

GSC annual meetings 2022 – Open Space Session

6th July 2022



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

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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 & contractor sector , mainly through **forms of contract for construction.**

Supported by:



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Swiss Agency for Development
and Cooperation SDC



Global Shelter Cluster
ShelterCluster.org
Coordinating Humanitarian Shelter



ICRC



LALIVE

Issues to address

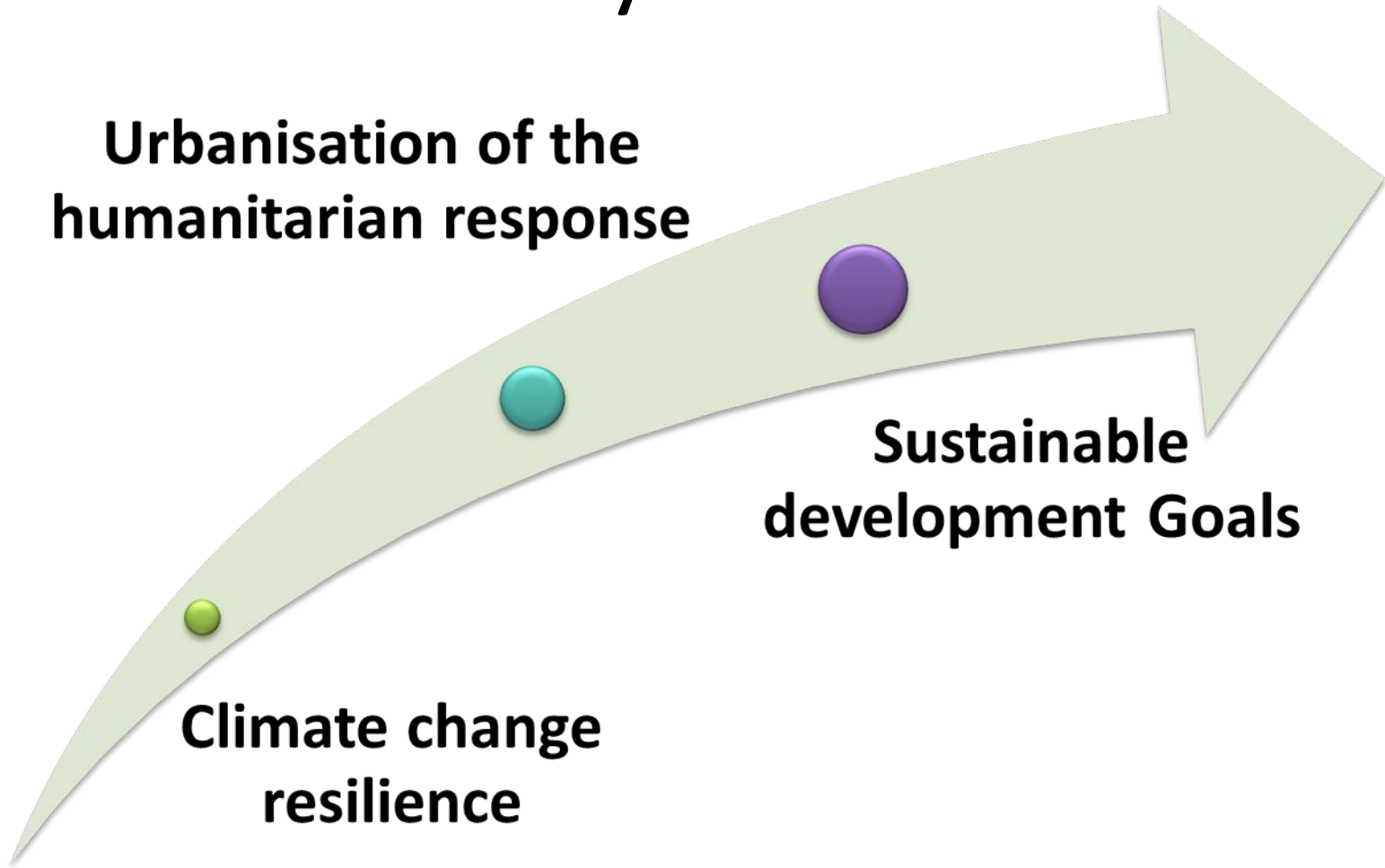
- No harmonized construction contract for the humanitarian sector
 - ⇒ Unbalanced allocation of risk
 - ⇒ Legal/ Liability gaps
 - ⇒ Impact on program quality
 - ⇒ No consolidation of best practices
 - ⇒ No capacity building
- Issues in Private sector engagement
 - ⇒ Poor visibility on humanitarian procurement 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



