

## **POLICY AND PROCEDURES FOR CLEARING UN-HABITAT AGREEMENTS AND LEGAL INSTRUMENTS**

### **I. INTRODUCTION**

1. Recognizing the need for increased partnership and cooperation with national and local governments, international organizations, UN agencies, non-governmental organizations and the private sector, UN-Habitat staff members are encouraged to take new initiatives aimed at developing such alliances at both the conceptual and operational levels and to be more compliant with the procedures and policies for clearing UN-Habitat Agreements and Legal Instruments.
2. The purpose of this policy document is to provide guidelines on the use of the UN-Habitat agreements and legal instruments. More detailed guidelines, including additional and updated templates shall be made available on the UN-Habitat intranet at [habnet.unhabitat.org](http://habnet.unhabitat.org).

### **II. POLICY FOR CLEARING UN-HABITAT AGREEMENTS AND LEGAL INSTRUMENTS**

#### ***(a) Partner Selection and Requirements***

3. It is the responsibility of the requesting office to ensure that due diligence is undertaken in the selection of partners. The criteria for the selection of partners are available at [habnet.unhabitat.org](http://habnet.unhabitat.org).
4. Written justification for selecting a partner must be provided in the Supplementary Data Form together with any other relevant information.
5. A copy of the constitution and/or by-laws of the organization, and a copy of the registration/incorporation of the entity must be provided to the Legal Unit, as applicable.
6. The objectives, purpose and any background information of the organization should also be made available to the Legal Unit.
7. Information identifying the programme and activities of the organization in human settlements should also be provided.

8. Copies of annual (or other) reports of the organization for the past two years, with financial statements and a list of financial sources and contributions should be provided.
9. The Legal Unit or the signatory of the Agreement may request additional information or documentation from the requesting office.

***(b) Legal Clearance by the Legal Unit***

10. Legal instruments such as Agreements of Cooperation cannot be used to by-pass the normal procurement contract process administered by the United Nations Office in Nairobi (UNON).
11. All UN-Habitat Agreements and Legal Instruments are cleared by the Legal Unit.
12. The proposed instrument should be submitted well in advance to allow for a thorough review. The Legal Unit should be engaged in good time where Agreements require special drafting or depart from the standard legal templates.
13. The Legal Unit ensures that all signed agreements are available in the Project Accrual and Accountability System (PAAS).

***(c) Use of the Correct Templates***

14. The proposed instrument should be submitted using the correct and most up-to-date template available at [habnet.unhabitat.org](http://habnet.unhabitat.org). The templates include:
  - (i) Request Forms, to be attached to the draft Agreement, duly completed by the requesting office providing details on the overview and justification for the Agreement, selection of the partner(s) and certification of availability of funds by the Project Administrator and signatures obtained;
  - (ii) Different types of legal agreements; and
  - (iii) The United Nations General Terms and Conditions.

***(d) Responsibilities of the Parties***

15. The Agreement or Legal instrument should clearly and accurately spell out the responsibilities of each of the Parties to the Agreement. Where fiscal obligations are to be agreed upon, these should be clearly reflected in the Agreement and indicated in the budget.

***(e) Use of the UN-Habitat Logo***

16. Partners should not use the name/logo or official seal of UN-Habitat or the United Nations without prior written consent.
17. Information on how to obtain such consent is currently under review and will be provided to all partners by the Legal Unit in due course.

***(f) Signatories***

18. Signatories for each type of Agreement and Legal Instrument are outlined in **Annex 1**.

***(g) Submission of Documents***

19. The Request Form and all the necessary Supplementary Data must be duly completed and submitted with two (2) copies of the agreement or legal instrument.
20. Originals or certified copies of all the supporting documents must be submitted. Documents in a language other than English should have the relevant parts (legal and financial status of the partner(s)) translated and certified by a certified translator.

***(g) Audits***

21. Amounts paid by UN-Habitat to an implementing partner of up to US\$100,000, require no independent audit. However, UN-Habitat reserves the right to request an audit.
22. Amounts paid by UN-Habitat to an implementing partner in excess of US\$100,000 and up to US\$200,000 require one (1) independent audit. The audit is required when 90% of the total funds are provided to the partner.
23. Amounts paid by UN-Habitat to an implementing partner in excess of US\$200,000 and up to US\$300,000 require two (2) independent audits. The first audit is required when 50% of the total funds are provided to the partner. The second audit is required when 90% of the total funds are provided to the partner.
24. The number and timing of audits for agreements with amounts over US\$300,000 are determined by the Quality Assurance Unit in the Office of Management
25. The “*single audit principle*” which precludes the audit of UN Accounts by external auditors applies to all UN-Habitat agreements. UN agencies can only be audited by the UN Board of Auditors.

