



Terms of reference

Study on levy, transfer and use at community level of the 2,75% royalties from mineral and gas production

Location: Maputo, Mozambique

Application Deadline: 30 September 2020

Type of Contract: IC

Languages Required: Portuguese and English

**Expected Duration of
Assignment:** 48 days

Post Title: Consultancy: Study on Revenue Sharing Mechanism at Community level on Mining and Gas Sector in Mozambique

Agency Project Title: Study on Revenue Sharing Mechanism at Community level on Mining and Gas Sector in Mozambique

1. BACKGROUND

Mozambique like other African countries is signatory of international agreements on good practices regarding mineral, oil and gas exploration. These instruments should be taken into account in the definition of a mechanism for compensation and benefit of communities that are hosts of the extractive industry projects.

The regulation on transfer to the local level of extractive industry in Mozambique began in 2007 with the publication of the Act on Mineral Activities related to tributary legislation in the framework of mineral activity. (Act no 11/2007 of 27 June)

This Act doesn't define the specific percentage that should be transferred to local entities. This percentage was only established in the Act on the State Budget 2013 and up till now the same percentage has been applied in subsequent annual Acts on the State Budget. One of the criteria to establishment the percentage was that it should have a level that would permit redistribution of State income to other areas as well.

The Act of 2017 was revoked by the Acts 28/2014 and 27/2014 both from 23 September which established the specific regime on tributary and tax benefits within the oil and gas sector. Paragraph 20 of the Act no 20/20114 (Act on mining) and 48 of the Act no 21/2014 (Act on Oil and Gas) both from 18 of August establish that a percentage from the income generated by extraction of minerals and oil and gas should be channelled to programs destined for the Development of communities in the areas where these activities are located. The spirit of this paragraph centers on the assumption that the communities directly affected should be the main beneficiaries of the mining operations.



Meanwhile, in accordance with the reasoning of the Act on the State Budget for 2019 and similar to the documents from the previous years, the justification for transferring these funds is the necessity to build local Development and improve livelihoods among communities, as set out in paragraph 20 of the Mining Act and Paragraph 48 in the Oil and Gas Act. These Acts create the basis for the communities through the District Consultative Councils to define the priorities for the application of the funds.

It is in this context that the Act approved the State Budget for 2019 and also the same Act for the financial year 2018, set the percentage at 2,75 of the production from mineral and gas production which must be used for community Development in the areas where this production takes place.

Various analyses have been carried out that questions why the percentage has not been changed since 2013 and that it seems as if it is fixed and unchangeable.

In order to determine which activities are eligible for implementation together with and for the benefit of communities, the Ministry of Economy and Finance elaborated the Circular no. 01/MPD-MF/2013 that lists the eligible activities. A number of studies mentioned in Annex 1 point out that this list is very restricted and included activities which are normally the responsibility of the District Administration to carry out like construction of school, health posts, water supply systems etc.

For investments made according to the Circular applies the modality of simplified tender model determined on the basis of the value of the investment that is defined in line a of no 1, paragraph 90 of the Decree no 05/2016 of 8 Marc (Regulamento de Contratação de Empreitada de Obras Públicas). Fornecimento de Bens e Prestação de Serviços ao Estado e revoga o Decreto n.º 15/2010, de 24 de Maio. This applies for investments that are below 5 million meticaís.

The transfer of funds to the local level began in 2013. That year six communities in four districts benefitted from the 2,75% royalties from mineral and gas production. However, as part of monitoring in 2014 it was verified that the amounts transferred didn't correspond with the amounts levied (in some cases the amounts were less than 2,75% and in other cases higher amounts were transferred). Moreover, there were considerable delays in the transfers. Because of these findings it was decided in 2015 that the communities should receive the funds in the second after they were levied (n-2) which means that for example an amount levied in 2016 will be transferred in 2018

By the end of 2018, localities in seven districts in six provinces received the funds from the 2,75% levy. These were Montepuez District in Cabo Delgado Province, Govuro and Inhassoro Districts in Inhambane Province, Larde District in Nampula Province, Chinde District in Zambezia Province and Manica District in Manica Province.¹

Over the last three years 2017 – 2019 various studies were elaborared by government institutions, research entities and NGOs about the experience with applying the funds at local level. A bibliographic list is found in Annex 1. The studies identified a number of constraints some general, others specific concerning the levi, channelling and application of the funds.

