

**OPERATIONAL INSTRUCTION REF. OI.PLG.2018.01**

**ACCEPTANCE OF FRAMEWORK, COLLABORATIVE AND TEAMING**

**AGREEMENTS**

**1. Authority**

- 1.1. This Operational Instruction (OI) is promulgated by the Director, Partnership Group (PLG), on the basis of a delegation of authority from the Deputy-Executive Director, under the authority of the Executive Director, under OD.EO.2017.02 on Management of UNOPS Partners and Resulting Agreements, of 13 October 2017.

**2. Purpose**

- 2.1. The purpose of this OI is to establish the mandatory procedures for entering into framework, collaborative and teaming agreements with partners defined under OD.EO.2017.02 on Management of UNOPS Partners and Resulting Agreements. The OI thereby supports relevant UNOPS personnel in fulfilling their roles and responsibilities through providing guidance and processes relating to: establishing the partnership intent and liability; partner selection; and acceptance and signature of agreements.

**3. Effective Date**

- 3.1. This OI shall become effective on the 1st May 2018.

**4. Consequential Changes**

- 4.1. This OI shall supersede and replace:
- Organisational Directive 43 - Policy for Partnership with Non-UN and Non-State-Entities, of 30 June 2015.
  - Administrative Instruction AI.PPG.2015.01 - Partnership with Non-UN and Non-State Entities, of 1 July 2015.

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## **1. Introduction**

- 1.1. As noted in OD.EO.2017.02 – Management of UNOPS Partners and Resulting Agreements, in order to fulfil its mandate, UNOPS may enter into different types of agreements with different types of partners to engage in and deliver activities.
- 1.2. The purpose of this OI is to establish the mandatory procedures for entering into framework, collaborative and teaming agreements with partners defined under OD.EO.2017.02 – Management of UNOPS Partners and Resulting Agreements. The OI thereby supports relevant UNOPS personnel in fulfilling their roles and responsibilities through providing guidance and processes relating to: establishing the partnership intent and liability; partner selection; and acceptance and signature of agreements.

## **2. Intent and level of partnership and type of partner**

- 2.1. The acceptance process for agreements with partners depends on establishing the intent of the partnership, including the division of liabilities, level of partnership and type of partner.

### ***Intent of partnership***

- 2.2. The types of agreement UNOPS may enter into with partners will depend on the intent of the partnership and desired outcome. As defined in OD.EO.2017.02 – Management of UNOPS Partners and Resulting Agreements, the types of agreements and underlining intents include, but are not limited to, the following.
  - 2.2.1 Framework agreements, that is, when UNOPS enters into an agreement in order to establish a framework for future engagements with a funding source or a client (as defined in EOD.ED.2017.04, UNOPS Financial Rules and Regulations), setting out the areas of collaboration and the operational arrangements governing the future provision of services by UNOPS;
  - 2.2.2 Collaborative agreements, that is, when UNOPS enters into a long term agreement with a partner to share benefits, costs and risk in relation to joint activity. Typically, this includes agreements to:
    - *Co-develop innovative new services or solutions*, that is, when UNOPS enters into an agreement to mobilize a partner core competencies (skills, expertise, technology, networks) that augment UNOPS' capacity in order to jointly develop and implement innovative products and services that can help to address specific needs.
    - *Pursue a range of joint resource mobilization opportunities*, that is, when UNOPS enters into an agreement with a partner to mobilize partners core competencies (for example skills, expertise, technology, networks) that augment UNOPS' capacity in order to pursue together multiple joint project opportunities over a prolonged period of time.
    - *Share knowledge*, that is, UNOPS enters into an agreement with a partner to access and share specialized knowledge (for example best practice, networks, methodologies) in order to increase and strengthen organizational capacity to deliver projects.

- *Implement joint advocacy*, that is, when UNOPS enters into an agreement with a partner to conduct an advocacy campaign in order to jointly raise public awareness and build strong support and political will to advance sustainable implementation practices in development, humanitarian and peace-building contexts.
- 2.2.3 Teaming agreement, that is, when UNOPS and a partner wish to combine their mutual capacity strengths in order to develop and submit a joint proposal to a third party with the intent to jointly implement an engagement. Since legally UNOPS cannot enter into a joint-venture with its partner to submit a joint bid to a third party, UNOPS and the partner will, in turn, enter into a teaming agreement with one another to agree to jointly develop the proposal and set out an arrangement where one provides the other with a portion of the services as outlined in the joint proposal. This differs from procurement as any transfer of funds made directly under this agreement is a result of, and follows, a proposal that has been co-developed with the partner and accepted by the client or funding source.
- 2.2.4 any other form of partner agreement that may be identified and developed accordingly.