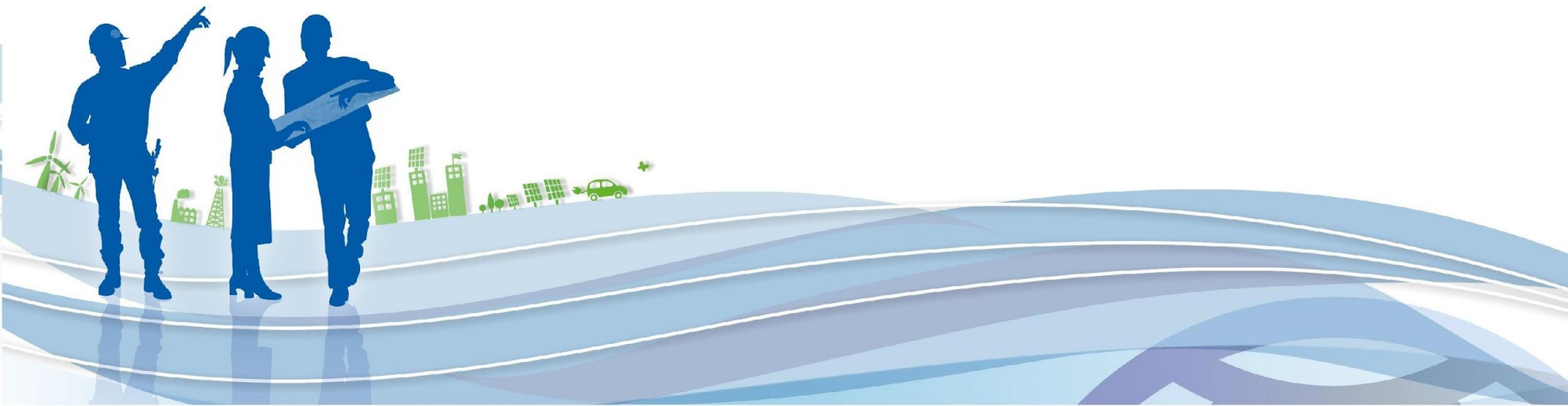
Who? Partnership Goals

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



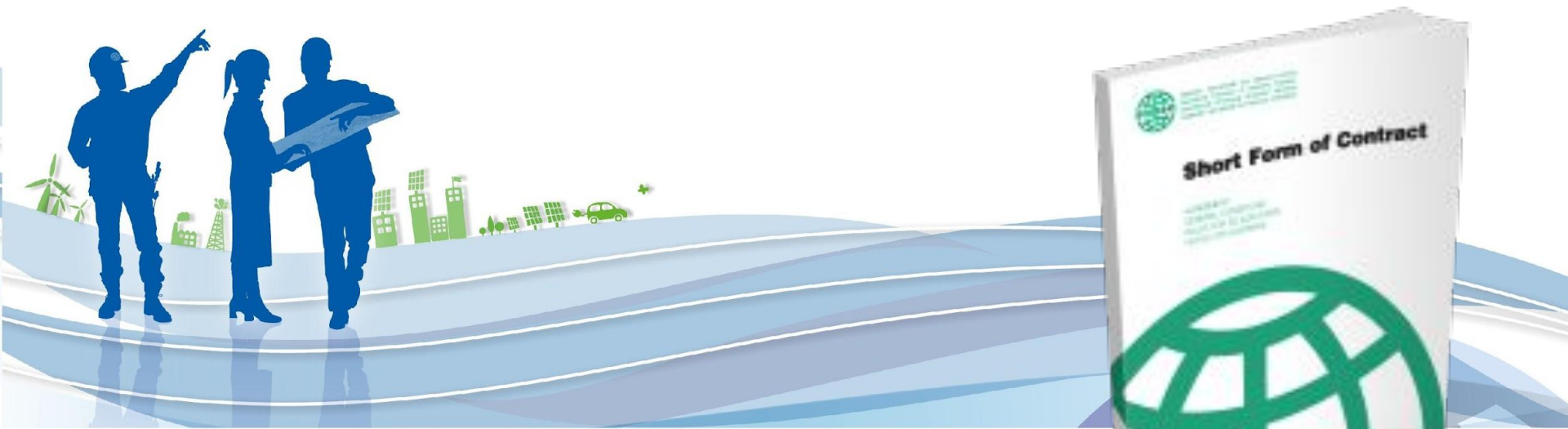
Partnership Goals

- ✓ 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



D

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.

