



OIOS

Office of Internal Oversight Services

INTERNAL AUDIT DIVISION

AUDIT REPORT

Selected outsourced activities in the Information Technology Services Division (ITSD)

**Control weaknesses in the procurement and
management of certain outsourced activities in
ITSD**

3 March 2009

Assignment No. AH2007/513/05

United Nations  Nations Unies

INTEROFFICE MEMORANDUM

MEMORANDUM INTERIEUR

OFFICE OF INTERNAL OVERSIGHT SERVICES · BUREAU DES SERVICES DE CONTRÔLE INTERNE
INTERNAL AUDIT DIVISION · DIVISION DE L'AUDIT INTERNE

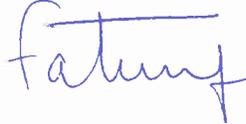
TO: Ms. Angela Kane, Under-Secretary-General
A: Department of Management

DATE: 3 March 2009

REFERENCE IAD: 09- 02247

Mr. Soon-hong Choi,
Chief Information Technology Officer
Executive Office of the Secretary-General

FROM: Fatoumata Ndiaye, Acting Director
DE: Internal Audit Division, OIOS



SUBJECT: **Assignment No. AH2007/513/05 - Audit of selected outsourced activities in the Information Technology Services Division (ITSD)**
OBJET: **Technique Services Division (ITSD)**

1. I am pleased to present the report on the above-mentioned audit.

2. The Department of Management's response indicated that you did not accept recommendations 1, 3, 4, 5, 7, 8, 9 and 11. In addition, it stated that recommendation 12 was under consideration, but did not indicate whether or not it was accepted. In OIOS' opinion, however, these recommendations seek to address significant risk areas. We are therefore reiterating them and requesting that you reconsider your initial response based on the additional information provided in the report. In order for us to close the recommendations, we request that you provide us with the additional information as discussed in the text of the report and also summarized in Annex 1.

3. Please note that OIOS will report on the progress made to implement its recommendations, particularly those designated as high risk (i.e., recommendations 1, 2, 5, 6, 8 and 9, in its annual report to the General Assembly and semi-annual report to the Secretary-General.

cc: Mr. Warren Sach, Assistant Secretary-General, OCSS
Mr. Paul Buades, Director, Procurement Division
Mr. Chandramouli Ramanathan, OIC, ITSD
Mr. Frank Eppert, Chairman, Headquarters Committee on Contracts
Mr. Swatantra Goolsarran, Executive Secretary, UN Board of Auditors
Ms. Maria Gomez Troncoso, Officer-in-Charge, Joint Inspection Unit Secretariat
Mr. Moses Bamuwanye, Chief, Oversight Support Unit, Department of Management
Mr. Byung-Kun Min, Programme Officer, OIOS
Mr. William Petersen, Chief, New York Audit Service, OIOS

INTERNAL AUDIT DIVISION

FUNCTION

“The Office shall, in accordance with the relevant provisions of the Financial Regulations and Rules of the United Nations examine, review and appraise the use of financial resources of the United Nations in order to guarantee the implementation of programmes and legislative mandates, ascertain compliance of programme managers with the financial and administrative regulations and rules, as well as with the approved recommendations of external oversight bodies, undertake management audits, reviews and surveys to improve the structure of the Organization and its responsiveness to the requirements of programmes and legislative mandates, and monitor the effectiveness of the systems of internal control of the Organization” (General Assembly Resolution 48/218 B).

CONTACT INFORMATION

ACTING DIRECTOR:

Fatoumata Ndiaye: Tel: +1.212.963.5648, Fax: +1.212.963.3388,
e-mail: ndiaye@un.org

CHIEF, NEW YORK AUDIT SERVICE:

Mr. William Petersen: Tel: +212.963.3705, Fax: +1.212.963.3388,
e-mail: petersenw@un.org

EXECUTIVE SUMMARY

Audit of selected outsourced activities in the Information Technology Services Division (ITSD)

OIOS conducted an audit of selected outsourced activities in the Information Technology Services Division (ITSD). The overall objective of the audit was to determine whether the system of internal control over ITSD's outsourced activities was adequate and effective in mitigating business risks; and whether the outsourced activities complied with the basic criteria of cost-effectiveness and efficiency established by General Assembly resolution 55/232. The audit was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing.

Overall, OIOS found significant weaknesses in the internal controls over the procurement and management of outsourced activities. In some instances, established controls were overridden, and contracts were extended beyond the approved contractual period without being re-bid. Consequently, there was no assurance that the activities outsourced by ITSD complied with the basic criteria of cost effectiveness and efficiency established by General Assembly resolution 55/232.

OIOS found that:

- Certain officials in ITSD communicated with two vendors prior to the bidding process, in violation of the procedures set out in the Procurement Manual. Both these vendors subsequently won the contracts they bid for.
- ITSD officials used contracts with selected contractors to place their preferred candidates to work at the United Nations. This posed a number of risks including the potential for conflicts of interest and circumvention of UN regulations and rules.
- There were weaknesses in the recruitment process used by two contractors to source personnel for assignment to the United Nations. Basic documentation such as vacancy announcements, job descriptions, interview notes and resumes of individuals were not always available. OIOS also identified eight cases where the personnel recruited by the contractor did not fully meet the requisite experience and qualifications specified in the job descriptions.
- Contract administration for two ITSD contracts relating to the provision of IT personnel requires significant improvement. These contracts were repeatedly extended beyond the approved option period for a duration of over 30 months, and the "Not to Exceed" value for the contract increased significantly, by 185 per cent and 525 per cent, respectively, from the initial amounts approved by the Headquarters Committee on Contracts (HCC).

- In certain instances, certifying officers in ITSD did not properly discharge their responsibilities in accordance with Financial Rule 105.5. They had certified invoices with errors or invoices that were not properly supported with necessary documentation.

OIOS took note of the improvements made by ITSD and PD during the course of the audit, including the issuance of a more comprehensive Request for Proposal in 2008 that rectified some weaknesses.

