

General Guide

Regulations relating to engagement of International Non-Governmental Organizations in Welfare Projects of Nepal

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Overview:

This document prepared in the form of question and answer serve as a general guide on the engagement of International Non-Government Organizations (INGOs) in conducting the welfare projects in Nepal. This guide is structured into 4 key sections, covering headings namely.

- A. Introductory,
- B. Regulatory Framework,
- C. Operational Modalities,
- D. Taxation

The Introductory idea elucidates the concept of social welfare activities wherein the Regulatory Framework addresses the governing laws and authorities that oversee the welfare activities in Nepal.

Similarly, the Operational Modalities outlines the methods by which INGOs can execute welfare activities in Nepal and associated conditions. These methods include:

- (I) Funding Non-governmental Organizations (NGOs) in Nepal, and,
- (II) Executing Agreement with Social Welfare Council (SWC) and engaging with a local NGO.

The Taxation section delves into the tax implications on funds provided by INGOs, making it a general reference for individuals interested in INGO-led social welfare initiatives in Nepal.

A. Introductory

1. **What are social welfare activities?**

Activities oriented towards the economic and social upliftment of certain groups of society, undertaken without the objective of generating profit, are social welfare activities.

2. **What kind of organizations engage in social welfare activities?**

Organizations that work without the motive of making profit engage in social welfare activities such as non-governmental organizations (NGOs) and Company-not-distributing profit.

3. **What are Non-Governmental Organizations (NGOs)?**

NGOs are entities established within a country, operating independently of government influence, with a purpose to fulfil social and humanitarian needs.

4. **How are NGOs different from profit not distributing company?**

NGOs serve society, primarily sustaining themselves through donations and funding, while profit not distributing companies, such as social enterprises, address societal needs by generating revenue but without distributing its profits to its members.

5. **How do NGOs differ from International Non-Governmental Organizations (INGOs)**
NGOs serve at the local level whereas INGOs operate on a global level.
6. **What types of social welfare activities can an INGO engage in Nepal?**
INGOs can engage in nationwide development-focused welfare activities, which generally comprises of progress activities in marginalized regions and that focuses on women empowerment and child protection.
7. **What kind of activities are INGOs prohibited to engage in?**
INGOs are expressly prohibited from engaging in activities that could provoke social discord among Nepal's diverse religious communities and must refrain from actions that undermine the Nepal's sovereignty, integrity, and constitutional values.
8. **Can INGOs execute welfare projects independently in Nepal?**
No, INGOs are unable to independently initiate and execute welfare activities in Nepal. Instead, they require the collaboration of local NGOs and SWC to implement welfare projects.
9. **Can INGOs become a member of local NGOs to execute welfare projects in Nepal?**
No, INGOs are prohibited from becoming a member of the local NGOs and are also forbidden from representing in their executive committees.
10. **What kind of support can INGOs provide to execute welfare projects in Nepal?**
INGOs can provide financial and material assistance, including equipment and funding as needed, and engage in activities such as supervision of welfare projects in Nepal.

B. Regulatory Framework

11. Which laws govern the execution of social welfare activities?
Execution of social welfare activities are governed by the following laws:
 - a. Social Welfare Act, 2049 ["SWC Act"],
 - b. Social Welfare Regulations, 2049 ["SWC Regulations"],
 - c. Social Welfare Council-Foreign Aid Acceptance Directives, 2071 ["Foreign Aid Directives"],
 - d. Social Welfare Council- General Agreement Directives, 2071 ["GA Directives"],

- e. Social Welfare Council–Project Agreement Directives, 2071[“PA Directives”],
- f. Social Welfare Council–Monitoring and Evaluation Directives, 2071 [“Monitoring and Evaluation Directives”],
- g. Income Tax Act, 2058 [“Income Tax Act”].

12. Which agency oversees the matter of welfare activities?

Social Welfare Council (“SWC”) oversees the matters pertaining to welfare activities in Nepal.