### ***Level of partnership***

- 2.3. As defined in OD.EO.2017.02 – Management of UNOPS Partners and Resulting Agreements, the levels of partner agreements include, but are not limited to: global (to be implemented across multiple regions); regional (to be implemented in a single region); or local (to be implemented in a single country or hub).

### ***Types of partners***

- 2.4. Under OD.EO.2017.02 – Management of UNOPS Partners and Resulting Agreements, UNOPS may enter into agreement with a wide variety of partners. This typically includes:
- 2.4.1 UN and state entities, such as the United Nations system organizations, intergovernmental organizations, international and regional financial institutions, governments, including at the national and sub-national levels; and,
- 2.4.2 Non-UN and non-state entities, such as commercial enterprises or businesses; business associations and coalitions; academic institutions; corporate foundations and philanthropic organizations; Non-Governmental Organizations (NGOs) and civil society. These entities may be of a for-profit or not-for-profit nature.

## **3. Partner selection process**

- 3.1. No specific selection process is required when entering into a framework agreement (whether with UN and state or non-UN and non-state entities); or to enter in a collaborative or teaming agreement with a UN or state entity.
- 3.2. For teaming and collaborative agreements with Non-UN and non-state entities a specific partner selection process must be followed. The required selection method will depend on the specific intent of the agreement and the for or not-for-profit nature of the partner, as outlined in the table below.

3.3. As per the below table, funds may only be transferred under three circumstances: teaming agreements and collaborative agreements to pursue a range of joint resource mobilization opportunities and/or co-develop innovative new services or solutions. In these cases not-for-profit is defined as no profit margins and less than 10% of overheads charged to UNOPS.

<b>Type of agreement</b>	<b>Partner is for profit</b>	<b>Partner is not-for-profit</b>
Teaming agreement with UNOPS as lead	Open solicitation	Request for offers
Collaborative agreement to co-develop innovative new services or solutions	Open solicitation	Request for offers
Collaborative agreement to pursue a range of joint resource mobilization opportunities	Open solicitation	Request for offers
Collaborative agreement to share knowledge	Comparative evaluation	Comparative evaluation
Collaborative agreement to implement joint advocacy	Comparative evaluation	Comparative evaluation

3.4. For cases where UNOPS is not the lead in a Teaming Agreement, this case should be referred to the engagement acceptance process as per the OI for Acceptance of Engagement and Opportunities. When considering whether to approve a new partner agreement or amendment thereto, the Engagement Acceptance Committee (EAC), as applicable (see Section 6 below), shall review whether the partner selection method was adequate and the applicable process was properly followed.

***Open solicitation***

- 3.5. In cases when a competitive selection process is required, the process below shall be followed:
- i. *Preparation of the solicitation document* (typically an Expression Of Interest or Request For Proposal), by which UNOPS will clearly articulate UNOPS' need, the anticipated arrangement between UNOPS and the partner and how submissions will be evaluated. Standard templates available on PLG's intranet and UNOPS PQMS should be used.
  - ii. *Publication of the solicitation document*, shall be open for response for a minimum of two weeks. All questions by potential partners regarding the solicitation and resulting partnership UNOPS answers shall be published and made available to all interested parties.
  - iii. *Evaluation of partners' proposals*, according to clear and objective evaluation criteria, comprising both technical and financial. This may include several phases, including a first short list of potential partners and follow up questions from UNOPS. The partner shall be selected in accordance with the technical and / or financial criteria as set out in the solicitation document. The selection process, including the rejection of potential partners, shall be documented and recorded in writing.

### ***Request for offers***

- 3.6. In cases where a request for offers is required, UNOPS must identify, through desk research, a minimum of three entities in the market with the technical capacity to fulfill the partnership needs and request financial offers. These offers will be evaluated comparatively in order to justify the selection the partner in accordance to the technical and financial offer.
- 3.7. If there is no competitive marketplace and only one entity has been identified, the justification for directly selecting the partner must be submitted to the EAC for consideration.

### ***Comparative evaluation***

- 3.8. In cases when a comparative selection process is required, a justification to enter into the proposed agreement with the proposed partner shall be provided in writing. This should include an evaluation of the partnership options available to UNOPS and a justification as to why the proposed partner has been selected over other entities. This may consist of gathering, analyzing and documenting publicly available information in order to evaluate such partnership options. This may also include details on past consultations and efforts to scope the areas of synergies and collaboration with the proposed partner, as well as the key attributes (skills, expertise, knowledge) that the partner possesses that meet UNOPS needs.
- 3.9. Further instructions and guidance on the selection process, including required information, procedures and templates will be provided on UNOPS intranet site and PQMS.

