“De risking shelter construction works with the appropriate construction contract”

François Baillon / IHIP managing director
Chiara Jasna Vaccaro / DRC Global Shelter & Settlements Sector Lead
Baptiste RIGAUDEAU / Associate LALIVE
IHIP: International Humanitarian Infrastructure Platform
www.ihip.earth

IHIP is addressing the need of humanitarian organizations to **engage with the private sector in larger and complex infrastructure project**.

The primary focus is to harmonize humanitarian tools to engage with the engineering & constructor sector, mainly through **forms of contract for construction**.
Supported by:
Issues to address

• No harmonized construction contract for the humanitarian sector
  ⇒ Unbalanced allocation of risk
  ⇒ Legal/ Liability gaps
  ⇒ Impact on program quality
  ⇒ No consolidation of best practices
  ⇒ No capacity building

• Issues in Private sector engagement
  ⇒ Poor visibility on humanitarian procurement strategy
  ⇒ Risks attached to donor funding
  => Lack of trust in NGO bidding/ contracting procedure
Why now?

Urbanisation of the humanitarian response

Sustainable development Goals

Climate change resilience
Why: complex/smart humanitarian works

✔ New actors, the local private sector, engineering and contractors, have to be included in the life cycle of such projects

✔ New risks: knowledge gap for Humanitarian Organization to engage with the private sector on complex infrastructure
Who? Partnership Goals

Common agenda shared between international donors / Humanitarian organizations / Private sector:
Partnership Goals

✔ Help Humanitarian Organizations to engage with private sector
✔ Promote SDG agenda along the project chain
✔ Engage with public authorities
✔ Develop local capacity & Capacity Building
✔ Bridge humanitarian / development / peace goals
What: the IHIP proposal

✔ De-risking with the harmonized humanitarian construction contract
✔ Completed with the Global WASH and SHELTER Clusters / Sector
✔ Plugin to FIDIC short form of contract 1st Ed
The FIDIC short form of contract

- Short form (10 pages) since 1999
- Part of the FIDIC suite (red, yellow, silver)
- Used by ILO worldwide
- New version in 2021
- FIDIC Harmonized in 2010 for Multi Lateral development Banks
PROCUREMENT

D4 - CONTRACT DOCUMENTATION

Construction contracts are complete, construction specific, legal documents that capture equitable terms and conditions between signing parties.

Key Action:

D4) Construction contract for the project is signed off by the project manager.

Guidance Notes:

Contracts should be proven standard formats (or adaptations thereof) written specifically for the purpose of construction and include clauses that describe all the key contract management processes. Whichever contract is used, contracts terms and contents need to be updated for each project. Since contractors often have low contractual awareness it is important that the main terms are explained in the pre-tender clarification meeting (see D1 commentary).

Check local laws and regulations to be sure that the chosen contract format and content will be valid and enforceable in the particular context. International bodies such as FIDIC/NEC/JCT or the World Bank provide internationally recognised contract templates for small construction projects FIDIC Green Book (in development) IHIP Contract Template.

IHIP: http://www.ihip.earth/

CONSTRUCTION GOOD PRACTICE STANDARDS 2021

Common standards for the responsible delivery of construction projects in humanitarian settings

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Dignified shelter built according international standards and quality?

- Quality and standards of construction works (be it of houses, infrastructures or services) have a **direct impact** on people well being and contribute to the protection of the people of concern. Living in a dignified shelter built according international standards and quality enhance the chances of recovery and provide a safe living environment to people affected by conflict or natural disasters. **Lack or weak building regulations** at country level do not provide the necessary framework to ensure the provision quality works.

•=> SLIDO.com : #3925810
Life-Cycle Cost and Impact on Project Success

The Engineering phase has the greatest impact on the life-cycle cost of the project, yet it is the least costly component.
Global characteristics

Role of Consulting Engineer becoming more critical:

- Life cycle costing strategy more common
- Sustainability principles to apply to projects
- Do more with less & be innovative
- Design assumptions require new, more comprehensive approach
- Identify the Right Project

* Selection of Consultant critical
DISCUSS IN DETAIL
Employer’s requirements with the contractor, and negotiate a modified FIDIC Contract
Since May 2005, Multilateral Development Banks use the FIDIC MDB Harmonised Construction Contract. Adopted by bilateral development agencies (Australia, France, Japan, Korea, USA, …)MDB Supplement to Contracts Guide available.
Choosing the right FIDIC Contract