C. Operational Modalities

13. How can INGOs collaborate with local NGOs and SWC to execute welfare initiatives in Nepal?

Two approaches are available for such collaboration, namely:

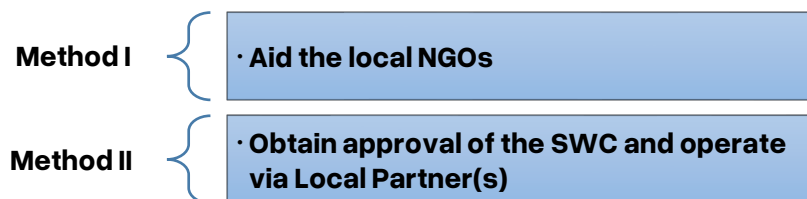


Illustration : Collaborative methods of INGOs for welfare project implementation

Method I: Aid the local NGOs.

14. Which local NGOs can INGOs assist to execute welfare projects?

INGOs can assist local NGOs that have received an affiliation from the SWC.

15. What kind of assistance can INGOs provide to local NGOs?

As previously discussed in question 8, INGOs can provide various forms of assistance to local NGOs, including material, technical, financial, or other support as required.

16. Do INGOs require approval of the SWC to provide direct assistance to local NGOs?

No, while INGOs do not need SWC approval to provide assistance, local NGOs receiving such assistance from INGOs require prior SWC approval.

17. Is it obligatory for local NGOs to secure prior approval from SWC for all projects they receive assistance from INGOs?

Generally, yes. But there are two exceptions to this rule:

Firstly, if INGOs assistance for a project doesn't exceed NRs 200,000 and is to be implemented immediately, SWCs approval isn't required. However, it is necessary to inform the SWC regarding it and also submit a report to SWC within three (3) months after project completion.

Secondly, emergency relief services provided by INGOs established under international agreements involving Nepal government do not mandate prior authorization from SWC but require notification to the SWC upon receipt of the assistance.

18. How do INGOs provide material and financial aid to local NGOs?

Material assistance is typically provided through equipment imports while financial aid is channeled by transferring funds to a commercial bank operating in Nepal.

19. Material assistance is typically provided through equipment imports while financial aid is channeled by transferring funds to a commercial bank operating in Nepal.

20. Are Service fees applicable for Projects under Method I?

Yes, service fees are applicable for projects under Method 1. Herein, Local NGOs are required to provide service fees to the SWC when executing projects under this method wherein such fees are dependent on the total project budget. The fees applicable are as follows:

Project Budget Range	Service Fees (NRs)
10 Million NRs to 100 Million NRs	600,000 NRs
100 Million NRs to 200 Million NRs	850,000 NRs
200 Million NRs to 300 Million NRs	1,025,000 NRs
300 Million NRs to 400 Million NRs	1,200,000 NRs
400 Million NRs to 500 Million NRs	1,375,000 NRs
Above the threshold of 500 Million NRs	1,500,000 NRs

Method II: Obtain approval of the SWC and operate via Local Partners

21. How does Method I differ from Method II?

Method I entails no direct involvement of INGOs, thus exempting them from SWC approval and reporting obligations. In contrast, Method II involves INGOs direct engagement with SWC and Local Partners through agreements to execute projects.

22. **What procedures are involved in Method II?**

The steps involved in Method II are illustrated below:

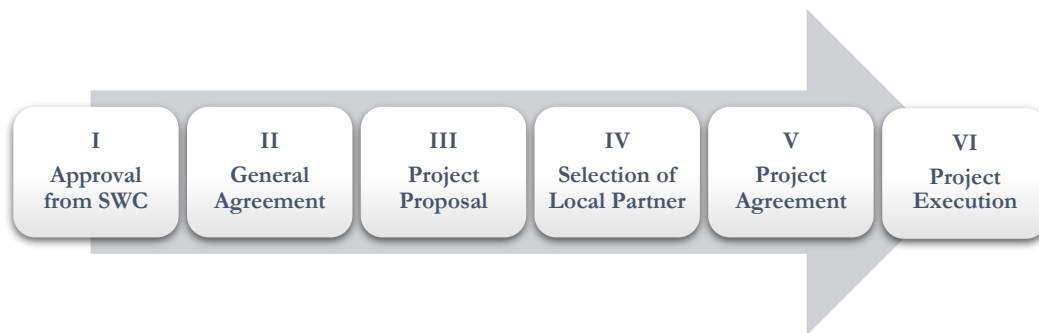


Illustration: Procedural steps for Method II

Step One: Approval from SWC

23. **How to obtain approval from the SWC?**

INGOs can obtain approval from SWC by submitting an application to SWC.

24. **What steps are to be taken after the submission of application?**

SWC reviews the application and may request clarifications if needed for which INGOs are responsible for providing the requested clarifications timely.

25. **How long does SWC take to grant approval for upon evaluation of application?**

The SWC grants approval within three (3) months of application submission.

Step Two: General Agreement

26. **What is a General Agreement?**

The General Agreement is a bilateral agreement that forms the foundation for the operation of the projects initiated and executed by INGOs in Nepal.

27. **Who are the parties to the General Agreement?**

The SWC and INGOs are the parties to the General Agreement.

28. **What documents must be submitted to the SWC for the General Agreement?**

The required documents to be submitted to the SWC include the following:

1. Certificate of Registration of the INGO in its home country,
2. Approved By-Laws (Constitution) of the INGO,
3. Minimum Financial Commitment,

4. Concept paper detailing organizational history,
5. Draft of the General Agreement,
6. Letter of Authorization for agreement execution,
7. Copy of authorized person's Citizenship/Passport and Biodata,
8. Declaration of reliable funding source and donor information,
9. Cover Letter.

29. Are any fees applicable when entering into General Agreement?

Yes, INGOs are required to submit service fees of USD 1,000 to the SWC when entering into the General Agreement.

30. What are the contents covered by the General Agreement?

The top-five contents outlined in the General Agreement are iterated as follows:



❖ **Financial commitment**

31. Is there a minimum annual financial commitment required for INGOs to implement projects through Method II?

Yes, INGOs must commit at least USD 200,000 per year.

❖ **Bank Account**

32. Where are the finances provided by INGOs maintained?

Finances provided by INGOs are to be maintained by establishing a central bank account within any commercial bank of Nepal.

33. How do transactions of INGOs funds take place?

INGOs transfer funds to the central account of Nepal using the normal banking channel or alternatively using international banking.

34. Is any kind of assistance provided to INGOs by SWC to open a bank account?

Yes, SWC recommends the authorized bodies for the establishment of central account.

❖ **Representation Office(s)**

35. What is a Representation Office?

Representation Office is established by the parent institution to conduct non-transactional operations and represent it's interests in a specific location.

36. How is a Representation office different from branch office or subsidiary offices?

Representative offices, being part of the parent office, cannot enter agreements independently and have limited capacity in project involvement.

37. Are INGOs mandated to establish Representation Offices for the execution of project in Nepal?

Yes, INGOs are required to set up a Representation Office in Nepal after the conclusion of the General Agreement. Additionally, this office must undergo registration with the tax authority of Nepal and has to obtain a permanent account number (PAN) registration certificate as per regulatory requirements.

