



African Flight Procedure Programme

FIFTH STEERING COMMITTEE MEETING OF THE AFRICAN FLIGHT PROCEDURE PROGRAMME (AFPP)

Dakar, Senegal, 6 to 8 February 2019

Agenda Item 6: Agreements for the delivery of services through the African Flight Procedure Programme (AFPP)

(Presented by TCB)

EXECUTIVE SUMMARY

In the recent past, the African Flight Procedure Programme (AFPP) Manager has received an increasing number of requests from project members for the signature of agreements for the delivery of services by the programme. This paper provides background information on the applicable ICAO *Policy on Interactions with External Parties* and presents options for the way forward.

Action: the steering committee is invited to decide how the agreements for the services delivered by the AFPP should be implemented, i.e. whether:

- a) The AFPP project document for Phase II should be amended to include generic provisions for such services;
- b) Individual agreements are developed as defined in the ICAO Policy on Interactions with External Parties; or
- c) ICAO should consult internally in order to obtain more information about the financial implications of developing dedicated project documents for each service to be delivered.

REFERENCES

ICAO *Policy on Interactions with External Parties*

AFPP-SC/5-WP/7 (Review of the AFPP project document for Phase II)

1. INTRODUCTION

1.1 As per section 2.2 of the project document for Phase I of the African Flight Procedure Programme (AFPP), specific services are delivered to project members on a cost-recovery basis. Such services include the delivery of training and workshops, assistance with the development of Procedure-based Navigation (PBN) regulations, assistance with ground and flight validation, development of flight procedures, etc.

1.2 The AFPP Manager has received several requests from project members to sign agreements for such assistance activities.

1.3 This paper provides information on the applicable ICAO *Policy on Interactions with External Parties* and reviews the different options for the development of agreements for the delivery of services through the AFPP.

2. DISCUSSION

2.1 ICAO *Policy on Interactions with External Parties*

2.1.1 The ICAO *Policy on Interactions with External Parties*¹ (“the Policy”) was developed in response to a request by the 38th Session of the Assembly that the Organization develop and adopt guidelines and policies for interactions with external parties in the form of memoranda of understanding (MOUs), agreements, recognitions and similar arrangements.

2.1.2 The Policy establishes rules and procedures for the routing, approval and signature of all types of cooperative arrangements, providing clarity of procedure and assurance to the arrangement signatory. It also establishes an ad hoc Committee on Cooperation with External Parties (CCEP) tasked with reviewing proposals for cooperative arrangements, and with making recommendations as to the appropriate approval and signatory authorities² in ICAO.

2.1.3 Subject to the exemptions of the Policy, the CCEP reviews all proposed interactions with external parties (e.g. between ICAO and States, international organizations, industry and academia). The review process focuses on whether the terms of the proposed relationship with external parties are aligned with the core values and principles contained in the Policy.

2.1.4 The above-mentioned exemptions of the Policy include Civil Aviation Purchasing Services (CAPS) Agreements, Management Service Agreements (MSAs), Trust Fund Agreements, and Project Documents that are originated by the Technical Cooperation Bureau (TCB).

2.1.5 The procedure for routing and processing memoranda of understanding (MOUs) and similar arrangements entered into between ICAO and third parties (e.g. States, international organizations, industry and academia) is outlined in Appendix 1.

2.2 Options for the development of agreements

2.2.1 Based on the provisions of the ICAO *Policy on Interactions with External Parties* and its exemptions, there are three options for Member States to enter into an agreement with ICAO for the delivery of services through the African Flight Procedure Programme (AFPP):

- a) Through a memorandum of understanding or similar arrangement (which is subject to the ICAO *Policy on Interactions with External Parties* and the corresponding procedure for routing and processing related documents); or
- b) Through a project document (which is subject to TCB’s applicable procedures), i.e.
 - 1) Either a dedicated project document for each activity to be delivered; or

¹ The document was initially called the ICAO *Policy on Interactions with Third Parties*. In 2017, it was renamed to ICAO *Policy on Interactions with External Parties*.

² The signatory authorities for agreements with external parties are the Secretary General and the President of the Council.

- 2) Generic provisions applicable to all project members included in a common project document such as the AFPP project document for Phase II (see AFPP-SC/5-WP/7).

2.2.2 The main characteristics of these three options are compared in Appendix 2.

2.2.3 Given the various implications of each option, it is preferable to include generic provisions in the AFPP project document for Phase II. The main advantage is the proper management of the agreement and the related funds: all expenditures related to the AFPP will be recorded in the same account, which will also receive the payments for the cost-recovery.

2.2.4 If the preferred option described in section 2.2.3 au-dessus cannot be implemented by the project members, the two other options may be further explored. There are however associated risks:

- a) The process until the signature of MOUs or similar agreements may take a significant amount of time and result in challenges for the administrative and financial management; and
- b) The development of separate project documents may result in challenges with regard to the management of the payments for the individual projects.

