9.4 PROCUREMENT

When implementing an action, **the partner or its implementing partners** will purchase services, goods, and works or even, in exceptional cases, property. It will therefore have to award procurement contracts. In managing these contracts, the partner can apply its **own procurement procedures.** When launching a procurement procedure, regardless of the value of the procurement contract or of the percentage of funding, the partner has to ensure that its own procedures **comply with**:

- The specificity of humanitarian aid and the principles governing humanitarian aid, i.e. humanity, neutrality, impartiality and independence;
- The mandatory principles and obligations described in Annex III of the FPA.
- The eligibility conditions of costs of procurement contracts as described in Article 9 of the General Conditions[55];

ECHO will not certify the procurement procedures of the partners. The compliance with ECHO requirements will be checked during audits. However, if the partners have specific questions on procedures, they can send a question to the FPA Helpdesk[56].

9.4.1 MANDATORY PRINCIPLES:

Mandatory principles have to be applied by the partner when procuring. There is no hierarchy between the different principles. They must all be complied with.

[55] See section 9.3.2 C)
[56] http://dgecho-partners-helpdesk.eu/

- Ethical procurement
- Sound Financial Management
- Equal Treatment, non-discrimination and untied aid
- Transparency and right of access
- Proportionality
- Avoiding conflicts of interest
- Supporting the local economy
- Due Diligence

A) PRINCIPLE OF ETHICAL PROCUREMENT

Partners, tenderers, candidates and contractors must observe and uphold ethical standards in the procurement and execution of contracts. The **minimum standards** include the respect of working conditions and avoidance of child labor, the respect of basic social rights and environmental aspects:

Respect of working conditions and avoidance of child labour.

The partner must be sure that candidates, tenderers and contractors respect basic social rights and working conditions and that they do not procure goods or services from suppliers that use child labor or other exploitative practices. The partner should verify the respect of these principles; especially, when the partner work regularly with some providers.

Procurement contracts should seek to support and encourage freedom of association and decent working conditions in the workplace and actively seek to avoid relationships with contractors that engage child labor, bondage or forced labor, or practice discrimination in the work-place. Working conditions should protect more vulnerable workers from exploitation or abuse of sexual or other nature. Other exploitative labor practices would include for example situations where the employer curtails the rights of freedom of association, collective bargaining or to join trade unions.[57]

How to avoid working with contractors not respecting ethical principles:

- Refer to ethical principles in the Terms of reference/specifications as a criterion.
- Remind it in the contract;
- Check the providers for compliance through the most adapted means (visit, web-site, declaration on honour, etc)

Respect of basic social rights

Before launching a procurement procedure, the partner should consider the effects on issues such as poverty eradication, human rights, fair-trade, sustainable development[58] and inequality in the distribution of resources.

[57] For more information on international standards on labour conditions please visit http://www.ilo.org/global/lang--en/index.htm

Environmental aspects

The partner should also consider the effects on the environment that the assets, supplies and/or services may have, including, where possible, to the effects of waste management ("green procurement[59]"). When reasonably feasible, and depending on the nature of the supply, a criteria in the selection process could be included to verify the supplier's environmental performance as well as the sustainability of the delivered products and solutions. Involvement in the unethical exploitation of natural resources such as precious metals, stones and rare earths should also be avoided.

B) PRINCIPLE OF SOUND FINANCIAL MANAGEMENT

Sound financial management means that the partner ensures that it has taken all steps to secure the best price quality ratio available in the quantity and within the timeframe required.

While, sometimes rapid delivery is more important than high quality, a minimum quality level needs to be maintained to guarantee that the assistance given is appropriate to the circumstances.

A thorough drafting of the Terms of Reference or Technical specifications is essential for the respect of this principle.

C) PRINCIPLES OF EQUAL TREATMENT, NON-DISCRIMINATION AND UNTIED AID

The partner should treat all interested parties in the same situation in the same way, e.g. additional information, given to one tenderer must be given to all the other tenderers.

The partner will also ensure that there is no unjustified differentiation between the providers/tenderers and that supplies may be purchased fully and freely in all countries. This is to be understood without prejudice to the principle of supporting local economy.

D) PRINCIPLE OF TRANSPARENCY AND RIGHT OF ACCESS

Transparency:

- The principle of transparency means that the partner will ensure that all information on procurement procedures, opportunities and processes are clearly defined and made widely known and available.
- The principle of transparency also means that the partner must be able to justify and document at any time that the procedures used respect the mandatory principles.