38. What is the purpose of Representation Offices?

Representation Offices are established to perform the illustrated activities:

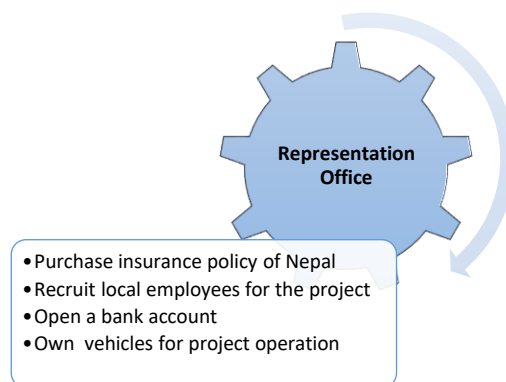


Illustration: Some activities performed by Representation Offices

❖ Reporting and Auditing Obligations

39. What are the reporting obligations that INGOs must fulfill to the SWC?

INGOs are required to comply with the following reporting obligations:

Report Type (Nepali Fiscal Year)	Particulars	AUTHORITY
Quarterly report	Report of its activities carried out for the Project	SWC
Annual Report	Report on the status and progress of the Project implemented and associated costs in the standard format prescribed	
The fiscal year in Nepal generally commences from July 16 and ends on July 15 of the following year.		

Illustration: Reporting obligations of INGOs

40. What kind of auditing obligations should INGOs comply with?

INGOs are required to have its accounts for operations in Nepal audited by an auditor registered with the Institute of Chartered Accountants of Nepal (**ACAN**) at the end of each fiscal year of Nepal.

41. When should the Audit report be submitted to the SWC?

The audit report is to be submitted to the SWC within three (3) months of expiry of each fiscal year.

❖ Renewal Requirements

42. What is the validity period of the General Agreement?

The validity depends on a case-to-case basis. Nevertheless, the terms of such agreements remain valid for a minimum of three (3) years and maximum of five (5) years.

43. Which agency renews the General Agreement?

The SWC renews the General Agreement once the following documents have been submitted.

- By-Laws (Approved Constitution) of the INGO,
- Evaluation Report,
- Commitment letter to work on the issues identified in the evaluation report,
- General Agreement Draft,
- Annual Financial Commitment letter,
- Progress Report,
- Concept notes of new Projects.

44. When should the General Agreement be renewed?

The renewal request should be submitted to the SWC at least ninety (90) days before the expiration of the term of the General Agreement.

45. What is the renewal fee for General Agreement?

A fee worth 500 USD is required to be paid to the SWC for General Agreements renewal.

46. What are the consequences for non-compliance of renewal obligations?

The charges for renewal within one year of the elapsed General Agreement amount to 1000 USD along with an additional 500 USD for renewal.

47. Can the General Agreement be terminated?

Yes, the General Agreement can be terminated upon serving prior notice of six (6) months to the SWC.

Step Three: Project Proposal

48. What is a Project Proposal?

A Project Proposal is a document specifying the scope, advantages, and methodologies of execution of the project.

49. By when should INGOs submit the Project Proposal to the SWC?

INGOs must submit a Project proposal to the SWC within three (3) months of the signing of the General Agreement.

50. What happens if the INGOs are not able to submit the Project Proposal within the expected timeframe?

In such circumstances, INGOs have the option to request for an extension from the SWC specifying appropriate reasons wherein upon approval from the SWC, INGOs may get an extension for up to extra three (3) months.

51. What happens if the INGOs do not submit the Project Proposal in the extended timeline?

In this case, INGOs will be liable to pay late fee charges as outlined below.

S.N.	Time frame	Late fee Charges
1	Within six months of the lapsed time period	NRs worth 500 USD
2	After six months of the lapsed time period	NRs worth 1000 USD

52. Within what time frame will the Project proposal be approved?

The SWC generally grants approval for the Project proposal within forty-five (45) business days of its submission.

53. Are any other documents required to be submitted except the project proposal in this stage?

In addition to the project proposal, an approval letter from the local government where the project is to be completed is required to be submitted to the SWC.

Step four: Local Partners

54. What is the next step taken after the Project proposal has been approved by the SWC?

The next step is to select Local Partners to implement the Project.

55. Who are Local Partners?

Local Partners are SWC affiliated local NGOs or company-not-distributing profit operating in Nepal.