## **4. Liabilities**

- 4.1. When exploring the possibility of entering into a new partnership, the respective responsibilities and associated liabilities of UNOPS and its partner(s) shall be clearly defined from the outset and reflected accordingly in the proposed agreement(s).

## **5. Due diligence and risk assessment**

- 5.1. Before entering into new partnerships, the appropriate due diligence and risk assessment of the proposed agreement should be conducted in accordance with the procedures and processes outlined in the OI on Due Diligence. Outcomes of the due diligence process will inform the acceptance decision of the relevant DoA holder.
- 5.2. Any conflict of interest for entering into an agreement with a partner must be disclosed by UNOPS personnel or staff to the applicable DoA holder.

## **6. Acceptance and signature of partner agreements**

- 6.1. Acceptance or renewal of a partner agreement or of an amendment thereto, that is in case of substantive changes to the respective responsibilities and associated liabilities of UNOPS and its partner, shall be granted by eitherby the appropriate DOA holder in accordance with the table attached as Annex 1 without EAC consultation, or by the EAC, in accordance to the below.

### ***Cases when submission to the EAC is not required***

- 6.2. Cases when submission to the EAC is not required and may be approved by the DoA holder directly are:
  - Framework agreement with *UN and state entities* that *do not* establish standard Terms and Conditions for future activities but are merely a general agreement to consider working together in the future.
  - Collaborative or Teaming Agreements with *UN and state entities*.
- 6.3. These cases should be consulted with IPAS Legal to ensure no EAC submission is required.
- 6.4. Upon approval by the appropriate DOA holder and legal clearance of the contractual modality, the agreement may be signed by the DOA holder or the personnel that has been authorized by the DOA holder to sign on his/her behalf
- 6.5. Despite the fact that no EAC review is required for these cases, it is still required that the EAC Secretariat is informed of the above agreements to enable tracking of all partner agreements at a corporate level.

### ***Cases when submission to the EAC is required***

- 6.6. Cases when submission to the EAC is required are:
  - Framework agreements with *UN and state entities* that establish standard Terms and Conditions to be applied to future engagements
  - All Framework, Collaborative or Teaming agreements with non-UN non-state entities
- 6.7. The EAC shall be composed of a number of senior reviewers (depending on the type and nature of the partner agreement) and the EAC Chair (either the Executive Office or Regional Director depending on the DoA level for the acceptance of the partnership outlined in Annex 1).
- 6.8. The partnership request and supporting documentation shall be reviewed by the senior reviewers who will provide comments on identified risks and compliance with this OI and make a recommendation to the EAC Chair.
- 6.9. The EAC Chair shall have the discretion to decide whether to accept, reject or defer a submission based on the available information. A meeting will be convened only when the Chair deems further review necessary prior to decision making.
- 6.10. Upon approval by the EAC Chair and legal clearance of the contractual modality, the agreement may be signed by the DOA holder outlined in Annex 1 or the personnel that has been authorized by the DOA holder to sign on his/her behalf.
- 6.11. Further instructions and guidance on the acceptance submission process, such as relevant senior reviewers, required documentation and templates will be provided on UNOPS intranet site and PQMS.

## **7. Implementation of collaborative agreements through teaming agreements**

- 7.1. In some cases, the implementation of a collaborative agreement between UNOPS and its partner may result in UNOPS and its partner having to submit a joint bid to a Funding Source for the joint implementation of an engagement. Since legally, as explained above, UNOPS cannot enter into a joint-venture with its partner to submit a joint bid to a third party, UNOPS and the partner will, in turn, enter into a teaming agreement with one another to agree to jointly develop the proposal and set out an arrangement where one provides the other with a portion of the services as outlined in the joint proposal.
- 7.2. In this case, the selection and due diligence process to enter into a teaming agreement, as described above, may be waived by the appropriate DoA holder, and the teaming agreement may be approved directly by the appropriate DOA holder in accordance with the table attached as Annex 1 (DOA table), subject to below conditions. Such a request should be submitted to the EAC Secretariat to ensure the necessary conditions are met:
- The activities that the partner will deliver in the context of the joint bid are within the scope of the overarching collaborative agreement between UNOPS and the partner.
  - If partner is a non-UN non-state entity that an *open solicitation process* or *request for offer* (as per Chapter 3) has been adhered to.
  - One or more of the below scenarios apply to the case:
    - The joint bid will be based on delivering a product or service that has been *co-developed* by UNOPS and its partner (as per section 2.2.2) with a sharing of the risk, costs and benefits during its development; and/or,
    - The collaborative agreement is to *pursue a range of joint resource mobilization opportunities* (as per section 2.2.2) with a clear case of the partner's core competencies augmenting UNOPS capacity in delivering projects; and/or,
    - The partner is pre-selected by the Funding Source to whom the joint bid will be submitted. In this case, the Funding Source shall agree that UNOPS cannot be accountable or otherwise carry any liability for the performance of its partner and the partner has been selected by the Funding Source in accordance with its regulations and rules.