FIDIC Green Book: <https://fidic.org/books/short-form-contract-1st-ed-1999-green-book>

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

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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.



Life-Cycle Cost



Impact on Project Success



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



STRAIGHTFORWARD PROJECT

Yes



DISCUSS IN DETAIL

Employer's requirements
with the contractor,
and negotiate a modified
FIDIC Contract

No

EMPLOYER DESIGN

Yes

No



Fixed price - lump sum
Little employer involvement
No major unforeseen risks

No

CONTRACTOR DESIGN
Plant and/or high
unforeseen risks

Yes

Maintenance

Yes

No



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?



Contractor's risks



**RED
BOOK**

**YELLOW
BOOK**

**SILVER
BOOK**

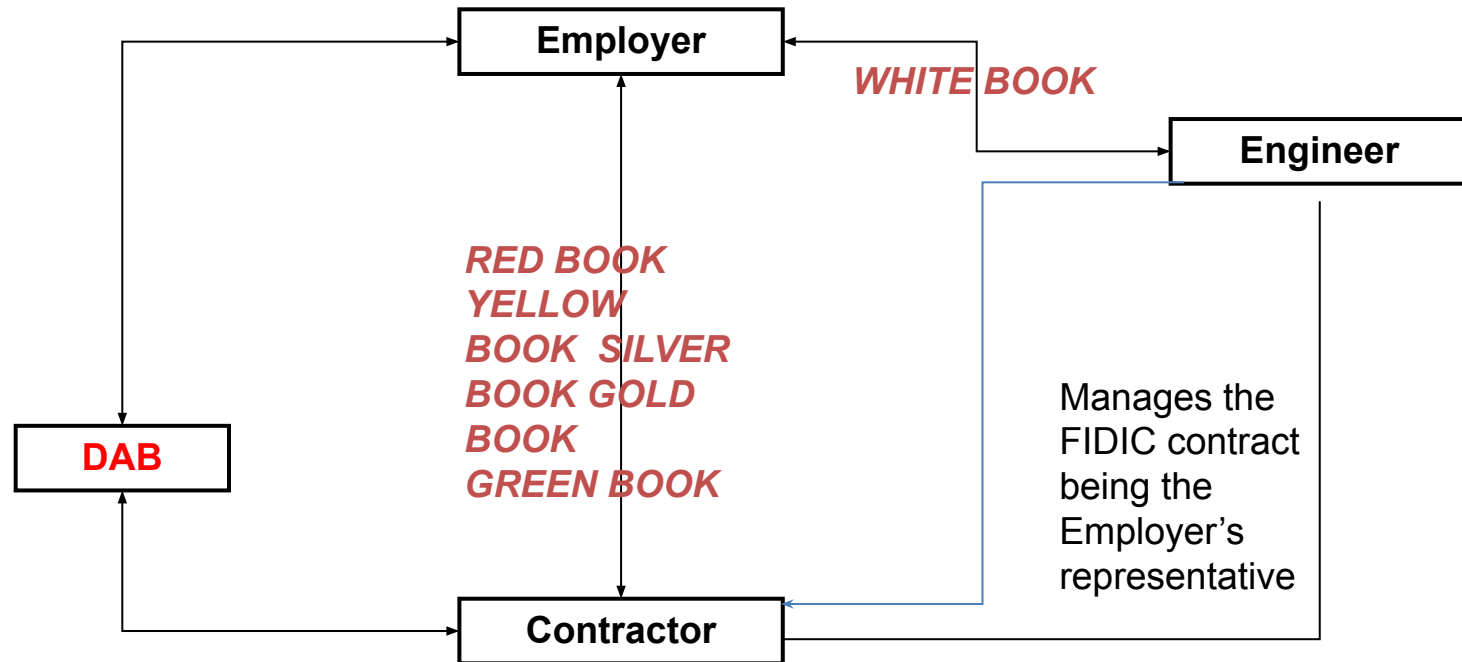
Project cost



Employer's risks

**Employer design
ownership**

Responsibilities of the Parties







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



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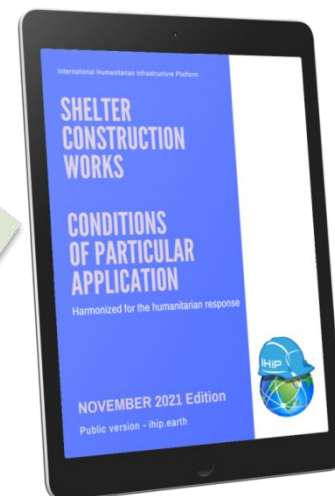
**Survey to Shelter
sector members**