OIOS makes 12 recommendations to improve the management of outsourced activities in ITSD as well as to promote accountability of staff. The Department of Management, however, accepted only 3 of the recommendations. OIOS has carefully reviewed the comments provided by DM and ITSD, which have been cited in the report, and reiterates 9 of the recommendations. All recommendations remain open pending further action by DM and/or ITSD.

TABLE OF CONTENTS

Chapter	Paragraphs
I. INTRODUCTION	1 - 5
II. AUDIT OBJECTIVES	6
III. AUDIT SCOPE AND METHODOLOGY	7 - 9
IV. AUDIT FINDINGS AND RECOMMENDATIONS	
A. Justification for outsourcing	10 - 13
B. Procurement of outsourced activities	14 - 23
C. Selection of contractors' personnel	24 - 29
D. Undue influence by ITSD officials over the selection of contractors' personnel	30 - 44
E. Recruitment of contractors' personnel as staff members and vice versa	45 - 50
F. Contract management and administration	51 - 72
G. Payments	73 - 83
V. ACKNOWLEDGEMENT	84
ANNEX 1 – Status of Audit Recommendations	

I. INTRODUCTION

1. The Office of Internal Oversight Services (OIOS) conducted an audit of selected outsourced activities in the Information Technology Services Division (ITSD). The audit was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing.

2. According to the Secretary-General's report A/53/818 on "Outsourcing Practices", outsourcing is defined as "...contracting with a third party to provide non-core activities and services, which activities and services could have been or could be provided by United Nations staff." General Assembly resolution 55/232 requires that programme managers be guided by the four basic reasons for outsourcing, namely:

- i) To acquire technical skills not readily available within the Organization including accessing the state-of-art of technologies and expertise or acquiring needed flexibility to meet quickly changing circumstances;
- ii) To achieve cost savings;
- iii) To provide a source more effectively, efficiently and expeditiously; or
- iv) To provide a service or activity not needed on a long term basis.

3. Paragraph 4 (a) of the General Assembly resolution 55/232 requires that cost effectiveness and efficiency be considered the most basic criteria. Unless it can be adequately demonstrated that an activity can be done significantly more economically and, at the very least, equally efficiently, by an external party, outsourcing may not be considered.

4. According to ITSD, there were a total of 44 outsourced activities valued at approximately \$135 million between January 2005 and October 2008 with 23 contracts remaining active as of October 2008.

5. Comments made by DM and ITSD are shown in *italics*.

II. AUDIT OBJECTIVES

6. The main objectives of the audit were to determine:

(a) Whether the system of internal control over ITSD's outsourced activities was adequate and effective in mitigating business risks; and

(b) Whether the outsourced activities met the basic criteria of cost effectiveness and efficiency, established by paragraph 4 (a) of General Assembly resolution 55/232.

III. AUDIT SCOPE AND METHODOLOGY

7. The audit scope included a sample of four contracts for outsourced activities taken from the list of contracts that ITSD provided to OIOS. The sampled contracts with amendments had a total value \$38 million and were for help desk and LAN technical support personnel, and maintenance of the telephone exchange system.

8. The audit methodology included interviews with vendors and United Nations staff members as well as an analysis of relevant information and review of available documentation. OIOS exercised the audit clause in three contracts and reviewed records at two vendors' premises. Since three of the contracts sampled commenced in 2001 and were still in force in 2008, OIOS has accordingly used the five versions of the Procurement Manual dated 1998, 2004, 2006, 2007 and 2008 as criteria depending on the date of the procurement actions reviewed.

9. At the request of ITSD in October 2008, OIOS extended the scope to include the review of the latest request for proposal (RFP-1226) to replace two of the contracts sampled. OIOS, however, was unable to review any other documents relating to the procurement process since the process had not been completed by the end of the audit.

IV. AUDIT FINDINGS AND RECOMMENDATIONS

A. Justification for outsourcing

Need for documented analyses showing that outsourced activities are cost effective

10. ITSD did not demonstrate that it was significantly more economical and equally efficient to outsource the activities. In the Secretary-General's report (A/59/227) to the General Assembly on outsourcing, the reasons cited for outsourcing the services relating to the four contracts sampled were: (1) technical skills not readily available within the Organization; and/or (2) to provide a source more effectively, efficiently and expeditiously. However, ITSD did not perform analyses to support the reasons cited in the Secretary-General's report.

11. Based on discussion with ITSD officials, it appeared that contracts for outsourcing the provision of IT personnel were driven by two main factors. First, it was difficult for ITSD to obtain additional staffing (posts) in its budget. Second, the typical length of time to recruit a staff member is significantly longer compared to the time to bring a contractor's personnel onboard. While OIOS acknowledges these common staffing challenges at the United Nations, ITSD needs to adhere to the basic criteria for outsourcing that was reiterated by the General Assembly in resolution 59/289 and Secretary-General's report A/55/301 i.e., "unless it can be adequately demonstrated that an activity can be done significantly more economically and, at the very least, equally efficiently, by an

external party, outsourcing may not be considered.” Without performing appropriate analyses, there is a risk that ITSD outsourced activities may not be cost-effective for the Organization.

Recommendation 1

(1) ITSD should demonstrate that activities currently outsourced or proposed for outsourcing would be performed significantly more economically and equally efficiently by an external party as required by General Assembly resolution 55/232.