---

[58] More on this matter may be found in the Commission communication of 5 May 2009 entitled "Contributing to Sustainable Development: The role of Fair Trade and non-governmental trade-related sustainability assurance schemes" (COM(2009)0215), Available at:
http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0215:FIN:EN:PDF

[59] For more on the EU's initiatives on "green procurement" please visit: http://ec.europa.eu/environment/gpp/index_en.htm

A transparent system increases the possibility of detecting any deviations from fair and equal treatment, and therefore makes such deviations less likely to occur and it makes, at the same time, a genuine competition possible. Furthermore, if the partner become aware of any corrupt practices or established breaches of the applicable procurement rules, it should immediately inform ECHO in writing by informing the desk through APPEL or by sending an email to ECHO-finance-legal-affairs@ec.europa.eu or at higher level.

Right of access for the purposes of verifications and audits

The European Commission, or persons mandated by the European Commission, including the European Anti-Fraud Office (OLAF), and the Court of Auditors must have right of access to the documents and the premises of entities which have received EU funds.

The partner has the responsibility of facilitating the same access to third parties without any direct contractual link with the Commission, e.g. contractors or implementing partners. To this end, the partner shall provide complete information on the procurement procedures, documents, and abstain from any obstructive practices which could hamper the access or the exercise of the control.

Reference to the right of access should be included in all the contracts concluded for procurement purposes.

E) PRINCIPLE OF PROPORTIONALITY

The principle of proportionality requires that procedures followed for awarding a contract must be proportionate to the value of the contracts. This generally means more demanding procedures for higher value contracts.

When contracts are split into lots, the procurement procedure will be established according to the total value of all the lots together. A contract cannot be split into lots to avoid a genuine competition. One exception is foreseen for the procurement of fresh food divided into lots according to seasons. In this case, the lots will be considered individually.

Procedures have also to be established taking into account the overall costs of the procurement procedure versus the difficulty and risks associated with the contract. Some lower value contracts may still involve great risks hence adopting more stringent measures may be prudent and justified.

Finally, the procedures should be in line with the legislation of the country of the partner.

Contracts > EUR 60 000	Contracts ≤ EUR 60 000
• Open to broader degree of competition	• Closed, negotiated or restricted procurement procedures.
• All mandatory principles apply	• Only Ethical procurement, sound financial management, avoidance of conflict of interest
• Special provisions apply	• Special provisions apply
• Up to date written procedures required. Exceptions should be documented.	• Not necessary to have the procedure described in writing. The final invoice is

	considered as a sufficient proof, unless the procedure of the partner foresees a different procedure.
Procurement based on a SINGLE OFFER is possible when: urgent actions[60], HPC[61], property contract, in case of no suitable offers/tenders, for technical or operational reasons, for additional contracts, for additional supplies. These exceptions need to be documented.	

F) PRINCIPLE OF AVOIDING CONFLICTS OF INTEREST

Each person participating in the procurement procedure of the partner should avoid conflict of interest.

A best practice, among others, is to entrust the decision of awarding a contract to an evaluation committee rather than to a sole person. Members of the evaluation committee should be aware that they need to disclose the existence of a conflict of interest.

Conflict of interest exists where the impartial and objective exercise of functions is compromised for reasons involving family, emotional life, economic interest or any other interest shared with a tenderer or candidate.

The partner should have in place clear rules and guidance to staff on what to do in case they or one of their colleagues are in a situation of conflict of interest. These rules should provide information on who to contact for advice or disclose the conflict to and, where necessary, take the appropriate action. It is good practice that staff involved in the procurement process formally signs a declaration of no conflict of interests before performing their duties. This applies also to those participating in opening committee and evaluation committees.

G) PRINCIPLE OF SUPPORTING THE LOCAL ECONOMY

When possible, the partner should use local human and material resources, in order to help the economic recovery of the populations affected by the crisis.

The term "Local Economy" comprises the totality of available resources at the area of intervention. It can be local production, local market and also local labor forces. The notion of local area may also include neighbouring countries.

During audit and monitoring, the partner will have to demonstrate that there is no extra disturbance to the local situation caused by resourcing its action, i.e. that the partner is not doing more harm than good when using local resources. At the minimum, the partner needs to ensure that the action does not increase the vulnerability of the local community.