Dec 20 / March 21

**Conditions Of Particular
Application COPA**

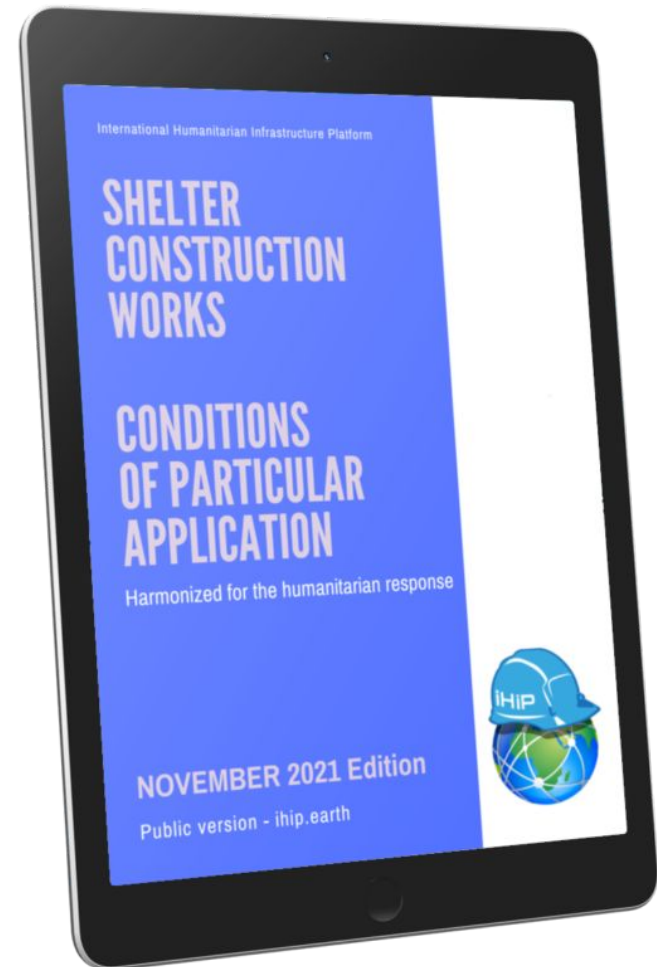
Nov2021

**IHIP Shelter Contract
Committee - Dec 2020**



IHIP SHELTER CONTRACT COMMITTEE

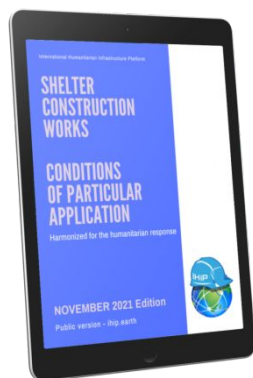
- Ammar Al-Mahdawi , Senior Technical Shelter Officer - UNHCR
- François Baillon, Managing Director – IHIP
- Kitty Villani-Cohen, International Consultant – Vice Chair FIDIC IFI Committee & Member of DRBF
- Richard Dewhurst, Doctoral Researcher - Loughborough University
- Philipp Huebner, Construction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





Conditions of Particular Application to FIDIC SHORT FORM of Contract for Shelter Construction Works – NOVEMBER 2021 Public Edition