12. *DM and ITSD did not accept recommendation 1, stating that the conclusion that outsourcing contracts for IT personnel were driven by the two main factors listed in paragraph 11 is unwarranted, especially when OIOS has already acknowledged the fact that the Secretary-General’s report on outsourcing has listed the factors driving this outsourcing. ITSD’s position is already reflected in the Secretary-General’s report. One of the two factors mentioned in the OIOS report may, at times, be a relevant ‘additional’ factor. The cost-effectiveness of the outsourced arrangement is too obvious to merit detailed analysis in each instance. Contractual personnel are billed only for actual hours worked; the UN does not pay for any leave – sick or regular leave of absence. Based on the hourly rates in the contracts, the cost of a contractual resource working 221 days (corresponding to the average annual work days of a staff member) is below even the standard cost of a comparable or, in several cases, even a lower staff position. In addition to being cost-effective, the outsourced activities are more efficient because they provide flexibility in adapting supply of resources based on the demand for mandated services, which tends to fluctuate and is difficult to predict with accuracy. Normally, demand tends to increase but a decline cannot be ruled out. Ability to quickly augment resources makes it expeditious, while the ability to contract quickly makes it economical. The ability to quickly replace personnel whose performance is not satisfactory makes it also very effective. ITSD therefore considers the recommendation as obsolete.*

13. OIOS is unable to accept DM and ITSD’s assertion that the recommendation is “obsolete” because: (a) the relevant General Assembly resolution on the need to ensure cost-effectiveness and efficiency of outsourcing is not obsolete and continues to remain in force; and (b) in the Secretary-General’s report A/59/227 detailing the rationale for outsourced activities, DM and ITSD failed to demonstrate the cost-effectiveness of (or savings arising from) its outsourced activities, even though ITSD considers their cost-effectiveness to be “obvious”. OIOS is of the opinion that DM should calculate and report the savings generated from outsourcing of ITSD activities, just as a number of other departments, field missions and regional commissions quantified their savings from outsourcing in the Secretary-General’s report A/59/227. Recommendation 1 remains open pending receipt of documentation from DM showing that the savings arising from outsourcing the ITSD activities reviewed by the audit have been quantified and reported in accordance with General Assembly resolution 55/232.

B. Procurement of outsourced activities

Outsourced activities were not procured in compliance with established procedures

14. OIOS reviewed the procurement process for three ITSD contracts entered into in 2001, of which two contracts were still in effect at the time of the audit in October 2008. The three contracts included a contract for the provision of personnel for helpdesk services, and two contracts on the basis of a split-award for the provision of personnel to perform technical support of the Local Area Network (LAN) in ITSD. OIOS found that the procurement process followed in these cases was not in compliance with the United Nations Procurement Manual in effect at that time. The integrity of the selection of the contractors appeared to be compromised by: communication of the requisitioner with two successful vendors prior to the conclusion of the bids; discrepancies in the Request for Proposal (RFP); and inappropriate use of the Best and Final Offer (BAFO).

Communication between requisitioner and vendors prior to the conclusion of bids

15. According to paragraph 4.03 of the 1998 Procurement Manual that was in effect in 2001, "Suppliers should not be recommended by requisitioners or substantive offices." Discussions with procurement officials revealed that it is common knowledge among procurement officials that communication between the requisitioner and vendors is prohibited prior to the conclusion of the bid. However, OIOS found documentation showing that officials in ITSD had referred candidates to one company which submitted the resumes of these candidates in its bids. This company (Company X) won two contracts. The details of the referrals are discussed in Section D of this report. *ITSD stated that the allegation regarding inappropriate contacts between ITSD management and the prospective vendors cannot be substantiated. The concerned staff members do not recall any such direct referrals to prospective vendors. However, some of the prospective vendors were providing services to the UN through different contracts at the time, and it was not possible to prevent them from communicating with the contractor personnel performing these functions at the time of the bid. Direct contacts between ITSD and the vendors during the bidding process, if any, were likely related to operational matters of ongoing services, as both vendors (one of whom subsequently changed its corporate name) were already providing services to ITSD prior to the establishment of the contracts in question. The nature of these contacts and the matters discussed had no relationship to the bidding exercise.* OIOS maintains that the documentation found in Company X's records showing the referrals made by ITSD officials prior to the submission of bids by Company X establishes that the names of candidates referred to the vendor by ITSD were included in the bid.

16. In 2004, the Procurement Division (PD) incorporated a specific provision in the second version of the Procurement Manual that prohibits communication between the requisitioner and vendors prior to bid closure. Paragraph 9.11.1 of the Manual stated "The Solicitation Documents shall clearly state that prior to bid

closure no communication shall take place between the recipients of the Solicitation Documents and the UN, except with the issuing Procurement Officer designated at the UN's sole point of contact". This provision remains in all subsequent versions of the Procurement Manual. Despite this, the Procurement official handling the new procurement process in 2008 did not clearly state the above-mentioned provisions in the solicitation document (i.e. RFP-1226).

Recommendation 2

(2) The Procurement Division should comply with the provisions of the Procurement Manual and ensure that future solicitation documents (e.g. the Request for Proposal) clearly indicate that "prior to Bid Closure no communication shall take place between the recipients of the Solicitation Documents and the UN, except with the issuing Procurement Officer designated as the UN's sole point of contact".

17. *DM accepted recommendation 2 and stated that PD will review the current documentation sent out with solicitations with a view to amending them to clearly indicate that 'prior to Bid Closure, no communication shall take place between the recipients of the Solicitation Documents and the UN, except with the issuing Procurement Officer or any other duly appointed representative of PD designated as the UN's sole point of contact.'* Recommendation 2 remains open pending receipt of a revised template of solicitation documents from PD showing that it incorporates the above-mentioned requirement.

Discrepancies in the RFP

18. In 2001, ITSD prepared RFP-210 in which Part A pertained to the solicitation for the outsourcing of the provision of personnel to perform helpdesk services. The RFP stated that it required a minimum of 22 personnel encompassing 8 functional titles. Bidders were asked to indicate in their bids the hourly cost for personnel in each of the 8 functions. The RFP, however, only required the bidders to submit resumes of candidates for 3 out of the 8 functions. Although according to a supplement of the 1998 Procurement Manual that was in effect in 2001, the general evaluation criteria shall depend on the nature of the requirement, it provides an example of general evaluation criteria that includes: (a) price; (b) technical understanding of the requirement; (c) management experience in a similar undertaking; and (d) personnel qualifications. Therefore, it is logical that the requirement for this RFP should have included personnel qualifications since it was a solicitation for the provision of personnel.