For this purpose, and where relevant according to the principle of proportionality, the partner is advised to carry out an **assessment of the local market**[62]. This assessment should be documented. It should consider the purchase of the partner and, if known, the purchases

[60] See section 9.4.3

[61] See section 9.4.9

made by other organisations in the same area. This assessment should also consider what is needed, what is available, whether the quality is sufficient, etc.

H) PRINCIPLE OF DUE DILIGENCE

Due diligence involves carrying out duties professionally, carefully and thoroughly, going well beyond the minimum effort.

In order to be diligent in procurement matters, the partner should be aware of the importance of good procurement planning and should have in place systems for identifying risks and managing them.

A good procurement planning is essential to ensure a timely delivery and satisfactory quality of the supplies, works or services. The planning starts before the launching of the procurement procedure. For major procurement, it should be done at the time of the submission of the proposal to ensure that the procurement will contribute effectively to the achievements of the results.

In cases where the delivery is late, the quality is low, the partner will have to take measures to mitigate negative consequence and ensure sound financial management (for instance, the partner can apply a penalty to the providers, the partner can purchase new items locally while waiting for the delivery).

I) RESPONSIBILITY OF THE PARTNER IN THE RESPECT OF THE PRINCIPLES

Being responsible for the entire procurement chain, the partner is responsible for ensuring the respect of the mandatory principles, including by contractors. It is therefore advisable to keep the procurement chain as short as possible.

Particular attention should be paid when the partner maintains long term relations with contractors, or enter into framework contract. In such cases, it is expected that the partner apply more due diligence in verifying that contractors and sub-contractors respect the mandatory principles.

Such verification should however be proportional to the volume of the procurement.

How to ensure respect of principles with contractors?

- Mention the principles in the TOR or specifications
- Mention them in the contractual documents
- Carry out appropriate checks (e.g. Visits, check website, request a declaration on honour, etc.)

9.4.2 SPECIAL PROVISIONS FOR THE PROCUREMENT OF MEDICAL SUPPLIES AND FOOD

Specific rules apply for the purchase of medical supplies and food to ensure **the quality** of the supplies.

These rules apply:

- Irrespectively of the value of the contract to be awarded,

[62] Partner can refer to tools such as the EMMA toolkit for this type of assessment. http://emma-toolkit.org/

- Even when ECHO is not the single largest donor, and,
- Even when such rules are not foreseen in partner' procurement procedures.

The special provisions are based on a series of internationally recognised standards. The list of standards mentioned in Annex III is not exhaustive and partner may use as a quality reference any other equivalently recognised standard.

Partner is strongly invited to read carefully Annex III, Article 4 before procuring medical supplies or food.

A) MEDICAL SUPPLIES

The partner shall procure medical supplies[63] either:

- through an Humanitarian Procurement Center[64] (HPC), or
- by launching a procurement procedure itself.

Rules a partner must respect when procuring Medical supplies itself

Medical supplies must be purchased following a **procurement procedure** ensuring **genuine competition** (where possible), between **pre-certified suppliers** which can offer **pre-qualified supplies** (i.e. both supplier and supplies must meet internationally recognized standards).

When procuring itself, the partner should get the support of staff qualified in health care (e.g. pharmacist).

Considering the countries of operation, the partner should do a risk analysis of possible import obstacles or quality issues. These possible problems should be described in the section of the Single Form on equipment and goods.

Pre-certification of suppliers

Before launching the procurement procedure, the partner will either have available or prepare a list of pre-certified suppliers that will be invited to submit an offer. In order to be "pre-certified" a supplier will have had to demonstrate that it meets the following conditions:

- its premises and facilities meet internationally recognised standards;*
- it is technically capable of ensuring the quality of active ingredients, and
- its products come from approved suppliers.

[63] Medical supplies include pharmaceutical products and medical devices.

[64] See section 9.4.9

Tip: a self-certification made by a supplier is not sufficient proof that the supplier meets the international standards.

To assess the fulfillment of the status of pre-certified suppliers, the partner can rely on:

- its own assessment of the suppliers;
- proof of pre-certification by other donor (e.g. USAID)
- certification issued by an internationally recognised or reputable certification body (e.g. a WHO-approved body); or
- certification issued by a Stringent Regulatory Authority (i.e. medical regulatory authorities in the EU, Japan or the USA)

Procurement procedure with pre-certified candidates

The partner will **send an invitation** to negotiate simultaneously to pre-certified candidates identified. To ensure genuine competition, whenever feasible, the invitation should be sent **at least to 3 candidates**.

