

Guidance Note on Subcontracting for 2020 PPAs (Assignment to a Third Party – Non-Commercial Entities)

1. Introduction

Despite the benefits of collaborative approaches that Consortiums may bring to an Operation, in UNHCR current policies, partnership with a consortium is not fully encouraged. However, when UNHCR and the Partner agrees in advance in writing with properly documented justification, a partner could delegate part of the implementation of the project to a third-party non-commercial entity. This is stipulated in the PPA and therefore an option that partners and UNHCR could contemplate.

It is for this reason, that in the UNHCR Rationalization and Sustainable Partnership in 2019 and beyond (August 2018), the implementing through sub-contracts was brought forward. This was especially important as part of UNHCR's commitments to Strengthening the capacity of National Responders (localization Agenda) as described in the Uganda Strategy on Complementary Capacity Strengthening of National Responders in Uganda finalized in December 2018. In this strategy, the concept of twining arrangement, especially with local partners was further systematized.

During the 2020 selection process, this concept of subcontracting and twining was emphasized in all the Call for Expression of Interest and used as a criterion to assess prospective partners.

While twining with another partner is indeed a sub-contract arrangement, not all sub-contracts are twinning arrangements. In order for an arrangement to be consider as twinning, there should be a set of activities defined as Partner, Equip and Coach Approach (PECA) as described in Annex 1 of the Uganda Strategy on Capacity Strengthening of National Responders.

UNHCR will facilitate any sub-contracting following this localization agenda and capacity building component. Any other subcontracting arrangement will need to have strong justifications for UNHCR to authorize it.

2. Regulatory framework

Reference is made to [article 7 of Appendix 2 of the PPA \(Assignment to a Third Party – Non-Commercial Entities\)](#). the PPA document, which is the legally binding document, that all parties shall adhere to.

*7.1 **Unless agreed in advance by both Parties in writing**, the Partner cannot delegate, in part, or in full, any aspect of implementation of this Agreement to a third party that is not a signatory to this Agreement. The Partner shall demonstrate that delegation to a third party would add value to the delivery of the Project and shall ensure that any sub-contractor or third party assigned to implement activities pursuant to this Agreement does not further sub-contract to a third party the execution of Project activities. **The agreed arrangements shall be reflected in the Project Description (Annex A). Under no circumstances shall such assignment release the Partner from its obligations towards UNHCR for implementing this Agreement.***

7.2 The terms of any third party assignment or delegation, be it a commercial contract, a sub-agreement with another not-for-profit partner, or any other sub-contracting arrangement, shall be subject to, and shall be construed in a manner that is fully in accordance with this Agreement. The Partner shall include provisions similar to Art. 6 in all sub-contracts or sub-agreements entered into by the Partner with UNHCR's approval in accordance with this Art. 7.

3. Process for Assignment to a Third Party – Non-Commercial Entities

A three step process is required:

- 1) **Partner to send a formal letter to UNHCR indicating any assignment to a Third Party – Non-Commercial Entities during the negotiation process.**
 - In this letter, the selected partner should clearly demonstrate that delegation to a third party would add value to the delivery of the Project.
 - The selected partner should also make reference to the concept note they submitted during the selection process (where they should have indicated this arrangement). In case this was not clearly highlight in the concept note submitted by the partner, they should justify the reason for not doing so.
 - Partner should also confirm that they have read the Uganda Strategy on Capacity Strengthening of National Responders and that they will adhere to the twinning arrangement, when relevant.

- 2) **UNHCR to confirm in written/authorize such arrangement prior finalizing the negotiation process.** This authorization will be given case by case by UNHCR based on the justification provided by the partner.
- 3) **UNHCR and Partner to ensure that this arrangement is properly formalized in the different annexes of the PPA (project description, budget).**
 - Please note that UNHCR need an itemized budget of this sub-contracting arrangement. It is NOT enough to have just one budget line indicating something like: Lump sum Twinning arrangement with Partners A = USD 100,000.
 - Please refer also to article 7.2 quote below.

4. Reference Document

- A. Relevant Call for Expression of Interest (section Other Information) for the selection Process the partner was selected for ([UN Partner Portal](#))
- B. [Article 7 of Appendix 2 of the PPA \(Assignment to a Third Party – Non-Commercial Entities\)](#)
- C. [Uganda Strategy on Capacity Strengthening of National Responders.](#)

END

-----14 November 2019-----