In 2019 a workshop organized by MIREME and the German Cooperation/ GIZ took place with the objective to present the results from monitoring of the application of the 2,75%. The monitoring took place in Nampula, Tete and Inhambane Provinces.

The constraints identified by this monitoring relates to:

¹ O que vem da Terra volta à Terra 2,75%, Governos Distritais de Govuro e Inhassoro, Cooperação Alemã GIZ/BGF Inhambane 2018



- Lack of tax reconciliation: There is divergencies between the data companies and the Tax Authority about the royalties from mineral and gas production and the amounts transferred by MEF and received by the District Administration and Localities.
- Low quality in some cases of construction of infrastructure for the development of local communities and abandonment by the constructor of the construction site.
- Limitations in the Circular no 01/MPD-MF/2013 regarding the type of project that the communities can select.²

Each of the mentioned studies has been carried with different scope and methodology and there is not study that cover all the seven districts and communities involved. This makes is difficult to get a complete overview of the processes and results, to compare the studies and there to draw conclusions.

However, some recommendations that are common in the studies and monitoring are: To improve the transparency in the flow of fund, it is necessary to improve communication between the different government institutions and between the different levels of government. The transfer of funds from one institution to another should be communicated in writing and on a platform with common rules and responsibilities. A joint regulation between MEF and MIREME should be approved that establishes the criteria for selection and implementation of projects. This means that the Circular n° 01/MPD-MF/2013 should include new types of activities and actions that are eligible for financing by the 2,75% and should be identified by the communities.

- Review the concept of “affected communities” knowing that the impact of mineral exploration is much larger than one single community and also go across district limits;
- The application of good practices requires that the main stakeholders in the process, analysis of their capacity and clarity on responsibility in cases of infringement in the application of funds including construction works and consequently the penalization of the guilty part. The experience from Inhambane Province in this regard should be disseminated.
- The projects should be conceived with participation of all local stakeholders before the reception of the funds. The Consultative Councils at the level of localities (CCL) should lead a continuous the process of defining with the communities the needs, seek to make the process more efficient and allocate sufficient time to implement the project based on adequate information from MEF;
- The constructors should be listed by the Ministry of Public Works, Housing and Water Resources through public tender processes and they must have a bank account.³

Analysing the studies and reports concerning the 2,75%, two overall areas come to the forefront, where more knowledge is needed make the management more efficient and beneficial for the communities:

- a. A systematic and methodological evaluation of the projects implemented in the seven districts to document the results and impacts and improve the process of planning and implementation;

² SÍNTESE No 02/2019 Workshop sobre o processo de transferência de fundos dos 2,75% das receitas da extração de recursos minerais e petrolíferos e a implementação de projectos financiados pelos fundos dos 2,75% para o desenvolvimento das comunidades locais: Remoção de obstáculos que impedem a boa execução e gestão dos projectos.

³ Baseada na “SÍNTESE No 02/2019 Workshop sobre o processo de transferência de fundos dos 2,75% das receitas da extração de recursos minerais e petrolíferos e a implementação de projectos financiados pelos fundos dos 2,75% para o desenvolvimento das comunidades locais: Remoção de obstáculos que impedem a boa execução e gestão dos projectos.”



Elaborated guidelines to stream line the flow of funds that set out clear mandates and responsibilities for each institution with deadlines for the calculation, registering, levy, transfer, transfer, management and implementation of the funds including establishing the lines of communication between institutions and to communities with deadlines; These Terms of reference are elaborated by UNDP and MEF in consultation with MIREME in the framework of the SUNRED II project.

2. Objectives of the CONSULTANCY

2.1 Overall objective

The objective is to contribute to a correct, efficient, timely and transparent use of the funds of 2,75% coming from the royalties from mineral and gas production that benefit the affected communities improving their livelihood and their resilience.

