

FPA Watch Group Meeting

12-07-01

Participants: Jennifer Tangney (VOICE), Remi Attinger (Premiere Urgence), Encarnacion Guirao (CIR), Francois Man (Save the Children), David Martina (COOPI), Riccardo Stefanori (CISP), Annette Frick (ADRA), Sophie Dima (IISA), Elvira Rodriguez (ACF), Anne Colmant (Oxfam B), Gaelle Nizery (CARE Int.), Floris Faber (EUCORD, Mission East), Ad Ooms (ICCO), Jean Saslawdky (MDM), Simonetta Risaio (HI), Sarah Collen (World Vision), Farida Chapman (IRC Brussels), Helen Holder (HelpAge Int.), Cinzia Laurelli (CINS)

1. Apologies

Diana White (EUCORD), Maite Pacheco (IRC Spain), Morten Ronnenberg (DCA), Rachel Hastie (Oxfam GB), Wil de Wolf (Caritas), Frederic Bonamy (Premiere Urgence), Laure Delcros (MSF), Louise Ambler (CAD), Jane Backhurst (World Vision)

The Agenda was altered slightly with the agreement of the Group

2. ECHO Meetings

2.1 Methodology:

Floris Faber outlined the running of meetings and highlighted the constraints which such a meeting methodology implied.

- ◆ ECHO's interlocutor is Pablo Ibanez (with one or two others)
- ◆ ECHO documents do not come in advance, either Pablo presents them at the meeting or we receive them the night before
- ◆ Positions are not given by ECHO but we as a group are expected to respond immediately to their proposals at times
- ◆ The FPA Group is also presented with new interpretations of existing articles:

For example:

- ◆ Article D: ECHO now says that your start date is the date in the contract, if you start late you may not have an extension in the Emergency procedure
- ◆ Lump Sums: ECHO feedback has been that any gain must now be invested back in the contracted project
- ◆ Chapter I and II: ECHO accepted the FPA Group proposal to include operation personnel in Chapter I, but then came back with the fact that all of Chapter I had to be real costs

2.2 New Format for ECHO meetings:

There has now been a decision on a new working format for ECHO meetings. Pablo Ibanez will present ECHO's latest document, and the FPA Task Force will seek clarification on the document presented but will not respond or give a Group position. This will take place at the next FPA/ECHO meeting. The Task Force will then respond and give its feedback on the previous propositions made by ECHO.

The Task Force, in developing its position, takes the majority view of the FPA Watch Group into account at all times. It was agreed that we as a group have to go to ECHO with strong positions, compromise if necessary will come later.

2.3 Shared Meetings between Red Cross and FPA Watch Group:

The Task Force explained to the Group that following a desire expressed by ECHO for greater coordination between the Red Cross and NGOs, a meeting was held with the Red Cross and the Task Force this morning to devise a new meeting structure. In the future ECHO meetings will be shared between the FPA Watch Group and the Red Cross national societies and Federation. The ICRC will continue its own negotiations as it will be signing an FPA for International Organisations.

It was clear from the morning's meeting that there is a strong common position among both groups. As we are to sign the same FPA it makes good sense to lobby and work together. However such a move towards shared meetings does not prevent separate meetings with ECHO should the need arise.

2.4 General Information on ECHO position/thinking:

ECHO says that the current FPA is a weak legal tool. Its aim is to separate the contractual rules (General Conditions) from the general topics (provisions) and to include practical matters in the users guide.

All reference to "partners" has now changed to "parties" as this is a more correct legal language for a contract. The matter of partnership will be dealt with in the provisions. Such a move enables non-partners to sign the same contracts as FPA signatories.

Finally, it was stressed by ECHO and the Task Force that the new FPA will not be totally different from the current. There are a finite number of changes possible, given both the more or less positive functioning of the existing FPA and the limited timeframe for consultation.

2.5 FPA Watch Group suggestions for better functioning of the consultations:

It was highlighted by a member of the Group that the level of feedback from email consultation was surprisingly low. It was considered to be of great importance for FPA Watch Group members to not only participate at FPA Watch Group meetings but to also consult and participate in the interim, through responding to requests for information and the working groups.