**Annex I: Partner agreement acceptance DOA table**

			Level 1	Level 2	Level 3	Level 4 Regional Directors	Level 5 Executive Director / Deputy Executive Director
<b>Table A</b>							
Framework agreements	A-01	Approve global agreement with UN or state entity	nil	nil	nil	nil	unlimited
	A-02	Approve global agreement with non-UN or non-state entity	nil	nil	nil	nil	unlimited
	A-03	Approve regional or local agreement with UN or state entity	nil	nil	nil	unlimited	unlimited
	A-04	Approve regional or local agreement with non-UN or non-state entity	nil	nil	nil	nil	unlimited
<b>Table B</b>							
Collaborative agreements	B-01	Approve global agreement with UN or state entity for the purpose of: i) co-development or; ii) joint resource mobilization	nil	nil	nil	nil	unlimited
	B-02	Approve global agreement with non-UN or non-state entity for the purpose of: i) co-development or; ii) joint resource mobilization	nil	nil	nil	nil	unlimited
	B-03	Approve global agreement with all entities for the purpose of: i) knowledge sharing or ii) joint advocacy	nil	nil	nil	nil	unlimited
	B-04	Approve regional or local agreement with UN or state entity for the purpose of: i) co-development or; ii) joint resource mobilization	nil	nil	nil	unlimited	unlimited
	B-05	Approve regional or local agreement non-UN or non-state entity for the purpose of: i) co-development or; ii) joint resource mobilization	nil	nil	nil	nil	unlimited
	B-06	Approve regional or local agreement with all entities for the purpose of: i) knowledge sharing or ii) joint advocacy	nil	nil	nil	unlimited	unlimited
<b>Table C</b>							
Teaming agreements	C-01	Teaming agreements with for-profit non-UN non-state entities	nil	nil	nil	nil	unlimited
	C-02	Teaming agreements with not-for-profit non-UN non-state entities	nil	nil	nil	nil	unlimited
	C-03	Teaming agreements with UN and state entities	nil	nil	nil	unlimited	unlimited

## **Annex II: Terms of reference, Engagement Acceptance Committee (EAC)**

### **Purpose**

The EAC shall be composed of relevant senior reviewers and the EAC Chair as stated below. The purpose of the EAC shall be to evaluate proposed partner agreements that may have potential organisation wide consequences and to determine whether or not to continue pursuing the said agreement. The EAC is the highest decision making authority for all partner agreements in UNOPS.

### **EAC Chair**

The EAC Chair will depend on the level of DoA required to approve the proposed agreement, as outlined in Annex 1.

- When DOA level 5 is required, the EAC Chair shall be the ED. The ED may authorize the Deputy Executive Director (DED), or other UNOPS personnel, to represent her, in line with the DoA and Accountability Framework.
- When DOA level 4 is required, the EAC Chair shall be the relevant Regional Director where the partnership will be implemented. The ED may authorize the Deputy Executive Director (DED), or other UNOPS personnel, to represent her, in line with the DoA and Accountability Framework.

### **EAC Secretariat**

The EAC Secretariat shall be responsible for the management of the EAC, including review of submissions, coordination of reviews, preparation and submission to the Chair or designated authority, supporting organizational units to comply with standards, administration and record keeping on behalf of the EAC. The Secretariat shall provide a quarterly update to all policy setting groups about approved deviations from their policies.

### **Senior Reviewers**

Reviews shall be conducted by senior UNOPS personnel at the Director or Advisor level who are deemed to have the appropriate level of independence in order to provide a qualified and independent review. The convening of the relevant senior reviewers will depend on the intent of the partnership and further outlined in PQMS.

### **Scope of Reviews**

All submissions to the EAC shall be reviewed from a risk-based approach and ensure the compliance with the OI. At a minimum; the Legal Group shall provide a legal review. Depending on the intent of the agreement, other reviews shall be sought from respective groups, such as Finance Group, Partnerships Group, Infrastructure and Project Management Group, Communications Group, Share Service Centre, amongst others. The EAC Secretariat shall ensure that all relevant reviews are sought and received.

### **Decision making**

The EAC Chair, or its designated authority, shall have the discretion to decide whether to accept, reject or defer a submission based on the available information. A meeting will be convened only when the Chair deems further review necessary prior to decision making.