

STANDARD OPERATING PROCEDURE FOR HIRING REFUGEES AS EITHER STAFF OR INCENTIVE WORKERS BY UNHCR AND PARTNERS IN RWANDA

1. Purpose and Context

UNHCR, NGOs, One UN Family, Government Agencies and Commercial Contractors (hereinafter referred to as UNHCR and partners), constitute one of the main sources of wage-income in refugee-hosting areas. These SOPs present key considerations that should be applied when employing refugees as either staff or incentive workers by UNHCR and partners. Wherever feasible and appropriate, refugee employment in humanitarian organisations should be considered as an opportunity to enhance refugee livelihoods and self-reliance, and should be integrated into livelihoods planning across refugee operations. The right of refugees to work is protected both in the 1951 Convention on the Status of Refugees and in a variety of international and regional human rights instruments.

These SOP are written for the specific context of Rwanda and in alignment with the MIDIMAR-UNHCR Strategy for Economic Inclusion of Refugees that seeks to ensure that the productive potential of refugees in Rwanda can be realized to the mutual benefit of refugee self-reliance and Rwanda's economy. Rwanda, as a signatory to the 1951 convention, provides refugees with full rights to engage in wage-earning employment.

2. Scope

These SOPs will be applicable to UNHCR and partners who employ refugees. These SOPs establish the basic rules to be followed by UNHCR and partners when employing refugees or asylum seekers in Rwanda as staff or engaging them as incentive workers.

These SOPs constitute UNHCR policy and do not take precedence over ILO conventions nor Rwandan labour legislation and are intended to supplement and bring UNHCR policy further into line with such existing legislation.

3. Provisions

3.1 General Provisions

When hiring refugees, a combination of a rights- and market-based approach should be adopted. Wherever feasible and appropriate, UNHCR and partners should support the paid employment of refugees and encourage their fair remuneration commensurate with the work to be undertaken. UNHCR and partners are advised to adopt an equal opportunity approach to the employment of refugees, meaning that refugee employees will be considered on equal footing to non-refugees for a job whenever practically feasible. These SOPs recognize that there are certain jobs where hiring a refugee might give rise to considerable conflict of interest and that for those jobs, refugee applicants – despite their qualifications – may be discarded from consideration¹.

Rwandan law pertaining to refugees states that “Without prejudice to other laws, any person having obtained refugee status in Rwanda shall enjoy the rights and liberties provided for by international instruments on refugees ratified by Rwanda”². This includes the right to gainful employment as set out in Chapter 3 of the 1951 refugee convention. UNHCR documents

related to hiring of refugees by UNHCR and NGOs are contained in a 2014 “discussion paper on UNHCR’s policy and practice of incentive payments to refugees³” created by UNHCR’s Policy Development and Evaluation Service (PDES). The paper, entitled “Which side are you on?”, raises significant questions about the use of incentive workers by UNHCR and NGO partners and concludes by making the recommendation that “the relationship between incentive payments, volunteering and livelihoods should be carefully considered in each operational context, and that where feasible UNHCR should seek to promote the paid employment of refugees in its operations”. The paper goes on by arguing that “In determining the appropriate approach to incentive work, factors to consider include the degree of skill and experience required for the work in question, whether the activity is full time, and whether the work is an activity that would normally be remunerated in a non-refugee context. This will necessarily require assessment of the various factors which affect refugees’ access to livelihood opportunities, which include their location, skills, the labour market in the country of asylum, and importantly, whether they have the right to work. As incentive payments may represent an important source of income for refugees, humanitarian agencies should be alert to their implications for refugee livelihoods, and should ensure that their use is consistent with the overall livelihoods strategy of an operation, regardless of whether the incentives activities are considered within a work or volunteering framework”.