19. In 2008, ITSD and PD officials rectified this weakness in the new RFP. In RFP-1226 issued in June 2008, bidders are required to submit sample resumes for functions that they bid for. Considering the remedial actions taken by ITSD and PD, OIOS is making no recommendation in this regard.

HCC question about BAFO unanswered

20. During the procurement process in 2001, PD had sought best and final offers (BAFO) from the bidders to the RFP-210. Although PD opened the financial proposals, it was unable to provide the Headquarters Committee on Contracts (HCC) with an answer when asked whether the BAFO gave a better price than the original proposals. PD further stated that it had not properly evaluated the original proposals. Despite these unsatisfactory answers, HCC recommended awarding the contract on a split-award basis to Company X with a "Not to Exceed" (NTE) value of \$9.1 million and to Company Y with a NTE value of \$1.2 million. The HCC also approved the extension of the contract with Company X despite receiving inappropriate answers from PD about how the NTE was determined (see para. 68).

Award of contract to a vendor which may not have successfully completed the vendor registration process

21. According to paragraph 11.6.2 of the Procurement Manual, "...an award will only be made to a vendor who has successfully completed the vendor registration process." OIOS requested and PD was unable to provide the registration file for Company Y. Therefore, there was no assurance that Company Y was properly registered and was eligible for the award of the contract.

Recommendation 3

(3) The Procurement Division should investigate whether Company Y was properly registered prior to the award of the contract and complete the registration of Company Y on a post facto basis if it cannot be verified.

22. *DM did not accept recommendation 3, stating that PD requests the withdrawal of this recommendation as the appropriate action had already been taken. A review of the vendor records of both companies shows that they were properly registered prior to the award of the contract. For Company Y, it had been a registered vendor with PD since 1999. In 2001, this company was granted approval to continue as a UN supplier trading under its new name.*

23. Recommendation 3 remains open because PD has provided no documentary evidence to show that Company Y had been properly registered prior to the contract award in 2001. In April 2008, the PD official in charge of vendor registration informed OIOS that the registration file for Company Y could not be located. In October 2008, OIOS followed up with PD for the files but did not get a response. While PD has stated that Company Y has changed its name, it has not provided OIOS with the supporting documentation.

C. Selection of contractors' personnel

Weaknesses in the recruitment process of contractors

24. The audit of the contractors' records revealed weaknesses in their recruitment process. For example, neither Company X nor Company Y had complete sets of vacancy announcements, job descriptions, interview notes or resumes of individuals who they recruited for assignment to the United Nations. In those cases where job descriptions were available, OIOS identified eight instances where the persons recruited by Company X did not fully meet the requisite experience or qualifications indicated in the job description. Company X acknowledged the lack of requisite experience and qualifications but stated that these individuals were recruited based on their good performance in the interview. However, Company X could not provide OIOS with pertinent interview notes to support its assertion. Therefore, OIOS cannot give assurance that the process was transparent and the persons recruited were qualified for the position.

25. *DM stated that it is safe to say that ITSD will not hire a candidate who does not possess the necessary capacity for the job. However, ITSD acknowledges that it is possible that on occasion, personnel who had less than the stipulated experience and qualifications could have been hired if we were unable to find candidates who met all the requirements. ITSD has to continue to provide mandated services with strict response times and cannot accomplish this without the necessary manpower. The original contract was issued in 2001 and at times, it is difficult to attract candidates with the requisite experience and qualifications at the rates specified in the contract in what is a very competitive market. Therefore, a less experienced candidate could sometimes be hired to meet a pressing demand if it is determined that the candidate has the necessary capability to perform the expected functions. DM further stated the recruitment process now [emphasis added] requires that all interviews are documented. The modified process will ensure that all interview notes are received by ITSD prior to finalizing the acceptance of a candidate. Interviews have always been conducted but minutes have not always been retained for record keeping purposes.* In view of the explanations provided and actions taken DM and ITSD, OIOS is not raising a recommendation with regard to the recruitment of contractor personnel.

Use of unapproved job descriptions may lead to recruitment of unqualified personnel

26. Besides the cases of the recruitment of individuals who did not meet the requirements in the job descriptions, the validity of job descriptions used for hiring the contractors' personnel for assignment to the United Nations was also questionable. According to paragraph 22 of the General Conditions of Contract, "no modification or change in the Contract shall be valid and enforceable against the United Nations unless provided by a valid written amendment to the Contract signed by the Contractor and the Chief of the United Nations Procurement Division or such other contracting authority." Although the initial job descriptions form part of the contract, ITSD officials did not request for

amendments to the contracts to include the revised job descriptions. ITSD also did not maintain complete copies of the revised job descriptions between 2001 and 2006. The reasons for changes and the authorizations for changes were also not documented. Unauthorized revisions of job descriptions may lead to the recruitment of personnel who are unable to perform the functions assigned. In addition, there is a risk that the Organization may be paying a billing rate that is inconsistent with the qualifications and experience of the individual.

27. Under the new procurement process in 2008, ITSD had included the updated job descriptions for all required functions in the new RFP that normally form part of the new contract. However, it is important that future revisions of job descriptions be included as part of the contract amendment in order for these modifications to be valid.

Recommendation 4

(4) ITSD should comply with the United Nations General Conditions of Contracts and should in future include revised job descriptions as part of the amendment to the contract, in order for these revisions to be valid.