56. Who selects Local Partners?

INGOs select Local Partners in accordance with the guidelines outlined by law.

57. Is there a priority order for selecting Local Partners?

Yes, there is a priority order for selecting Local Partners. Firstly, preference is to be given to local NGOs operating in the project area. If no suitable local NGOs are available in the area, preference shifts to local NGOs operating in nearby areas, and if necessary, to competent local NGOs operating within the province.

Step five: Project Agreement

58. What is a Project Agreement?

A Project Agreement outlines the roles of responsibilities of the Parties to execute the project.

59. Who are the Parties to the Project Agreement?

The Project Agreement is tripartite agreement entered between the INGO, SWC and the Local Partner.

60. How is a Project Agreement entered into if there is more than one Local Partner?
In this case, firstly the Project Agreement is entered between INGO and the SWC only wherein the INGO then enters into other agreements with Local Partners separately.

61. Do parties need a different General Agreement for each Project Agreement?
No, parties may, at their discretion, enter into multiple Project Agreements under the same General Agreement.

62. What are the contents covered by the Project Agreement?
The **3 major contents** covered by the Project Agreement are illustrated as follows:

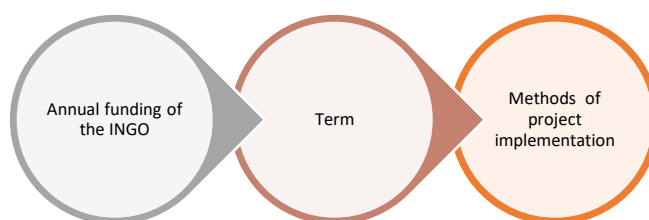


Illustration: Major contents covered by the Project Agreement

❖ Annual funding of the INGO

63. Can the annual funding of the INGO be amended?
Yes, the budgeted amount of the project agreement can be amended, but not more than 20% of the initially agreed budget, as the amendment cannot exceed NRs 10,00,00,000 (10 crores).

64. What are the charges applicable to the INGO for Project Agreement?
The following charges are charged to INGOs by the SWC for the Project Agreement.

Project Worth	Charges
10 Million NRs to 100 Million NRs	600,000 NRs
100 Million NRs to 200 Million NRs	850,000 NRs
200 Million NRs to 300 Million NRs	1,025,000 NRs
300 Million NRs to 400 Million NRs	1,200,000 NRs
400 Million NRs to 500 Million NRs	1,375,000 NRs
Above the threshold of 500 Million NRs	1,500,000 NRs

65. How are finances provided by the INGO typically allocated?

The budget allocation of project agreement should ensure that administrative costs do not surpass twenty (20) percent of total budget, allowing eighty (80%) percent of total budget solely for project implementation.

66. What kinds of administrative costs can be anticipated for the project implementation?

The anticipated administrative costs for the project include salaries, representation office rent, utilities, and other overhead expenses associated with operation of the project.

67. Are the salaries and benefits of INGOs representatives/employees part of administrative costs?

No, salaries and benefits of INGOs representatives are not part of administrative costs. These costs specifically pertain to the salaries and benefits of local employees engaged in the project.

68. Can the finances be reclaimed by INGOs if they are not utilized?

No, if the funds provided by INGOs have not been utilized even after the completion of project, INGOs can not take back such funds and are required to reinvest the funds in Nepal.

❖ **Term**

69. How is the term of the Project Agreement determined?

The term of the Project Agreement is determined based on the nature and size of the project.

70. Can the Project Agreement term be amended? If so, how many times?

The amendment of the term varies on the project timeframe as outlined below:

Project Timeframe	Maximum Number of Amendments
Less than 3 years	1
More than 3 years	2
No-cost extension projects	1 additional time

❖ Methods of project implementation

71. What comprises of methods of project implementation?

Project implementation methods include defining the roles and responsibilities of project personnel and applying various techniques for its effective implementation.