General considerations when employing persons of concern to UNHCR:

- A. Where possible, seek to promote the paid employment of refugees
- B. Honour refugees’ right to work as stipulated in, inter alia, the 1951 refugee convention
- C. Ensure safe and dignified conditions for refugees workers
- D. Establish competitive and transparent recruitment processes open to refugees and Rwandans alike, incl. remuneration based on equal pay for equal work principles
- E. Promote equitable access to work opportunities, taking into consideration age, gender and diversity
- F. Adhere to local labour laws including, but not limited to, Rwanda’s General Statute of Public Service⁴
- G. Adhere to international labour laws including, but not limited to, the eight fundamental ILO conventions⁵ as well as the ILO Guiding ILO Guiding Principles on the access of refugees and other forcibly displaced persons to the labour market⁶
- H. Manage expectations of host community, including communicating that no job provided to a refugee takes away any pre-existing job from a Rwandan
- I. Explore possibilities of using employment of refugees as a vehicle towards self-reliance – i.e. providing an exit-strategy for the individual refugee to get off humanitarian aid
- J. Encourage on-the-job training of refugees whenever possible
- K. Whenever possible, transfer salaries or incentive pay electronically to a bank account
- L. Ensure that any refugee hired for a particular job will have no substantial conflict of interest in performing his or her duties

3.2 Determining to employ someone as incentive worker or as contractual employee

UNHCR and partners, in the context of the joint MIDIMAR and UNHCR strategy on Economic Inclusion of Refugees, should strive to act as the equivalent of a “public employer” of refugees and host community members. Incentive work, and ensuing potential low compensation, should be restricted to those tasks that have a temporary and volunteer character, whereas tasks that have a more permanent nature and would otherwise have to be fulfilled by paid employees should be remunerated at a level proportionate to national salaries. Incentive payments may also be used when the work carried out have a more psychosocial purpose.

3.3 Remuneration of someone employed as either staff or incentive workers

As outlined in the joint MIDIMAR-UNHCR Strategy for Economic Inclusion of Refugees in Rwanda, an underlying goal is to transform the economies of refugee camps from planned to market-based economies. This includes the in-camp labour markets that have hitherto been organised as parallel labour markets where incentive payments jobs were reserved for refugees and real jobs reserved for non-refugees. With these SoPs UNHCR and partners operating within refugee camps in Rwanda are given the freedom to hire people on market terms, while adhering to the above-mentioned general considerations (A-L). This means that for a task deemed to require an incentive, an NGO is free to choose what that incentive should be in negotiation with the person (refugee or Rwandan) in question. Similarly, for work that is considered employment, an NGO or commercial company is free to negotiate a salary deemed by both parties to be reasonable. Essentially, these SoPs will liberalise the in-camp labour markets and make them fully integrated with the out-of-camp labour market.

3. Signature and Entry into Force

These SOPs are applicable immediately upon signature by the UNHCR Representative in Rwanda and will remain valid until modified or cancelled by the Representative.

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UNHCR Representative in Rwanda

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¹ Example of jobs unsuited for refugees include work on resettlement, refugee status determination, interpretation and other jobs where a conflict of interest could arise.

² Article 18 of Law N° 13ter/2014 if 21/05/2014 Relating to Refugees.

³ <http://www.unhcr.org/research/evalreports/5491577c9/whos-side-discussion-paper-unhcrs-policy-practice-incentive-payments-refugees.html>

⁴ http://www.mifotra.gov.rw/fileadmin/user_upload/Laws/Sitati_nshya.pdf

⁵ Eight ILO conventions are considered fundamental (click to access each convention):

1. Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

2. Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

3. Forced Labour Convention, 1930 (No. 29)

4. Abolition of Forced Labour Convention, 1957 (No. 105)

5. Minimum Age Convention, 1973 (No. 138)

6. Worst Forms of Child Labour Convention, 1999 (No. 182)

7. Equal Remuneration Convention, 1951 (No. 100)

8. Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

⁶ http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/meetingdocument/wcms_490753.pdf