28. *DM did not accept recommendation 4, stating that as technologies evolve and new products are introduced, the job descriptions of prospective support contractors need to reflect these changes. However, the basic, generic functions remain the same as to the provision of services. It is product-specific expertise that changes, not the nature of the job/function. Requiring a contractual amendment each time may neither be practical nor necessary to safeguard the interests of the Organization. Nevertheless, ITSD will try to ascertain best practices in the industry and also how other organizations address this issue.*

29. OIOS acknowledges the points made in DM and ITSD's comments above, but notes that in the contracts with Company Y and Company X, ITSD had used the same job description to recruit personnel with very different job functions. For instance, ITSD had used the job description of Senior Desktop Analyst for the recruitment of personnel for 15 different job functions such as Lotus Notes database administrator, Senior IT Standards and Methodology Analyst, Disaster Recovery Engineer, Database Developer, Migration Specialist, IT Project Manager, Senior Technician Analyst, Technical Writer, Blackberry Project Manager, etc. It is evident that the requirements for each of the 15 job functions are different and are likely to have different experience/qualification requirements and billing rates. OIOS therefore reiterates recommendation 6, which will remain open pending confirmation by ITSD that revisions to the job descriptions forming part of the contract are being reflected in contract amendments.

D. Undue influence by ITSD officials over the selection of contractors' personnel

Referral of candidates to a prospective vendor by ITSD officials prior to the bidding process

30. In 2001, Company X submitted its bids in response to Part A (provision of helpdesk personnel) and Part D (provision of LAN technical support personnel) of RFP-210, while Company Y submitted its bid for Part D of the RFP. OIOS' review of records at Company X identified documents showing that ITSD officials had referred three candidates to Company X. Resumes for the individuals referred (one resume for Part A and the other two resumes for Part D) were submitted in response to RFP-210 which indicates that these referrals were made prior to the conclusion of the bid. Both Company X and ITSD denied any communication prior to the conclusion of the bidding exercise.

Continued referrals by ITSD officials after contract award

31. At the commencement date of the contract in October 2001, Company X's records showed that two other persons whose resumes were not submitted as part of the bids were subsequently recruited to work at the United Nations. Records inspected at the contractor's premises showed that both individuals were referred by ITSD officials, one of whom had participated in the technical evaluation. OIOS is concerned that the objectivity of ITSD's assessment of the services rendered by the contractor may be impaired if the personnel rendering the services were recruited by the contractor at the behest of ITSD.

32. *ITSD stated that the characterization of the situation is improper. ITSD is not an employment agency seeking to find placements for candidates. Personnel are employed for discharging specific functions to enable ITSD to deliver its mandated services, many of which are governed by agreements requiring stringent response times. The institutional knowledge of experienced personnel improves their productivity and directly impacts the quality of services provided. The retention of such institutional knowledge is in the organization's interest. The various types of contractual instruments for hiring personnel offer differing levels of costs and continuity of term. ITSD's effort is normally to find the lowest cost and the longest tenure possible, consistent with the underlying principles for such outsourcing. While on occasion contractors who did not fulfill all formal qualifications may have been recruited, OIOS has not demonstrated that any individual has been employed in contravention of the relevant rules relating to the specific type of contractual status. However, it also needs to be noted that the vast majority of contractors recruited by ITSD have performed very well and have been retained. Some have even succeeded in securing a staff position through the normal competitive process. On the few occasions where performance has not been satisfactory ITSD has taken advantage of the flexibility of outsourcing contracts to release the individual concerned. OIOS has not demonstrated that ITSD has recruited candidates that failed to render the services they were hired to provide nor has OIOS established a conflict of interest in any case or shown that ITSD staff members have not acted in 'good faith' and in the best interests of the Organization.*

33. OIOS found, however, that while ITSD informed the HCC in September 2001 that the service provided by the previous company was deficient, the ITSD official who participated in the technical evaluation had requested Company X to take over all the employees of the previous company working at the United Nations in October 2001, stating that this would ensure business continuity. *ITSD stated that the problems encountered with the previous service provider (which was a managed service desk solution rather than a contract for personnel) were associated with the management of Help Desk Service and not related with the quality of the individual employees working at the UN. Since the onsite personnel had already accumulated knowledge about the UN's systems and business processes, it made sense to try to keep them if possible under the new UN-managed solution. Replacing all the helpdesk personnel at the same time with new ones poses a significant risk to the quality of services being provided.* OIOS is unable to accept these arguments because the services provided by the previous company were delivered by its individual employees; and it had not been established how the services of the contractor were deficient yet unrelated to the quality of personnel. Furthermore, if the management of the helpdesk function was the problem, it is unclear why an ITSD official had referred the Helpdesk Manager of the previous company to be recruited by Company X to continue to perform the managerial role.

Referral of candidates who were ineligible for an employment contract in the United Nations

34. In some cases, the individuals referred by ITSD officials to the contractors would not be able to work at the United Nations because of the employment restrictions in the United Nations Regulations and Rules. For example, an ITSD official referred two former United Nations individual contractors to work under the contract between Company X and the United Nations because these individual contractors had exceeded the maximum allowable work period of nine work months in a period of twelve consecutive months as per ST/AI/1999/7. The Office of Human Resources Management (OHRM) had granted ITSD exceptions on six occasions for each of these two cases, but informed ITSD that no further extensions of contract for these individuals would be granted after their contracts expired in September 2001. ITSD also could not recruit these individuals as staff members because Section 7 of ST/AI/1997/7 (now ST/AI/2006/3) states “individual contractors also cannot apply for a position at the United Nations within six months of their contract with the United Nations”. OIOS’ review of records at Company X showed that an ITSD official arranged for these individuals to have a contract with Company X in order that they continue working at the United Nations. *ITSD stated that it has not contravened ST/AI/2006/3 by recruiting any individual contractor to a regular staff position within 6 months. On the other hand, the continued availability of an experienced and skilled individual contractor as a contractor through an outsourcing vendor is beneficial to the organization compared to recruiting a skilled contractor who has no knowledge of the UN environment.*

35. In another case, an ITSD official informed OIOS that he had referred an individual to work on the United Nations contract with Company Y because

ITSD could not employ the individual as a United Nations staff member since he has a brother who is a staff member of the United Nations. According to Staff Rule 104.10 (a) "Except where another person equally qualified cannot be recruited, appointment shall not be granted to a person who bears any of the following relationships with the staff member: father, mother, son, daughter, brother or sister". *ITSD stated that it fails to see how Staff Rule 104.10 was violated if the concerned individual has not been recruited as a staff member. In the specific case, a contractor who had been working for DPKO on a different contract was retained in order to continue work on a critical project for DPKO when the responsibilities were taken over by ITSD. ITSD provided assistance with a bridging contract for six months to ensure continuity.*