The invitation describing the nature of the supplies to be purchased will include **at least** the following criteria:

Selection criteria	How to prove ?
The selection criteria refer to the capacities of the supplier. • respect of WHO principles for the production and handling of medical supplies such as - Good manufacturing practice (GMP) and where relevant: - Good storage practices (GSP) - Good laboratory practice (GLP) - Good Clinical Practice (GCP) - WHO model quality assurance standards (MQAs) - WHO's or the Union's Good distribution Practices (GDP) • ongoing monitoring of the production and quality control activities • monitoring of customers complaints and remedial follow-up • any other recognition ensuring compliance with at least one of the following standards or equivalent standards: - United States QS 21 CFR part 820) on quality system regulation, - ISO9001/2008 on quality management system - ISO9002/1994 on quality assurance in production, installation and servicing	In its offer, the candidates will have to demonstrate that they can respect the criteria. The partner should have qualified staff to assess the offers. Where the suppliers or the products already benefit from a relevant pre-certification or pre-qualification, a copy of the certification/qualification document is sufficient to demonstrate the respect of the corresponding selection and award criteria.
Award Criteria	
The award criteria refer to the quality of the supplies. • respect of minimum quality standards (WHO[65] principles, GMP, GSP, GDP, GLP) • Respect of the national drug regulation in the country of destination • respect of any intellectual property and patent regulation applicable in the	

[65] List of WHO pre-qualified products: http://apps.who.int/prequal/query/ProductRegistry.aspx

country of operation	

When comparing the offers received, the partner will compare prices taking into account the whole treatment per patient (transportation, storage, etc.) and not only the cost per unit. The partner will consult international medicines price databases, such as:

- International Drug Prices Indicator
- The Global Fund Price and quality reporting tool
- The price Information exchange website
- the global price reporting mechanism provided by the WHO AIDS medicines and diagnostics services
- MSF untangling the Web of antiretroviral Price reductions.

How to define Medical devices?

Medical Devices include an enormous variety of existing healthcare items, and many new forms are being constantly invented. It might be difficult for partner to identify whether a specific piece of equipment is a medical device or not. ECHO **does not maintain an exhaustive list** of medical devices classified as such.

Medical Device refers to an instrument, apparatus, implement, machine contrivance, implant, in vitro reagent, or a component that provides a diagnosis, cure, mitigation, treatment, or prevention of a disease or condition, which does not achieve its intended use by being metabolised or through a chemical reaction.

Examples of medical devices can include: walking sticks, surgical instruments, contact lens lubricants, condoms, stethoscopes, insulin syringes and needles, wheelchairs, hearing aids, implantable devices, Magnetic Resonance Imaging (MRI), and Computed Tomography Imaging (CT).

Mosquito nets are not, however, classified as medical supplies.

For more information on defining medical supplies:

- Global Medical Device Nomenclature (GMDN) system designates 12 categories of medical devices consisting of more than 10,000 generic groups. (https://www.gmdnagency.com/)
- The Universal Medical Devices Nomenclature System (UMDNS) is another nomenclature system being primarily used for medical devices. (https://www.ecri.org/Products/Pages/UMDNS.aspx)
- The WHO is also working towards a unified nomenclature system that can be used globally (http://www.who.int/medical_devices/innovation/mde_nomenclature/en/)
- EU national authorities: http://eu.europa.eu/health/medical-devices/links/contact_points_en.htm

How to prove the compliance with special provision on medical supplies during audits?

The partner should keep in their files a thorough description of the various procedures described above: pre-certification and procurement procedure.

The partner should also be able to produce certificates of conformity, proof of quality and relevant documentation concerning the pre-qualification of drugs and the pre-certification of suppliers. All documents linked to quality assurance considerations, e.g. positive assessments by entities such as QUAMED[66] and USAID should also be kept in the procurement file as evidence of quality compliance.

C) FOOD SUPPLIES

The food supplies purchased should **match the nutritional habits** of the beneficiary populations and should **comply with quality standards** of the country of origin and/or country of destination. Costs related to food supplies not meeting these two requirements will be considered as ineligible.