#### ***(h) Monitoring Agreements***

26. Project Leaders and Project Administrators responsible for projects linked to agreements are required to:
  - (i) Monitor all agreements to ensure that the performance obligations are carried out in accordance with the implementation schedule in the agreements;
  - (ii) Systematically monitor agreements that have financial implications to ensure that income/payments are made on time and that performance obligations are carried out in accordance with the income/payment schedule.
27. The Agreement Focal Point or official responsible for operational matters pertaining to the agreement ensures that reporting obligations of implementing partners are complied with, and that reporting obligations of UN-Habitat are fulfilled.

#### ***(i) Amendments***

28. Requests to amend the terms and conditions of an Agreement or Legal Instrument should follow the standard templates and provide the necessary supporting documents.
29. The Requesting Office must provide written justification in support of the Request for Amendment of the Agreement or Legal Instrument.
30. Requests for Amendments that require an extension of the validity period of the Agreement or Legal Instrument should be submitted at least thirty (30) days before the Agreement or Legal Instrument expires.
31. Retroactive extensions are highly discouraged. The responsible office should monitor agreements effectively, anticipate possible extensions and request extensions before expiry of the agreement.

#### ***(j) Termination and Completion***

32. It may become necessary to terminate an existing Agreement or Legal Instrument under unavoidable circumstances, and/or to exercise the right/option to terminate. The party requesting the termination must provide supporting evidence to justify the termination. If the agreement has financial implications, detailed final financial reports and/or audited statements must also be provided.
33. A final evaluation of the agreement and narrative report from the requesting office outlining the activities carried out under the Agreement or Legal Instrument are required.

The report should include an evaluation of the partner(s)' performance of the obligations in the agreement.

***(I) Host Country Agreements and Conference Agreements***

34. Host Country Agreements and Conference Agreements with the accompanying guidelines must be reviewed and submitted to the Legal Unit preferably one year before the effective date of the Agreement or the start of the Conference.
35. Security Arrangements concerning these agreements need to be reviewed and approved by the United Nations Department of Safety and Security (UNDSS), the UN Controller and subsequently by the Office of Legal Affairs (OLA).

**III. PROCEDURES FOR CLEARING UN-HABITAT AGREEMENTS AND LEGAL INSTRUMENTS**

***(a) Submission of Draft Agreements for Clearance by the Requesting Office***

36. The required Legal Agreement should be drafted using the appropriate templates available on the UN-Habitat intranet at [habnet.unhabitat.org](http://habnet.unhabitat.org).
37. The appropriate Request Forms should be completed and two (2) signatures on two (2) copies of the Agreement should be obtained.
38. The draft legal Agreement, together with all the supporting documentation, should be submitted to the Legal Unit for clearance.

***(b) Legal Clearance by the Legal Unit***

39. To enhance efficiency, transparency and quick delivery of projects, the objective is to clear and sign UN-Habitat Agreements and Legal Instruments within 5 working days. There may be occasions where further guidance and opinion may be required from the Office of Legal Affairs (OLA), or where a particular instrument requires complex drafting and review by the Legal Unit. In such cases, the clearing process may take longer. Requesting Officers should endeavour to submit such requests earlier. The review process is outlined below.
40. The draft Agreement is first logged into the Legal Unit's database.
41. The Agreement and supporting documents are reviewed to ensure compliance with the standard templates and the UN Rules, Procedures and Policies. The legal review takes a maximum of 3 working days.

42. If not cleared, the draft Agreement, with comments, is returned to the requesting office for further revision.
43. If cleared, the final draft Agreement is forwarded to the designated signatory for approval and signature.

**(c) *Approval and Signature by the Designated Signatory***

44. The draft Agreement and other issues such as the financial aspects of the Agreement are reviewed, followed by approval.
45. If not signed, the draft Agreement is returned, with comments, to the Legal Unit for revisions.
46. If signed, the signed Agreement is returned to the Legal Unit for recording and referencing prior to forwarding to the requesting office.