36. The same ITSD official also identified the case of a staff member in the General Service category who was asked to perform Professional level functions. This staff member requested for more remuneration but ITSD could not promote him to the Professional level because Staff Rule 104.15 (b) (ii) states "Recruitment to the Professional category of staff from General Service and related categories ... shall be made exclusively through competitive examinations." The ITSD official stated that losing the services of this individual was not viable considering the criticality of his function and the small group of staff working on this function. Consequently, he arranged for this individual to work at the United Nations through a contract with Company Y. This staff member who had a gross monthly income (including allowances, pension benefits and overtime) of approximately \$8,000 per month resigned from the United Nations and came back to work at the Organization the following day with a monthly invoiced amount of approximately \$14,500. The recruitment of United Nations staff members as contractors' personnel and vice versa is further discussed in Section E.

37. *ITSD stated that the allegation and the concept of 'promotion' implied by the fact that a staff member chose to work for a contractor is logically flawed. The former General Service staff member was undertaking Professional level functions at the time and decided to leave out of frustration at not being compensated by the Organization at an appropriate level. In so doing he chose to forfeit all the benefits inherent in being a UN staff member and to work for a contractor for a higher net pay. No 'promotion' took place. Furthermore, the remunerations cited in the preceding paragraph are not correct as the amount invoiced to the UN includes all the additional charges (vendor employee benefits, overhead and profit) for which the UN is charged by the vendor. In the end, the contract employee receives less than the invoiced amounts. OIOS' view is that from the Organization's perspective, it is irrelevant that the contract employee received less than the invoiced amount, because the Organization paid the invoiced amount.*

38. Besides the cases mentioned above, other ITSD senior officials also requested Company X and Company Y to "rubber-stamp" the hiring of particular persons they had identified. During discussion with OIOS, an ITSD official indicated that he had better contacts than Company Y to identify suitably skilled personnel for certain IT functions to work at the United Nations, while another ITSD official confirmed that he introduced someone he knew from his church

activities to work as his administrative assistant using the contract with Company X, citing that he knew “she is good.” Overall, out of a sample of 67 cases of Company X’s personnel, there were approximately 30 individuals who were referred by ITSD officials (P-4 and above). Although Company Y did not keep referral information, it confirmed to OIOS that it had received instructions from ITSD to recruit a number of specific individuals. Company Y provided OIOS with documentary evidence of a recent case.

39. OIOS is concerned that certain ITSD officials can and do place their preferred candidates under the contracts for information and communication technology (ICT) services between the United Nations and contractors. Although ITSD officials explained that they had done this in the best interests of the Organization, they effectively circumvented the United Nations Regulations and Rules by recruiting the following candidates through the contractor:

- (a) Individual contractors whose contracts could no longer be extended due to the restrictions in ST/AI/1999. They were also ineligible for employment contracts at the United Nations because of Section 7 of ST/AI/1997/7 (now ST/AI/2006/3);
- (b) The brother of a United Nations staff member who was ineligible for an employment contract with the Organization under Staff Rule 104.10; and
- (c) An ITSD staff member who could not be promoted to the Professional category because of the restrictions in Staff Rule 104.15.

40. The ability of certain ITSD officials to place individuals to work at the United Nations without going through the normal recruitment procedures provided opportunities for and increased the risk of abuse. It also places the ITSD officials in a conflict of interest situation with the contractors. According to paragraph 22 of the standards of conduct for international civil service, “...international civil servants [UN staff members] should avoid assisting private bodies or persons in their dealings with their organization [the UN] where this might lead to actual or perceived preferential treatment.”

Recommendations 5 and 6

The Department of Management should:

- (5) Investigate the circumstances where candidates were referred to contractors by ITSD officials and take appropriate action to address any improprieties or conflict of interest situations found; and**
- (6) Ensure that staff members adhere to the standards of conduct of international civil servants and should prohibit staff members from requesting contractors to employ specific individuals they have identified.**

41. *DM did not accept recommendation 5 and stated that the “alleged violation” did not take place. ITSD’s position is that the primary interest of the organization is in finding the most qualified personnel to provide the mandated services, ideally at the lowest cost possible to the organization. The institutional knowledge that a person acquires by working within ITSD has a significant bearing on the person’s productivity and the quality of the service provided by that person. Therefore, it is in the organization’s interest to secure the continued services of such individuals to the extent that the rules for their hiring permit. Normally, individual contractors tend to be less costly than outsourced vendor personnel, who are themselves usually less costly than regular staff members. However, there are differing restrictions to each of these contractual arrangements – such as visa requirements, maximum permissible tenure, nature of entitlements, etc. ITSD strives to derive the best value on behalf of the organization from these contractual instruments with the goal of meeting its service obligations as efficiently as possible. Referrals of candidates to vendors are in line with this objective though there is no suggestion that vendors or indeed candidates will act upon such referrals.*

42. *ITSD stated that the issue of ICT staffing was discussed at length by a working group composed of officers from ITSD, OHRM and the Executive Office of DM throughout 2008. It was recognized by all that the current set of rules and procedures are not always conducive to help ITSD fulfill its mandate and meet its unique operational requirements. The challenges faced by ITSD and OHRM were reviewed in detail and solutions were proposed to better meet the requirements of ITSD in the short-term and long-term. These were highlighted in a report for consideration by OHRM senior management. OIOS has not demonstrated that ITSD has recruited candidates that failed to render the services they were hired to provide. OIOS has not established a conflict of interest in any case or shown that any specific rule has been violated in any instance. Under the circumstances, questions of accountability for referring personnel or violation of the standards of conduct for international civil servants do not arise.*

43. OIOS is unable to accept DM’s assertion that no violation has taken place because the audit showed that ITSD officials were placing candidates to work at the United Nations through contractors. This was contrary to paragraph 22 of the standards of conduct for international civil service which states that “...international civil servants [UN staff members] should avoid assisting private bodies or persons in their dealings with their organization [the UN] where this might lead to actual or perceived preferential treatment.” The practice of placing candidates through the contractor to work at the United Nations undermines the objectivity required for an impartial assessment of the contractor’s performance and delivery of services under contracts that are repeatedly extended without a re-bid. Recommendation 5 remains open pending receipt of the results of the investigation by DM of those staff members who made referrals to vendors prior to the conclusion of the bidding process (RFP-210), and those who made referrals after the award of the contract.