3. CONCLUSION

3.1 There are several possibilities to formalize agreements with project members for services to be delivered by the AFPP. These can be either based on the ICAO *Policy on Interactions with External Parties* or on the standard documents used by the TCB. In order to ensure proper financial management and to take advantage of a well-established and proven framework, ICAO recommends that general provisions be included in the AFPP project document for Phase II. These provisions could for example state that:

ICAO provides services defined in section *ABC* at the request of project members on a cost-recovery basis. The applicable fees and the payment schedule are agreed between the AFPP Manager and the project member via exchange of letters or e-mails, and corresponding payment requests will be issued by ICAO.

3.2 If such provisions do not meet the project members' needs, the second best option is to develop individual agreements based on the ICAO *Policy on Interactions with External Parties*. Despite the risk of extended timelines and different agreements, the financial management would fit within the established framework.

3.3 As a last option, the development of individual project documents can be considered, however this would require internal consultations by ICAO to confirm if the approach is financially/administratively feasible.

3.4 In light of the above, the steering committee is invited to decide how the agreements for the services delivered by the AFPP should be implemented, i.e. whether:

- a) The AFPP project document for Phase II should be amended to include generic provisions for such services;
- b) Individual agreements are developed as defined in the ICAO *Policy on Interactions with External Parties*; or
- c) ICAO should consult internally in order to obtain more information about the financial implications of developing dedicated project documents for each service to be delivered.

APPENDIX 1

PROCEDURE FOR ROUTING AND PROCESSING MEMORANDA OF UNDERSTANDING (MOUS) AND SIMILAR ARRANGEMENTS

1. The steps of the procedure are given below:
 - a) The initiator, i.e. the Bureau/Office initiating the memorandum of understanding (MOU) or similar arrangement, negotiates the terms and conditions with the other party, ensuring that coordination with other relevant Bureaus/Offices (e.g. FIN, HR, ICT) takes place. Once the terms and conditions have been agreed to by all the parties concerned, the draft MOU or similar arrangement is submitted to the Legal Affairs and External Relations Bureau (LEB) for review;
 - b) Proposed arrangements that have been duly coordinated with other relevant Bureaus/Offices and cleared by LEB, should be submitted to the Committee on Cooperation with External Parties (CCEP);
 - c) Normally, the CCEP meets once per week, or as necessary, to consider matters referred to it. Submissions that are received by close of business on Friday will be considered by the CCEP on the following Wednesday;
 - d) The initial draft of CCEP reports prepared by the Secretary of CCEP is to be sent to the Secretary General for preliminary review and clearance. Once Secretary General's comments and/or clearance are communicated to the Secretary, the draft report is to be submitted to the Chairperson for approval;
 - e) The report as approved by the Chairperson is transmitted to the President of the Council through the Secretary General for decision;
 - f) Normally a decision of the President of the Council can be expected within seven working days of the CCEP meeting. The Secretary of CCEP will forward a copy of the decision to the initiators; and
 - g) Initiators shall arrange the signature of approved arrangements in coordination with the Office of the President of the Council or Office of the Secretary General, as appropriate.

APPENDIX 2

REVIEW OF THE OPTIONS FOR AGREEMENTS FOR THE DELIVERY OF SERVICES THROUGH THE AFPP

1. The table below provides an overview of the main characteristics of the three options for agreements for the delivery of services through the AFPP.

Agreement type	Document format and content	Time for initial development, including review by LEB	Time for signature after review by LEB	Administrative procedures for fund management
MOU or similar arrangement	Non-standard, may depend on or be provided by external party and is likely to be different for each activity.	Might be long and require negotiations due to non-standard document format and content.	Might be long due to potential review by CCEP and non-standard document format and content	To be confirmed if funds transferred to ICAO can be acknowledged under the account of the AFPP. Challenges may arise as the account was set up for the AFPP; it may not be possible to use it for the management of funds for other agreements.
Project document – dedicated one for each activity	Standard, based on template used by ICAO.	Comparatively shorter than for MOU or similar arrangement due to standard document format and content. Time will increase if deviations from ICAO standard clauses are requested.	Relatively short due to standard process and document format/content.	The dedicated agreement requires the creation of a separate account for each assistance project under which the related transfers are acknowledged. While the funds are separate from the AFPP budget, the related expenditures (e.g. for the flight procedure designers) are still incurred by the programme. The funds are only available for the AFPP once the assistance project is completed and the

Project document – generic provisions in the document for Phase II of the AFPP	Standard, based on template used by ICAO.	Comparatively shorter than for MOU or similar arrangement due to standard document format and content. Time will increase if deviations from ICAO standard clauses are requested.	Relatively short due to standard process and document format/content.	fund is closed, which may result in a temporary shortfall of funds of the programme. In addition, it would need to be confirmed with ICAO's Finance Branch if such an arrangement is feasible, since the corresponding project account for the dedicated agreement would only receive the funds, while related activities are carried out under another project and charged to another fund. All funds can be acknowledged under the common account for the AFPP.
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