Step Six : Project Execution

72. Can representatives of INGOs participate in project implementation?

Yes, INGO representatives can participate in project implementation as experts by obtaining **work permit** from the SWC. However, they are prohibited from joining the working committee, management committee, or becoming general members of the Local Partner.

73. What are the qualification requirements for such INGOs representative?

The minimum qualification requirements are as follows:



Illustration : Qualification of INGOs representatives

74. Can INGOs representatives assist for project implementation on tourist visa?

No, they are required to get non tourist visas under the recommendation of SWC.

75. Who all are eligible to receive non tourist visa recommendation?

INGOs representative along with their families are eligible to receive visa recommendation from the SWC.

76. What is the process to obtain visa recommendation and work permit from SWC?

The following documents are to be submitted to the SWC for such recommendations:

INGOs representatives	
S.N.	Non-tourist visa
1.	Biodata and educational qualification certificate
2.	Copy of Experience Certificate
3.	Appointment letter specifying the position and timeframe of work
4.	Visa form and work permit form
5.	General Agreement and Project Agreement
6.	Application
INGOs Representatives family	
1.	Marriage and Birth certificate
2.	2 Photos and Passports copy

77. When does the SWC provide visa recommendations and work permits?

SWC typically provides these recommendations and approvals after the Project Agreement is finalized. However, they can be granted before the Project Agreement, but only for a maximum duration of three (3) months.

78. For what timeframe will the non-tourist visas be granted?

Non-tourist visas will be granted for approximately one (1) year. In the event SWC requires to recommend renewal of the visa, an additional **progress report** of the project is required to be submitted by the INGOs.

79. Under what circumstances can such visas be cancelled?

If INGOs representatives violate the terms of the Agreement, the SWC can request authorized bodies to cancel such visas or refrain from renewing the visas provided.

80. What happens if INGOs breach the terms of the Agreement?

There are two possible circumstances of such non-compliance for the INGOs as illustrated below:

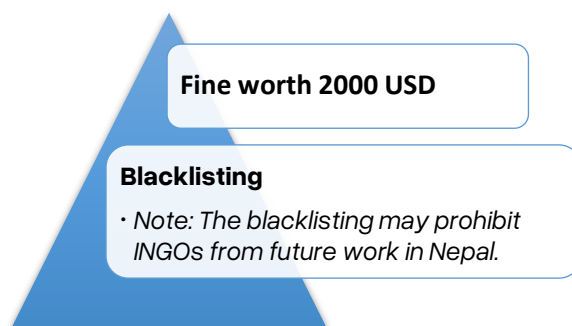


Illustration : Non-compliance to terms of the Agreement

D. Taxation

81. Are donations received from INGOs taxed?

No, donations, material gifts along with finances received by the local NGOs are not subject to taxation if the receiving entity has obtained tax exemption certificate.

82. What is the process to receive tax exemption for donations?

To qualify for tax exemption, the following documents must be submitted to the SWC. Upon receipt of documents, the SWC recommends the Inland Revenue Department (IRD) for tax exemption.

S.N.	General Documentations	
1	Agreement copies	
2	Donation letter and invoice	
3	Relevant provisions of the law allowing such exemption	
4	Executive committees decision of local NGOs to receive such donation.	
5	Equipment list and picture of the Equipment	Customs Duty exemption
6	Details on the use of such Equipment	

83. What is the approximate duration for the completion of the recommendation process?

Once the documents have been submitted, it takes approximately around 5–7 days to for the process of recommendation to complete.

84. What steps are taken by the authorized institution after receiving a recommendation from the SWC for tax exemption?

Following the recommendation, the IRD assesses the submitted documents to determine eligibility. If deemed eligible, then IRD issues a tax exemption certificate to the local NGOs.

85. Are there any additional obligations upon receipt of tax exemption?

Yes, upon receiving tax exemptions, the local NGOs must submit the relevant documentation to the SWC.

Disclaimer

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