

## **Foreign Contractors of Canadian Registered Charities Carrying Out the Canadian Charity's Projects: A Simplified View of the Process**

In this brief note I try to suggest 10 steps for a simplified contractor arrangement between a Canadian charity and a foreign charity (the “Foreign Contractor”) implementing a project for the Canadian charity.

1. You pick the right contractor or partner to be your Foreign Contractor. Do they have the “reputation, expertise, capacity, or experience” to carry out the task. Are they, or their staff, biased in favour of one group? Do they have problematic affiliations with political parties or foreign militaries or militias? This is the first and most important step.
2. A written agreement is put in place. This may be a Contractor agreement between the Canadian Charity and the Foreign Contractor that outlines that the Canadian charity will maintain “direction and control”, and supervision over the application of its own funds and resources. This is necessary for the agreement to comply with the Canada Revenue Agency (“CRA”) requirements. But the Contractor Agreement is not the only permissible model. Canadian charities can also conduct foreign activities using their own employees and volunteers, as well as agents, joint venture partners, or other partnerships. For further information Appendix E of the CRA Guidance is located at [http://www.cra-arc.gc.ca/chrts-gvng/chrts/pley/cgd/tsd-cnd-eng.html#\\_Toc260732260](http://www.cra-arc.gc.ca/chrts-gvng/chrts/pley/cgd/tsd-cnd-eng.html#_Toc260732260).
3. Either party suggests projects that may be suitable. The project must be properly described, including a description of activities, budget, where the activities will take place, when, who will be doing them, etc. This description needs to be detailed. Depending on the scope and scale of the project, the description need not necessarily be lengthy. But it does have to be sufficiently detailed to meet CRA requirements and also ensure that each party understands the exact project.
4. The Canadian charity's board of directors meets and reviews the suggested projects to decide which projects will be funded and outline any changes to the project description.
5. Funds for approved projects are transferred to the foreign contractor. If the value of the project is small, the funds may be transferred all at once. Bigger projects require periodic transfers, each portion only to be transferred only after appropriate reporting on key milestones.
6. The Foreign Contractor implements the project as approved by the Canadian charity and identifies the project as being part of Canadian charity's charitable activities.
7. The Canadian charity maintains direction and control through a real, ongoing, active relationship with the contractor. The Canadian charity monitors the project through

various means including site visits if necessary. The Canadian charity approves any changes to the project and receives interim reports where the size of the project warrants it. On completion, the Foreign Contractor provides a final report.

8. The Foreign Contractor reports back to Canadian charity with enough information to allow the Canadian charity to know that its funds were appropriately spent. Copies of source documents such as accounts, agreements, receipts, pro-formas, invoices, correspondence, vouchers, sub-contracts, cancelled cheques, staff contracts, payroll records, shipping and customs documents as well as spreadsheets and photos, etc., are provided to the Canadian charity.
9. The Canadian charity keeps the required books and records about the project to verify that project was appropriately completed and that funds were well spent. The books and records are available if necessary for a CRA Audit. See for “Keeping books and records in Canada” at <http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtng/bks-eng.html>.
10. If project is a capital project or capital equipment is bought as part of the project, the Canadian charity retains unless the project falls under specific exemptions for “development work.” See Appendix D – Transferring capital property to non-qualified donees at [http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/tsd-cnd-eng.html#\\_Toc260732259](http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/tsd-cnd-eng.html#_Toc260732259).

This is a very simplified view of the relationship between a Canadian charity and a foreign contractor. For further information see <http://www.globalphilanthropy.ca> or the CRA’s Guidance on Canadian Registered Charities Carrying Out Activities Outside Canada at <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/tsd-cnd-eng.html>.

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