information Administration, International Energy Statistics, Gross Natural Gas Production for All Countries by Region for 2011 (Available at: http://www.eia.gov/cfapps/ipdbproject/IEDIndex3.cfm) & Table P4. Energy Production Estimates in Physical Units, Ranked by State, 2011 (Available at: http://www.eia.gov/state/seds/sep_prod/pdf/P4.pdf)

[5] Source: U.S. Census Bureau, 2012 Census of Governments, Severance Taxes Reported on the 2012 Annual Survey of State Government Tax Collections Detailed Table (Available at: http://www.census.gov/govs/statetax/)

FY 2013. USEITI reporting will disaggregate these transfers to disclose revenues to each state and, where applicable, by local government unit.[6]

These transfers represent significant amounts of money for individual states. For example, five (5) states received over $100 million in federal transfer payments in FY 2013, while an additional five (5) states received over $10 million in FY 2013.

Because USEITI will report on 100% of sub-national extractives transfers required by law, no analysis was conducted concerning which transfers would be considered material under Rule 4.2(e).

IV. USEITI's report will partially comply with Rule 4.2(d)'s requirements to disclose direct company payments to states.

USEITI has adopted a two-phase approach to reporting on revenues directly collected by states because getting 18 states to participate in EITI is a complex political and logistical undertaking in the United States. Phase I will be implemented as part of USEITI's initial report. Phase II will be implemented over time to address significant practical barriers to implementation.

A. Phase I – collection and publication of currently available public information and voluntary company reporting.

Under Phase I of USEITI's implementation of Rule 4.2(d), publicly-available information about state extractives revenue collection will be included in USEITI reports. Many states already provide extensive information about their extractive revenues via state websites and other reporting. However, this information is currently dispersed among a large number of state-specific websites and other information repositories. It is, therefore, difficult for the public to access and compare data from multiple states. This data will be collected and included in a more accessible manner in USEITI reporting.

B. Phase II – voluntary "opt-in" participation of sub-national governments.

Phase II of Rule 4.2(d) implementation involves encouraging states to fully participate in USEITI through a voluntary "opt-in" process. This process has already begun in earnest. Four positions (two primary and two alternate) on the USEITI MSG were reserved for state representation. The positions reserved for state representatives are currently held by the Interstate Oil and Gas and Interstate Mining Compact Commissions and the State of California (replacing the State of New Mexico in October 2013), with one vacancy. These state representatives have been active participants in the USEITI process since the formation of the MSG, participating in every MSG meeting and on the USEITI sub-committee tasked with developing the US candidacy application.

These state-level representatives have also facilitated proactive MSG engagement with U.S. states about USEITI implementation. In addition, members of the MSG conducted USEITI outreach sessions at a meeting of the State and Tribal Royalty Audit Committee (STRAC). STRAC is an organization of States and Tribes that, under cooperative agreements with the Department of the Interior, are delegated authority to conduct inspections, audits, and investigations of activities on their respective Indian or Federal lands to ensure proper payment of royalties from oil, gas, and solid mineral companies operating within their

[6] Source: Office of Natural Resources Revenue, FY 2013 Disbursements to States (Available at: http://www.onrr.gov/about/pdfdocs/20131119.pdf)

jurisdictions. STRAC members were provided an opportunity to ask questions and express concerns and interest about USEITI, as well as set the stage for ongoing dialogue.

As a result of this preliminary outreach, several U.S. states have shown interest in EITI, and the USEITI country workplan provides for further active state-level engagement to obtain full participation by states that see mutual benefit.

C. Adapted implementation for Phase II of sub-national reporting under Rule 4.2(d).

The USEITI MSG is unanimous in its belief that the process of identifying and analyzing more than 33 state extractives sectors and revenue collection systems and working with these states to simultaneously implement EITI at a sub-national level may far exceed the normal EITI implementation timeframe given the size and complexity of the domestic extractive industry. Requiring sub-national EITI reporting versus pursuing a voluntary opt-in approach would also necessitate legislative changes, resulting in additional delays. Furthermore, postponing USEITI implementation for the years necessary to fully include sub-national participation would imperil the forward momentum of the USEITI effort and unnecessarily delay enhanced public access to information on the substantial extractive revenues and other publically sourced data that will appear in USEITI reporting under the phased approach.

The phased approach sought by the USEITI MSG would mitigate these adverse outcomes by first pursuing the more efficient and cost effective reporting on the national level and creating a useful model and test for later inclusion of sub-national reporting. Finally, given the constrained fiscal environment and competing budget priorities on both the national and state level, funding to collect and organize state information will be challenging in the long term, and may not be feasible in the near term.

Accordingly, the USEITI MSG submits that the totality of these circumstances present a "significant practical barrier" under Rules 1.5 and 4.2, and, therefore, respectfully requests approval for adapted implementation regarding sub-national reporting under Rule 4.2(d).

ANNEX 4: MEETING MINUTES AND SUPPORTING DOCUMENTS

FEBRUARY 13, 2013 MSG MEETING MINUTES

APRIL 11, 2013 MSG MEETING MINUTES

MAY 1-2, 2013 MSG MEETING MINUTES

JUNE 12-13, 2013 MSG MEETING MINUTES

JULY 23-24, 2013 MSG MEETING MINUTES

SEPTEMBER 10, 2013 MSG MEETING MINUTES

NOVEMBER 5-6, 2013 MSG MEETING MINUTES

1.1 PUBLIC STATEMENT – SUPPORTING DOCUMENTS

- Presidential Remarks on the Open Government Partnership
- Open Government Partnership National Action Plan

1.2 SENIOR OFFICIAL – SUPPORTING DOCUMENTS

- White House Announcement
- USEITI Federal Advisory Committee Charter
- Assistant Secretary Rhea Suh
- Office of Natural Resources Revenue

1.3 MULTI-STAKEHOLDER GROUP – SUPPORTING DOCUMENTS

- Open Government Partnership National Action Plan
- White House Blog Post: Leading the World in Transparency in Natural Resource Revenues
- USEITI Public Comment Period: February 25-April 9, 2012
- USEITI Public Comment Period: May 18-June 29, 2012
- Stakeholder Assessment: USEITI Implementation and Formation of a Multi-Stakeholder Group
- Press Release: Interior Establishes USEITI Multi-Stakeholder Group Advisory Committee
- Federal Advisory Committee Act Charter: USEITI Multi-Stakeholder Group
- News Release: Appointment of USEITI Multi-Stakeholder Group Members
- USEITI Multi-Stakeholder Group Terms of Reference
- Fall 2013 Outreach Summaries and Public Comments
- USEITI Multi-Stakeholder Group Meeting Agendas, Summaries, and Materials
- USEITI Multi-Stakeholder Group Candidacy Application Subcommittee Meeting Summaries

1.4 WORKPLAN – SUPPORTING DOCUMENTS

- Fully Costed Workplan 2014-2017 (Annex 2)
- USEITI Request for Adapted Implementation (Annex 3)
- USEITI Multi-Stakeholder Group Meeting Agendas, Summaries, and Materials
- USEITI Multi-Stakeholder Group Candidacy Application Subcommittee Meeting Summaries