2.2 Specific objectives

The specific objectives are to produce a:

1. Manual that describe the procedures to be followed by each institution (MIREME, MEF-DNPO, MEF-Direção Nacional de Tesouro, MEF-Autoridade Tributaria at the central, provincial and local level) responsible for the flow of funds in order to secure a correct, efficient, timely and transparent management of the funds.
2. Report with technical fact sheet and accompanying testimonies from communities about the result and impact of the investments made. The report should use the same methodology for all communities and give a systematic and comparable knowledge about the implemented projects and their results.

3. Duties and Responsibilities of the Consultant

The main activities to be carried out by the consultant are:

- a. Analyze the legislation pertaining to the transfer of the 2,75%, the flow of funds, the functioning of e-SISTAFE, as responsibilities and capacities of the districts administration and the community council at locality level, the reports from EITI Mozambique and other relevant legislation and regulation with the view to improve the flow of funds and propose revision of the circular mentioned above;
- b. Analyse the studies carried out about the transfer of the 2,75% to communities in order to systematize the information already collected and secure complementarity and verification of information to be collected.
- c. Carry out interview with government representatives from MEF (Autoridade Tributaria, CEDSIF, Tesouro, DNPO, DNMA, DN de Contabilidade Pública), and MIREME at the central, provincial and local level⁴, the Secretariat of EITI, The National Institute for Oil and Gas (INP) and INAMI as main regulators in the área, NGOs active in the area of governance regarding exploitation of natural resources etc.
- d. Prepare a detailed programme for the visits to the districts in coordination with MEF and MIREME;
- e. Carry out visits to all the districts and localities included to obtain additional information and verify key findings from the desk study. The visits should permit doing a complete mapping of the flow of funds in

⁴ Incluindo a Direção Nacional de Hidrocarbonetos.



practice and identify where there is a need to improve and clarify the process. It is not deemed necessary that the whole team visits all districts;

- f. Present the results of the study a workshop to be organized in coordination with the technical group. Apresentação do trabalho final num workshop interno com participação do MEF, MIREME, PNUD e GIZ e eventualmente representantes do ONGs;
- g. Inform the project team of SUNRED II early in the process about all difficulties that might delay or reduce the quality the deliverables.

4. Methodology

The consultant/ consultancy company should apply a systematic, efficient, transparent, objective and participatory methodology in the execution of the activities to reach the objectives stipulated.

The consultant should analyse all relevant documentation pertaining to the issue of transfer of royalties from the 2,75%, visits the districts and communities recipients of the transfers and conduct interview real and remote with relevant representatives from the government institutions at the central, provincial and local level as well as representatives from civil society and construction companies. During the visits to the districts the consultant should make sure to include most vulnerable groups in the interviews and consultations including women, young and elderly.

The consultant must present a brief inception report on how to organize the work, collect data and information and present the information in a format that is comprehensive, analytical and detailed but still systematic and easy to understand. The inception report should include an interview guide, proposal for selection of projects to visit that are representative for the type, size and diversity of the projects implemented. The selection of districts and communities should take into account that some have been included in several studies, so it will be good to visits districts that have not been visited yet. The interview guide should seek to be complementary and avoid repetition questions that have been posed a number of times. The methodology should be based on the data sheet provided in Annex 2. The working place should include consideration of working safely under the covid19 pandemic. The working plan should also give the distribution of responsibilities between the consultants, the days in the field and who is the team leader.

To accompany the consultancy, a technical group consisting of representatives from MEF, MIREME, the SUNRED II project, the environment economist of the UN resident coordinators office and possibly GIZ will be formed.

Apart from the inception report, field reports and diagnostic report, the consultant should share with the technical group, the first and final drafts of the two products for analysis, discussion, revision and approval.

5. DELIVERABLES

Deliverables	Submission	Review and approvals	% Payment
Inception Report.	8 days after contract signed	To be reviewed and approved by UNDP, UNEP and MEF	10%



Deliverables	Submission	Review and approvals	% Payment
The draft diagnostic report for discussion, including Field Report.	20 days after approval of Inception Report	To be reviewed and approved by UNDP, UNEP and MEF	10%
Manual with guidelines on the flow of funds	10 days after approval of diagnostic report	To be reviewed and approved by UNDP, UNEP and MEF	15%
Draft technical report with comparable site data sheets for each project visited and with recommendations for improving the construction projects	10 days after approval of diagnostic report	To be reviewed and approved by UNDP, UNEP and MEF	15%
Final report with integration of comments.	10 days after receiving comments from UNDP	To be reviewed and approved by UNDP, UNEP and MEF	50%

6. Duration of the assignment, duty station and reporting

The consultancy is estimated to take 60 working days including visits to districts with a distribution of approximately 15 day to consultant, 35 days to consultant 2 and 10 days to consultant 3.