44. *DM accepted recommendation 6, stating that referrals which are not binding are in the Organization’s interest. However, certain audit trails that will*

demonstrate that there is no abuse of authority or conflict of interest will be considered. OIOS is of the opinion that any referrals made by ITSD officials, even though not legally binding on contractors, are improper because contractors may feel obliged to accommodate such requests in order to receive positive performance evaluations from ITSD. Furthermore, since the Organization is paying a margin to the contractors to identify skilled IT personnel to work at the helpdesk and to provide technical support, it is the contractors' responsibility to source suitable candidates for the Organization. Recommendation 6 remains open pending receipt of documentation from DM showing the measures taken to ensure that staff members adhere to the standards of conduct of international civil servants, and to prohibit staff members from requesting contractors to employ specific individuals of their choice.

E. Recruitment of contractors' personnel as staff members and vice versa

45. OIOS' review of the contracts with Company X and Company Y showed that at least 14 of Company X's personnel and 5 of Company Y's personnel were subsequently recruited as United Nations staff members, while 2 United Nations staff members resigned and were recruited by Company X and Company Y.

46. *ITSD stated that all recruitments of staff follow the organization's prescribed procedures for recruitment, including vacancy announcements, determination of eligibility, Central Review Body review and selection by the Departmental Head. Contractor personnel compete for such positions along with all other applicants as external candidates and the final selection is based on merit. ITSD is not aware of any bar to the employment or recruitment of such candidates under the organization's recruitment rules. If in the process, they bring valuable experience, we see no reason to exclude them from consideration; to the contrary this is a bonus for the organization. OIOS has not demonstrated that the staff so recruited, if any, has been given undue or unfair weightage in the process of selection, or that the prescribed selection process has not been followed. ITSD also want to note that many former contractors have been hired as staff members by other departments. When any person is hired as a staff member, it is because there is both a need for that position and the person has the qualifications to discharge the functions. ITSD fails to understand the rationale for the assessment on whether the "move" is favourable from the Organization's perspective. Typically, a staff position offers greater permanence, from the Organization's perspective, than a contractual resource and, therefore, is a preferred option for the Organization despite the higher cost. Because staff positions are costlier and limited in number, the tendency is to reserve higher levels of responsibilities for staff positions. When a staff member leaves the organization to accept contractual employment with any of the vendors contracting with the UN, he or she forfeits many of the benefits that a staff position confers and it is also the staff member's prerogative to make that choice. From the organization's perspective, the continued availability of such a resource can only benefit the organization, provided there is a continued requirement for their expertise.*

47. The two staff members (“A” and “B”) who resigned from the United Nations and were recruited by Company X and Company Y had a monthly remuneration (gross salaries, allowances and pension benefits) of \$7,900 and \$8,000 respectively. After their resignation from the United Nations, they returned to work at the Organization the following month as contractors’ personnel with monthly invoice amounts of \$10,500 (by Company X) and \$14,500 (by Company Y), respectively. On the other hand, in 10 out of 14 cases where Company X’s personnel were recruited as United Nations staff members, the Organization paid less by recruiting the individuals as staff members instead of outsourcing their functions. This raised questions as to the cost effectiveness of outsourcing the provision of helpdesk personnel to Company X. *DM stated that OIOS observes that ten contractual personnel were hired as staff members and paid less than they were as contractual personnel, calling into question the cost-effectiveness of outsourcing. Without any details, it was difficult to comment on these cases. As mentioned earlier, it is not clear whether OIOS has factored in all the costs associated with a staff position, where the incumbent is entitled to additional benefits that a contractual person is not entitled to. ITSD has calculated that contractual resources in both the contracts are less costly than comparable staff positions.*

48. Although OIOS has not raised a recommendation regarding the practice of recruiting contractor personnel and vice versa, the fact that this has frequently occurred raises a question about whether the Organization’s existing policies in this regard adequately protect against conflict of interest situations.

Incorrect statements concerning candidates’ employment history

49. Furthermore, a review of the United Nations’ recruitment of two former personnel from Company X revealed a number of discrepancies in their Personnel History Form. The concerned Human Resources Officer made a number of unsupported and incorrect statements regarding the candidates’ employment history in the memoranda dated 1 October 2003 and 3 November 2003 that sought approval for the recruitment of these two individuals (staff member C and staff member D). She also could not explain why no reference checks were performed with the individuals’ most recent employer.

Recommendation 7

(7) The Department of Management should review the circumstances that led to the unsupported and incorrect statements in the recruitment memoranda of 1 October 2003 and 3 November 2003, in order to prevent recurrence of similar incidents.

50. The Department of Management did not accept recommendation 7, but did not provide an explanation for its disagreement with the recommendation. OIOS had provided DM the name of the Human Resources Officer as well as the names of the two former contractors’ personnel. Recommendation 7 will remain open pending receipt of the results of DM’s review of the circumstances that led

to the incorrect statements in the recruitment memoranda as well as measures taken to prevent recurrence of similar events.

F. Contract management and administration

Extension of contract beyond the contractual option period

51. The contracts with Company X and Company Y have been repeatedly extended beyond the final expiry date of 31 October 2006 through 31 December 2008. During the past several years, ITSD and PD presented their requests to HCC on five occasions: November 2005, August 2006, April 2007, May 2008 and August 2008, respectively, to extend the contract period as well as increase the NTE amount. The NTE for the contract with Company X increased from \$7.5 million to \$21.4 million, whereas the NTE for the contract with Company Y increased from \$1.2 million to \$8.1 million.