When possible, **priority** should be given to purchases in the **country of operation** or in the neighbouring countries. In such cases, it is essential to get evidence from a market analysis that the foreseen purchases do not distort the market and affect negatively the beneficiaries. This market analysis can be mentioned in section 6.3 of the Single Form.

Quantity and Quality assurance

The partner is responsible for ensuring the quantity and quality of the supplies, including their packaging and marking. The quality and quantity checks can be done on a sampling basis.

Purchases ≤ 300 000 EUR	Purchases > 300 000 EUR
• Partner's qualified staff can certify the quantity and quality of supplies. • Partner can request external expertise.	• ECHO will pay for the cost of a Monitoring Agency which will certify the quantity and quality of supplies.

Role of the Monitoring Agency

The Monitoring Agency will verify and certify the quality, quantity, packing and marking of supplies. Normally the monitoring agency is contracted before the award of the food supply contract. As soon as the food supply contract has been awarded, the monitoring agency shall carry out its checks in line with the applicable international monitoring standards[67] with the chosen supplier. This would entail at least:

[66] www.quamed.org

[67] ISO 45004 – ISO/IEC 17020

- A check on quality before loading and a check on quantity when the goods are loaded. As a result of this check, the monitoring agency issues a provisional certificate of conformity to the supplier and only after that the transport can start.
- A comprehensive check at the place of delivery, where the warehouses of the partner can be considered as the final place of delivery. After that the monitoring agency needs to issue a final certificate of conformity to the supplier and it needs to notify the partner thereof.

How to prove compliance with special provision for food supplies during audits?

ECHO expects the partner to demonstrate their compliance with internationally accepted product standards via such evidence as reports, audits, studies, statements by suppliers etc. The partner can, also attach in the procurement file pictures and/or monitoring reports from the field distribution.

9.4.3 DEROGATIONS AND EXCEPTIONS

A) PARTNER DEROGATING FROM ITS OWN RULES

Derogations or exceptions from partner's procurement rules of the partner must be duly approved by the partner's decision-making body following the internal rules and procedures established by the organisation. Those decisions should be documented and traceable.

B) DEROGATION GRANTED BY ECHO

Any derogation from Annex III needs to be approved by ECHO.

Requests for derogation may be founded on security, operational, technical or quality reasons, shortfall or unavailability of the supplies on the markets, costs or delays due to transport, legislation in the country of operation (e.g. ban on importing medicines in the country of operation), or if the fulfilment of the contractual obligation would harm the partner’s mandate or the safety of its staff or beneficiaries.

When requesting derogation, the partner will be as precise as possible about the nature of the request and briefly explain the reasons for this request. The request should preferably be submitted at proposal stage (in section 11 of the Single Form). If not possible, the partner will use the modification request to introduce the derogation. These requests, if accepted by ECHO, will be included in Article 6 of the Specific Grant Agreement.

C) EXCEPTION ON QUALITY ASSURANCE

The Annex III is **mandatory** in all cases as far as **quality of food and medical supplies** is concerned, regardless of ECHO contribution and regardless of the value of the procurement contract.

Thus, where the partner, for circumstances beyond its control, is unable to demonstrate compliance with internationally accepted product standards, it must demonstrate that the procedures used ensure

equivalent quality assurance to international standards, which includes at least compliance with the "do-no-harm principle" and the standards accepted by the national or regional regulatory authorities.

Where the partner, for circumstances beyond its control, is unable to demonstrate compliance with internationally accepted product standard, it may demonstrate instead that the supplies offer the best quality available. Reasons for this inability to rely on traditional, internationally recognised assurance may be linked to import or other obstacles in place by the national authorities or may be a result of the remoteness of the implementation of the action or other factors beyond the partner's control.

As a general principle, exceptional cases should be discussed with ECHO as soon as possible after they arise, taking into account that the important consideration is the safety of the staff and of beneficiaries. When structural issues are known to exist in an area these should be raised from the outset in the Single Form in section 11. Together with ECHO, in these exceptional circumstances, the partner will look for an alternative way of demonstrating that the supplies offer the "best quality available, e.g. by reliance on the standards set by the national or regional authorities.

9.4.4 URGENT ACTION & PROCUREMENT

To properly manage the procurement during an urgent action as defined in section 5.5 , the partner has to include in their procurement procedures provisions on urgent actions and exceptional circumstances[68], while maintaining respect of the mandatory principles.