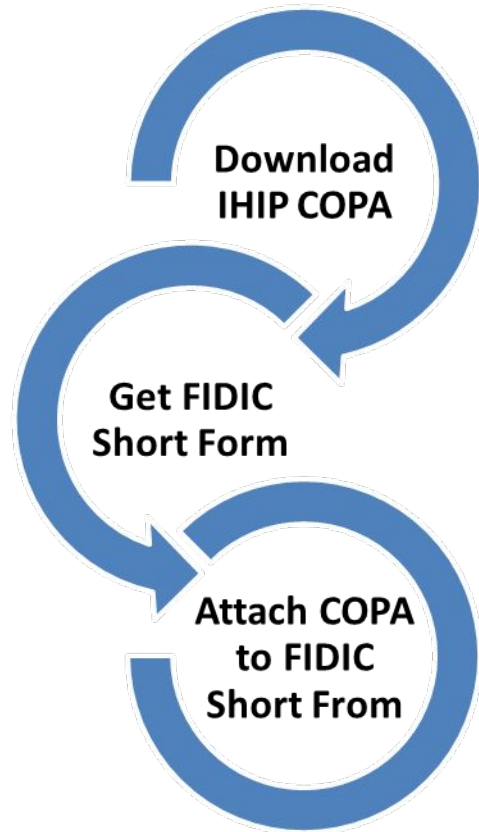
26 IMPROVEMENTS in Conditions of Particular Applications of Contract for Shelter Construction Works				
	Employer friendly	Contractor friendly	Humanitarian Specific	Shelter Specific
BETTER CONTRACT MANAGEMENT (9 improvements)	5	5	6	
IMPROVED RISK ALLOCATION (10 improvements)	6	3	9	5
IMPROVED PROCUREMENT (7 improvements)	4	4	5	



Get your copy:

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.