3. General Conditions

3.1 Article X(4):

Remove the Article completely. Explanations regarding the problems such an Article could pose were offered to the group. Making NGOs responsible for matters out of their control is unacceptable, particularly considering the nature of humanitarian operations and their theatres of action.

Moreover, the Group was not aware of any other donor who imposed such a responsibility on NGOs.

There were several questions arising from this Article:

- ◆ Is the NGO responsible for termination costs?
- ◆ In the case of Evacuation who pays?
- ◆ Can local personnel stay and undertake the project without expats?

The Group voted unanimously in favour of removing Article X(4), without asking for clarification on it. If the need arose, later on issues surrounding Article X(4) could be raised.

3.2 Article O:

Article O introduces a notion of co-financing for NGOs in emergency. In the past it was included in the FPA on the understanding that it was for International Organisations rather than NGOs. If this is the case then the Article should be removed.

If the Article remains then there is a danger that emergency funding could move in the way of development where there is a need for NGOs to provide some of their own funds.

The European Commission tendency towards such co-financing could be argued against by NGOs on the basis of the nature of humanitarian operations.

11 voted in favour of removing Article O (1)

5 voted in favour of keeping it as it is in the current FPA

1 abstained

3.3 Chapter I and II:

ECHO's position on Chapter I only being calculated by real costs makes it less of a desirable option

for expatriate staff directly linked to services for beneficiaries. However, when we proposed lump sums for expats across the board ECHO was not warm to the idea.

If we accept such a division of expats between real costs and lump sums then we lose much of the force behind our argument for lumps sums.

Pablo's explanation that each Chapter had to be governed by a single financial rule does not seem to be legally based.

However, ECHO believes that NGOs are gaining at times from lump sums and that money is not being reinvested in operations and this could create problems for NGOs with OLAF. However, it appears from legal advice that so long as lump sums are clearly defined and there is no list of eligible expenses that NGOs would be legally protected.

3.4 Article B:

Partners/Subcontractors

Doc.14 does not apply as long as the relationship is that of partnership

Doc. 14 applies wholly to subcontractors

3.5 Article G (3):

Should include the word employment rather than "service" as this currently does not clearly take into account holidays for expatriates.

3.6 Article K:

ECHO wants to limit the number of modifications to contracts. However, there is no guarantee that ECHO will accept the modifications which have been made. The Group felt that a time limit of one month should be imposed on ECHO to respond to modification requests. There was also a need expressed to seek clarification as to why the word operation was changed to contract.

3.7 Users Guide:

Proposals are legal documents, they are sometimes faxed or emailed and the legality of this needs to be included in the users guide.

3.8 Timing

Occasionally in this new FPA specific timeframes have been removed and replaced with "meilleure delai", which is not specific enough. Pablo suggest using the Users Guide for clarification. The Group felt that it was necessary to be tougher on this matter.

4. Letter to Pablo

The letter to Pablo (in response to his request for written information on the position of the Group) on eligible expenses and other matters was presented to the group. There were no further comments on this matter.

5. High level Letter

This letter was drafted by Gianni Rufini requesting a meeting between herself and the Directors of the SCHA NGOs and MSF. The meeting would discuss the political issues surrounding the FPA. The letter was read to the Group without further comment.

6. Any Other Business

6.1 Selection of FPA Partners

If an NGO is not operational with ECHO in a two year period it loses its partnership status. This was a matter of concern to some NGOs as due to their geographically specific or service specific nature they may not be operational within such a period. Moreover, some proposals are not accepted by ECHO, what if an NGO were to be refused over a two year period despite actively looking for ECHO funding?

In the context of Primary Emergency procedures this matter is very important as ONLY FPA partners may apply for such funding.

The terms of partnership will be discussed in the Provisions (becoming and staying an FPA Partner), the Group should think of other criteria for affiliation to FPA other than this two year rule.

Meeting closed at 5pm with agreement that the Group would consult by email prior to the next meeting on 2nd August.