Two Main Questions

1. Who does the Design?
2. What risk allocation in between the Employer and the Contractor?
Employer design ownership

Contractor’s risks

Employer’s risks

Project cost

RED BOOK

YELLOW BOOK

SILVER BOOK
Responsibilities of the Parties

- **Employer**
  - Managed by the **Engineer**
  - **WHITE BOOK**
- **Contractor**
  - Managed by the **DAB**
  - **RED BOOK**
  - **YELLOW BOOK**
  - **GREEN BOOK**
  - **BOOK SILVER**
  - **BOOK GOLD**
  - **BOOK**

- The Engineer manages the FIDIC contract being the Employer’s representative.
Dispute boards are very useful tools brought to the market place to keep construction projects on the right track. Today its efficiency should encourage its use to be extended to also solve social and environmental issues.”
Consultation of the shelter sector

Conditions Of Particular Application COPA
Nov 2021

Survey to Shelter sector members
Dec 20 / March 21

IHIP Shelter Contract Committee - Dec 2020
IHIP SHELTER CONTRACT COMMITTEE

- Ammar Al-Mahdawi, Senior Technical Shelter Officer - UNHCR
- François Baillon, Managing Director – IHIP
- Kitty Villani-Cohen, International Consultant – Vice Chair FIDIC IFI Committee & Member of DRBF
- Richard Dewhurst, Doctoral Researcher - Loughborough University
- Philipp Huebner, Construction Project Manager - ICRC Water & Habitat
- Wamidh Shammas, Contracts Specialist – UNICEF
- Liz Palmer, Global Construction Lead - Save the Children International
- Alexander Van Leersum, Process manager - BuildtoImpact
### 26 IMPROVEMENTS in Conditions of Particular Applications of Contract for Shelter Construction Works

<table>
<thead>
<tr>
<th>Improvement</th>
<th>Employer friendly</th>
<th>Contractor friendly</th>
<th>Humanitarian Specific</th>
<th>Shelter Specific</th>
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<tr>
<td>BETTER CONTRACT MANAGEMENT (9 improvements)</td>
<td>5</td>
<td>5</td>
<td>6</td>
<td></td>
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<tr>
<td>IMPROVED RISK ALLOCATION (10 improvements)</td>
<td>6</td>
<td>3</td>
<td>9</td>
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<td>4</td>
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<td></td>
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</tbody>
</table>

Get your copy: [http://www.ihip.earth/shelter_copa](http://www.ihip.earth/shelter_copa)
Harmonized Conditions Of Particular Application to FIDIC SHORT FORM of Contract for Shelter Construction Works – how does it work?

• Step 1: Download the Conditions Of Particular Application to FIDIC SHORT FORM of Contract for Shelter Construction Works from the IHIP website

• Step 2: Get the FIDIC SHORT FORM of Contract (First edition 1999) from fidic.org

• Step 3: Attached the Conditions Of Particular Application downloaded in step1 and attached them to the general conditions downloaded in Step2

How to use Conditions of Particular Application (COPA) in addition to general conditions?

Whatever stated in those COPA such as addition, deletion or amendment to the General Conditions Clauses shall prevail and is to be taken into account to the extent that clarifies or adds or amends these Clauses.
Current: WASH + SHELTER

Friendly Review
Donors / Private Sector Institutions
Jan – March 2022

Cross Sectorial COPA for the humanitarian response Q2 2022

Cross Sectorial Contract Committee Dec 2021
Wash roadmap 1.4: Accountability and Quality Approach

National Coordination Platform
- National Cluster
- Quality Bureau
- National Adjudication Board

National Adjudication Board
- Secretariat by IHIP
- Private sector by FAEO
- Legal expert by ICC
- Humanitarian advisor by Cluster

IHIP Construction Contract
- Clause 4.9: Quality Assurance
- Clause 15.1: Adjudication
+ Quality Assurance System

Partners:
- ZOA
- Solidarites International
- FHI 360

Projects:
- Project 1
- Project 2
- Project 3
Call to action for pilot projects

Are you ready to be a contributor to the improvement of contracting in the humanitarian WASH or SHELTER sector?

The organization must manage a construction project in the humanitarian context in the coming 6 months. The organization must have the ability to choose what conditions of contract will be signed between the parties (Employer and Contractor). The organization should be ready to share the construction contract data with IHIP.

THE NEW HARMONISED CONDITIONS OF CONTRACT FOR CONSTRUCTION FOR THE HUMANITARIAN WASH/SHELTER SECTOR.

www.ihip.earth
Thank you!

François Baillon
fbaillon@ihip.earth

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