Annex III foresees that the partner may apply, in addition to their internal procedures on exceptions, a a procurement procedure based on a single offer when the action funded by ECHO is expressly characterised as being an urgent one, as evidenced by the insertion of an Article 6.3 of the Specific Grant Agreement.

If there is no insertion of an Article 6.3 in the Specific Grant Agreement (e.g. when urgent needs arise during the duration of an action which would lead to the inclusion of a new urgent result/activity), the partner can apply its exceptions on procurement procedures (such as single offer) or if it does not have exceptions in its procurement procedures , it can derogate from its regular procurement procedures, if the following conditions are respected:

- The procurement could not have been reasonably planned in advance;
- the procurement addresses urgent needs and needs to start immediately, being that any delay incurred by employing regular procurement procedures would put lives at risk;
- the urgency is not based on circumstances attributable to the partner (*e.g*. the partner cannot use the exceptions to make up for bad planning or lack of resources),
- the recourse to exceptions is only temporary, *i.e*. in use until such time that the partner can start procuring in line with the regular procurement procedures ('bridging the gap'),

[68] Article 3(5)(e) of Annex III

- the partner's rules and procedures on invoking exceptions from its standard rules are duly followed,
- the decisions concerning the use of exceptions are taken at an appropriate level of authority to grant the derogation taking into account the value of the contract, ensuring the absence of conflicts of interest, and
- all exceptions to the standard procurement rules are properly documented in the Partner's procurement files (to be made available in the event of any possible audit).

Partner WITH exceptions in its procurement procedures	Partner WITHOUT exceptions in its procurement procedures
If Article 6.3 in the Specific Grant Agreement ➔ Single offer	
If NO Article 6.3 in the Specific Grant Agreement	
Can follow its own exceptions/derogations only if its rules on exceptions comply with the conditions mentioned above.	Can exceptionally derogate from its procurement procedures on an ad hoc basis, in line with its internal procedures for overriding standard rules and provided this complies with the conditions mentioned above.

9.4.5 RELATIONS WITH CONTRACTORS

There are no direct links between ECHO and the contractors of the partner. Partner is responsible for the implementation of the procurement contracts vis-à-vis the Commission.[69]

However, the partner must make sure that the following obligations of the General Conditions apply also to contractors: intellectual and industrial property rights[70], liability for damage[71], rights of access[72], and conflict of interest[73].

9.4.6 IMPLEMENTING PARTNERS AND CONSORTIUM

The partner's procurement rules should also establish the applicable rules for the Implementing partners, including members of a possible consortium.

As a good practice, the partner and implementing partners should establish in writing (e.g. in a MoU) whether:

- the implementing partner will apply the partner's procurement rules, or
- the implementing partner will apply its own rules. In this case, the MOU should establish which procurement rules will be followed. The MOU should also specify that the rules of the implementing partners must be in line with Annex III to the FPA. The lead partner can also ask a copy of the procurement rules to ensure that they are in line with Annex III.

[69] Article 27 of General Conditions FPA NGO
[70] Article 25 of General conditions FPA NGO
[71] Article 27 of General conditions FPA NGO
[72] Article 21 of General conditions FPA NGO
[73] Article 6 of General conditions FPA NGO

In either case, the lead partner has the obligation to ensure that the implementing partners or consortium members apply the correct rules. It is considered good practice for the lead partner to ask to produce a procurement table to ensure both the correct application of the rules as well as the efficient co-ordination of procurement activities.

9.4.7 CHECKS

Respect of the procurement mandatory principles will be checked by ECHO during audits, either field or HQ audits.

The establishment of proper procedures for documentation of the procurement is the responsibility of the partner. The standard tender documentation and contractual instruments of the partner should include the necessary detail to show that it has duly performed its duties.

Where the Commission becomes aware, through an on-site audit or any other means that the partner's internal rules do not provide sufficient safeguards or procedures to ensure an adequate respect for Annex III, the Commission may make recommendations or it may request that the partner complements or replaces the procedures already in place. [74] Non-compliance with these recommendations may result in the termination of the Framework Partnership Agreement.

9.4.8 WHICH CONSEQUENCES IF THE ACTION DOES NOT COMPLY WITH THE ANNEX III?

The non-compliance with the Annex III may lead to considering the costs **ineligible** or may lead – depending on the seriousness of the breach – to **reducing** the EU financial contribution[75].