7. Eligibility criteria

Consultant 1 or 2 should be the team leader.

Consultant 1 for elaboration of the Manual with guidelines on levy, registry and transfer of the fund

- Minimum of Master's degree in the areas of economy, financing or accounting.
- Proven in depth experience of at least 10 – 15 years with the structure and functioning of the public financial management system SISTAFE, the tax system and accountability at the central and district level in Mozambique;
- Proven experience with carrying analytical complex studies with data collection, organization and presentation in a systematic and understandable and educational manner;
- Strong knowledge of the tax system in Mozambique. Profound knowledge of the specific process regarding the levy of 2,75% on mineral production;
- Knowledge of from other countries of processes on transferring funds to the benefit of communities from natural resource and mineral exploitation is an advantage.
- Fluency in Portuguese and Ingles.

Consultor 2 to elaborate the technical report with data sheets on the results of the community projects

- Master's degree in civil engineering with focus on construction and building or other equivalent education;
- Strong knowledge of the legislation on procurement and its application in the area of small- scale construction;
- More than 10 years of experience in the area of construction, maintenance, law enforcement;
- Proven experience with leading teams and elaborating complex studies and reports, organization and analysis of data, systematic presentation with inclusion of an educational aspects;



- Strong practical knowledge based on at least 5-10 years of experience with working in rural areas in Mozambique;
- Fluent in Portuguese and English

Consultant 3 on gender and social inclusion

- Master or Bachelor in the area of sociology, anthropology or similar degree;
- 3-5 years of experience in elaborating social and socioeconomic studies integrating aspects of gender, human rights, poverty alleviation and vulnerability in development projects and construction;
- Proven experience from working in rural áreas in Mozambique with communities, preferably related to mining or gas exploration projects;
- Fluent in Portuguese and English Knowledge of Emakua, Lomwe, Xitswa, Ndau and /or Nyungwe is an advantage.

8. Evaluation criteria

Criteria	Weight	Max. Point
<u>1. Technical</u>	70%	100 points in total
<u>1.1. Eligibility Criteria</u>		(50 oints in total)
Team Leader should have minimum of Master's degree in the areas of economy, financing or accounting.		15 points
Proven in depth experience of at least 10 – 15 years with the structure and functioning of the public financial management system SISTAFE, the tax system and accountability at the central and district level in Mozambique;		15 points
Strong knowledge of the mining sector and tax system in Mozambique. Profound knowledge of the specific process regarding the levy of 2,75% on mineral production;		10 points
Knowledge of from other countries of processes on transferring funds to the benefit of communities from natural resource and mineral exploitation is an advantage.		10 points
Proven experience from working in rural áreas in Mozambique with communities, preferably related to mining or gas exploration projects.		10 points
<u>1.2. Technical evaluation criteria</u>		(40 points in total)
<i>Portfolio</i>		40 points
<u>Financial</u>	30%	




9. How to apply

Technical and Financial Proposals should be submitted through the online UNDP jobs (https://jobs.undp.org/cj_view_jobs.cfm) application with both documents uploaded as one, with the title "Study on levy, transfer and use at community level of the 2,75% royalties from mineral and gas production" no later than 18th September 2020. Proposals received after the deadline will not be considered. Any request for clarification must be sent by standard electronic communication to the e-mail address procurement.mozambique@undp.org. The UNDP CO Procurement Unit will respond in writing or by standard electronic mail and will send written copies of the response, including an explanation of the query without identifying the source of inquiry, to all consultants. The financial proposal should be comprehensive and include a breakdown.

10. Approval


This TOR is cleared by:

Signature _____ 

Name and Designation Eunice Mucache, HoU, ENRCCR

Date of Signing _____

This TOR is Approved by: Francisco Roquette

Signature _____ 

Name and Designation: Deputy Resident Representative - Programme and Operations

Date of Signing _____