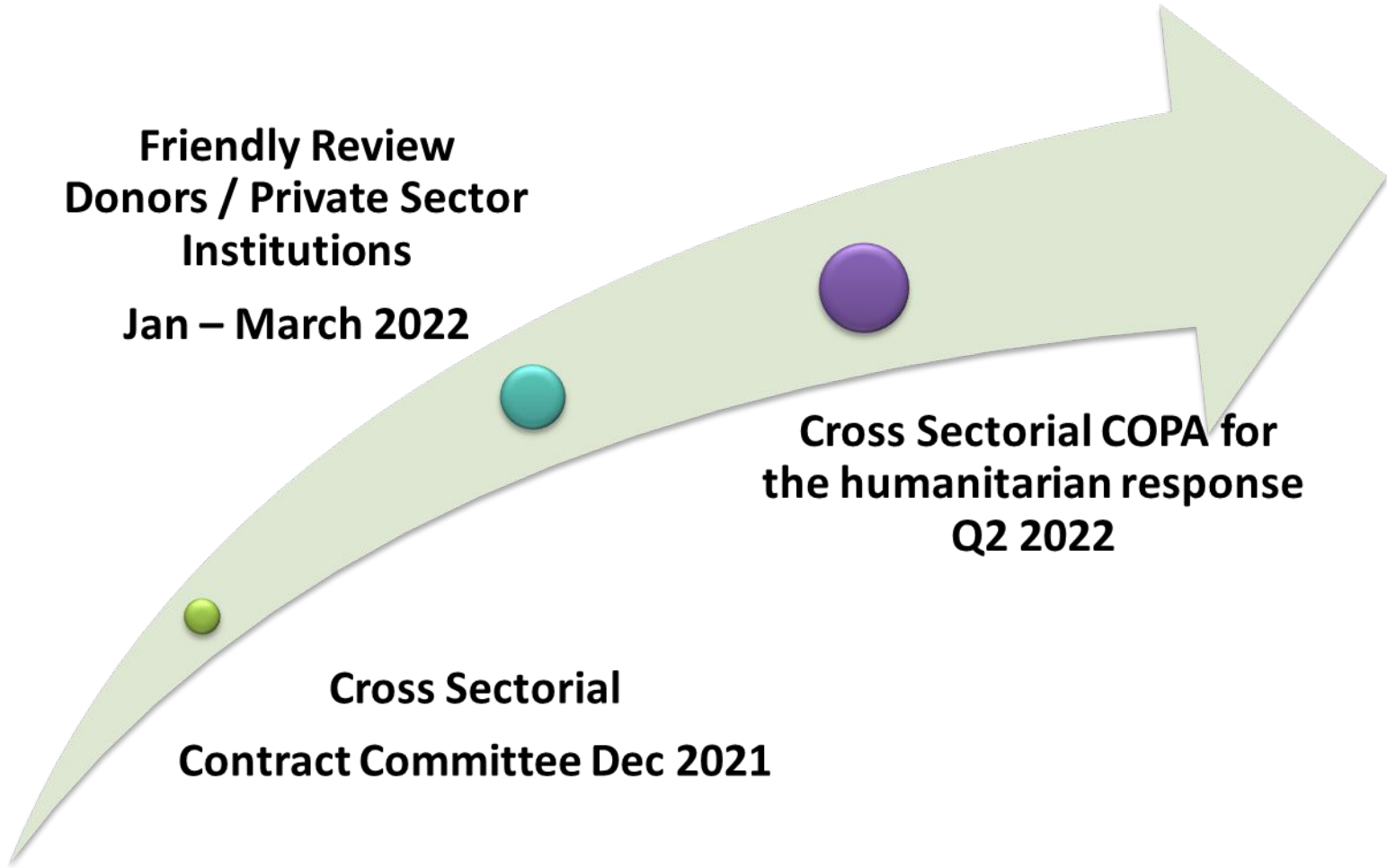
Current: WASH + SHELTER

**Friendly Review
Donors / Private Sector
Institutions**

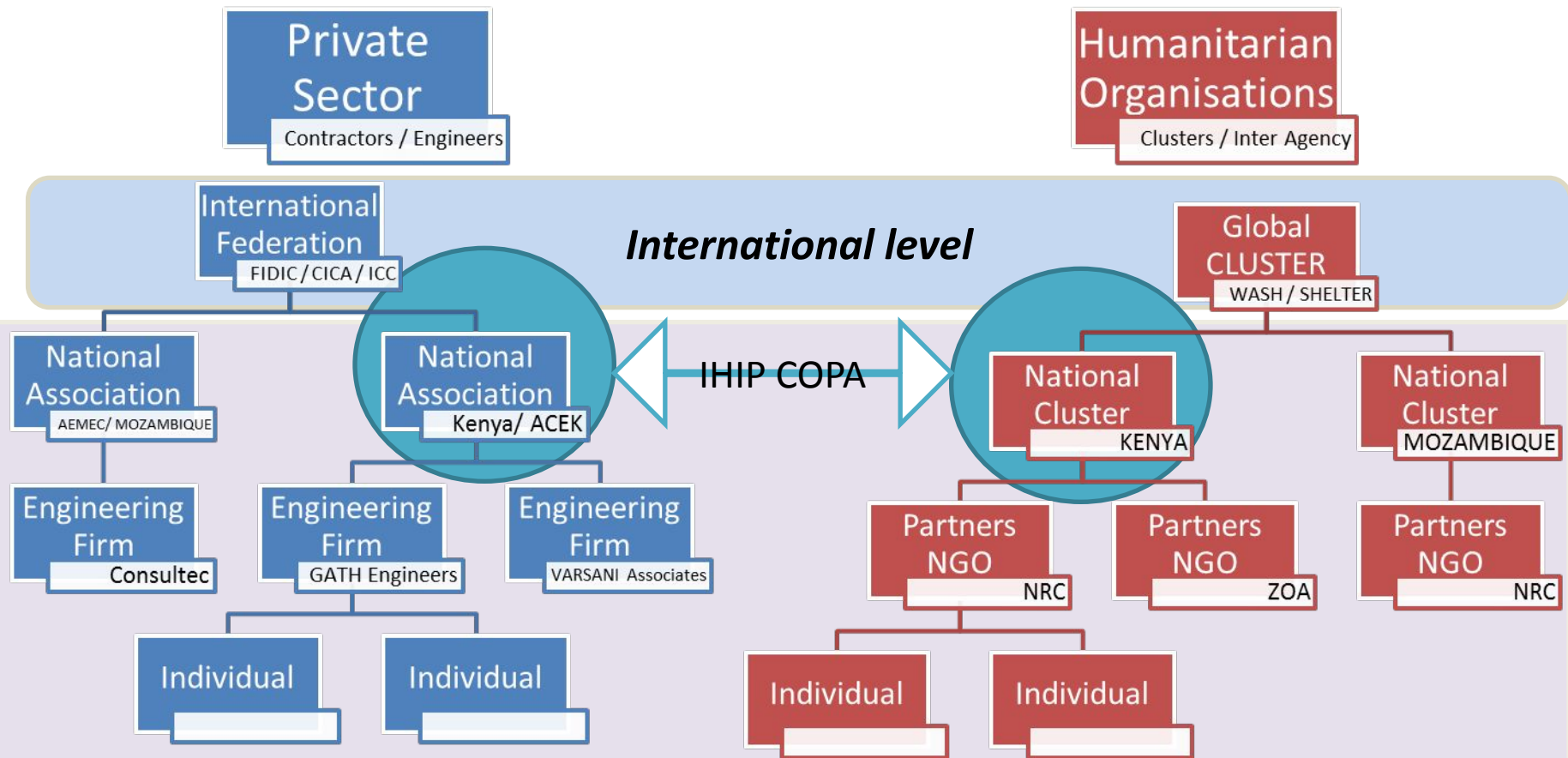
Jan – March 2022

**Cross Sectorial COPA for
the humanitarian response
Q2 2022**

**Cross Sectorial
Contract Committee Dec 2021**

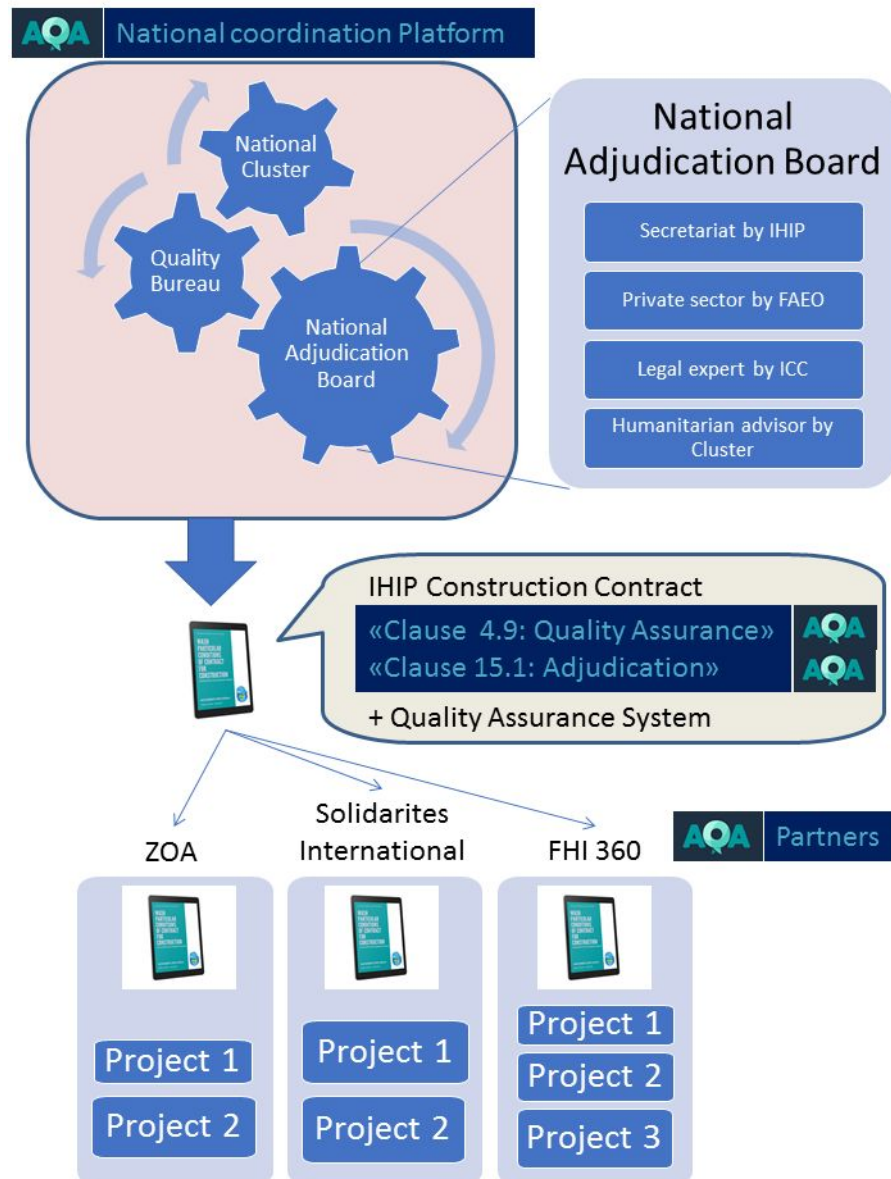


ACTING AT THE COUNTRY LEVEL: National Clusters / National Associations



Country level

Wash roadmap 1.4: Accountability and Quality Approach



Call to action for pilot projects



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



Call to Action

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

www.ihip.earth

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.

Thank you!

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www.IHIP.earth