Costs may be declared **ineligible**[76] when:

- the procurement did not support the timely, efficient and effective achievement of the results;
- the contract does not offer the best value for money or the lowest price;
- the conditions concerning the visits, audits, checks and inspections are not guaranteed by the contractors.

EU financial contribution may be **reduced** when:

- Evidence is found of non-compliance with Annex III.

ECHO may also disallow related costs or reduce its contribution in case the procurement rules of the partner have not been followed and there is an absence of due authorisation and documentation for an

[74] Annex III, Article 1(c) FPA NGO

[75] See difference between disallowance and reduction in section 11.4.3

[76] Article 9.1 of the General Conditions FPA NGO

exception from the procurement rules of the partner. The decision to disallow or to reduce the contribution will depend on the nature of the non-respect of partner's rules.

In case of serious or repeated non-compliance, ECHO may also terminate the Specific Grant Agreement or even the FPA.

9.4.9 HUMANITARIAN AID PROCUREMENT CENTRES (HPCS)

Humanitarian Procurement Centres ("HPC") are not-for-profit organisations specialised in the technical and commercial management of supplies and services necessary for the implementation of humanitarian actions. They can provide technical assistance in procurement or supply pre-established stocks, purchasing or logistics capacity.

ECHO assesses those entities wishing to be recognised as HPCs in accordance with the set rules and procedures with the aim of ensuring that humanitarian supplies and services purchased using EU funds are of sufficient quality and procured according to certain principles and ethical standards.

Having regard to the type of services that they usually provide, HPCs can be:

- *Stockholding:* Certain HPCs hold stocks of supplies which they can make directly available to ECHO's partners;
- *Non-stockholding:* Other HPCs do not hold own stocks but purchase the supplies on behalf of the client. Such HPCs have often concluded framework contracts with suppliers; and/or
- *Service providing*: HPCs may also offer consultancy services regarding procurement. They may advise the organisation of tender procedures, custom clearance, quality assurance and the like. They may also organise procurement procedures for ECHO's partners but without purchasing on behalf of the client organisation.

A) WHAT ARE THE ADVANTAGES?

ECHO's partners have a number of advantages when procuring goods and services through HPCs:

- **Quality of the supplies is guaranteed and risks of buying counterfeit supplies reduced**: ECHO assesses the quality assurance provisions of the HPC on the basis of robust eligibility criteria, which are based on WHO MQAS. Other than these, the criteria for recognition as an HPC also include, amongst others, non-discriminatory sales and fair pricing methodology and policy (including all overheads & mark-ups), expertise in procurement and related activities, well-documented and fair procurement procedures, and adequate financial and administrative capacity.
- **Procurement procedures are simplified**, as ECHO's partners can use a single quote procedure to award the contract to an HPC. They pass orders to the HPC without recourse to competitive tendering or publication irrespective of the amount of the contract.
- **Procurement from any of the recognized HPCs fulfils the best value principle.** As ECHO has already assessed the HPC to ensure, among others, having a proper procurement in place, it is not needed nor wished that the partner is doing its own price comparison. Moreover, as the

HPCs are not for profit entities, extra work in answering to requests for offers would create unnecessary financial and administrative burden for the HPC, which may thus also increase the price of products.

In any case, the partner should exercise the necessary degree of care, efficiency and diligence with regard to monitoring the quality and timeliness of the supplies or services provided by an HPC. Indeed, quality problems may occur, e.g. during transport, and in such cases the partner remains responsible for the quality assurance.

B) WHO IS RECOGNISED AS AN HPC?

The online **HPC Register** provides a list of the organisations which currently benefit from the recognition by ECHO as HPCs as well as an indication of their main areas of activity and the countries to which they supply goods or services This Register does not entail any contractual relationship between ECHO and the HPC.

Depending on their areas of specialisation, the HPCs recognised by ECHO supply goods or services in one or more of the following areas: Pharmaceutical products & medical supplies; Medical devices & equipment; Prosthetic Technology; Veterinary; Food; Livelihood support; Water & Sanitation; Shelter & Non-Food items; Engineering, Radio and Telecommunications; Transport; Administration and Services.

	When service provided by an HPC falls below those expected, contact ECHO-Finance-Legal-affairs@ec.europa.eu
	For more information on HPC: http://dgecho-partners-helpdesk.eu/actions_implementation/procurement_in_humanitarian_aid/hpc