52. In HCC meetings in November 2005, August 2006 and April 2007, ITSD and PD repeatedly informed the HCC that an RFP was underway, the statement of work was in progress or that the technical evaluation would be conducted shortly. However, the procurement exercise was never finalized and was eventually cancelled in January 2008 on the grounds of deficiencies in the technical evaluation criteria. Consequently, none of the prospective vendors who participated was found technically acceptable. The Director of PD then used his authority to extend the contracts with Company X and Company Y up to 31 August 2008 without referring them to HCC. *ITSD stated that the procurement was cancelled because the technical requirements were too stringent and none of the companies who responded to the RFP was able to meet them. No single bidder was found to have met the technical requirements of the organization. PD and ITSD jointly came to the conclusion that it would be in the best interests of the United Nations to re-bid the requirement. However, in the interim, ITSD was still required to provide the mandated services to its clients and thus the existing contracts out of necessity needed to be extended during the period the requirement was being re-bid; this necessitated an increase in the NTE of the contracts. The organization's internal procurement review bodies (HCC and CPO) concurred that this course of action was in the best interests of the organization.*

53. Although the Controller, while acting as the head of the Office of Central Support Services (OCSS), authorized the Director of PD to approve contract extensions for the maximum period of eight months, he explicitly stated in a memorandum dated February 2007 to the Director of PD that such an extension should be within the previously approved NTE amount. Despite this, the Director of PD increased the NTE for Company X by \$200,000 from \$15.8 million to \$16 million, thus exceeding his delegation of authority.

54. In May 2008 when the NTE of the contract became insufficient to cover the payments to Company X, PD and ITSD reverted to HCC for another increase in the NTE. In that meeting, they informed HCC that a new RFP would be issued in May 2008 and a new contract would be in place by 1 September 2008. However, in August 2008, ITSD and PD informed the HCC that the proposals

received were under technical evaluation and requested a further extension of the contracts with Company X and Company Y up to 31 December 2008 as well as a further increase in NTE for both contracts. In January 2009, the Director of PD extended the contract with Company X and Company Y, up to 31 January 2009 and 31 March 2009, respectively, without HCC's review. In the same month however, PD reverted to HCC for another increase of NTE for Company X and a further extension of contract to 31 March 2009. HCC endorsed this request and recommended the contracts' approval to the ASG for Central Support Services, which the ASG did.

55. The above events demonstrate that the NTE values as well as the expiry dates in written contracts bear little significance since they could be repeatedly increased by ITSD and PD with the endorsement of HCC and approval by the ASG of OCSS. Consequently, there was no assurance that the four basic principles of procurement as outlined in Financial Regulation 5.12 namely: (i) best value for money; (ii) fairness, transparency and integrity; (iii) effective competition; and (iv) the interest of the United Nations, had been adhered to. Although HCC expressed concerns, it repeatedly endorsed ITSD and PD's requests. OIOS believes that ITSD and PD could have, with proper planning, rebid the contracts prior to the expiration of the option period, particularly since ITSD and PD had known of the final contract expiry dates of October 2006 at the commencement of the contract in November 2001.

56. *ITSD stated that it should also be emphasized that both ITSD and PD have invested a considerable amount of effort in the two RFPs for the replacement of these contracts, because of the operational significance of these contracts for ITSD. There is ample documentary evidence in support of these efforts. Learning from past experience, the RFP that was initiated in 2005 attempted to add new requirements that would improve the efficiency of these contracts. Unfortunately, no vendor was able to meet these new technical requirements. Learning again from this experience, PD undertook yet more research to assist ITSD in building an RFP that would allow ITSD to achieve its objectives while ensuring appropriate safeguards for the organization. Again, the extensive effort that has gone into the new RFP is documented and was made available to OIOS. This RFP is complex and extremely critical for ITSD's operational capabilities and is understandably taking some time to finalize. OIOS needs to note that PD and ITSD did initiate timely action in 2005 for the replacement of the current contracts. During 2006, a combination of several major procurements (CRM [Client Relations Management] and ECM [Enterprise Content Management] for example) and a shortage of resources in PD compelled a prioritization of procurements. Due to their urgency, CRM and ECM procurements had to be given higher priority than this RFP. As explained before, the RFP initiated in 2005 had to be eventually cancelled and a new RFP issued; we fail to see how this eventuality could have been anticipated. OIOS has not determined that this RFP was constructed without due diligence. The delay in finalizing the replacements for the contracts in question is in fact constraining ITSD's capacity to handle certain types of projects for which skills cannot be acquired under the current contracts, which were established in 2001 for a limited set of skill sets. The range of skills being addressed in the current RFP is much broader than the current contracts. Consequently, the evaluations*

are also more complex and time-consuming. ITSD fervently hopes that the current RFP produces technically acceptable vendors with whom successful contracts can be negotiated and executed in a timely manner, in order to facilitate the operations of ITSD.

Contract prices increased using contract amendments without evaluating the vendors' performance, contrary to the provisions of the Procurement Manual

57. There were significant increases in the NTE values of the contracts with Company X and Company Y. According to Section 7.11.2(6) of the Procurement Manual, "the procurement officer and the requisitioner must ensure that a vendor performance evaluation with a satisfactory result is on file before processing the amendment." Contrary to this provision and despite the extension of the contract beyond its option period and significant increase in NTE, PD officials did not request and ITSD did not provide vendor appraisals for 20 of the 22 contract amendments reviewed. *ITSD stated that it is continuously evaluating vendor performance and would not have requested an extension of the contracts had the vendor performance not been satisfactory.* OIOS is unable to accept the argument that requests for contract extension replace the evaluations of contractor performance required by UN procurement procedures.

58. Overall, OIOS notes with concern that despite the establishment of controls by means such as the Procurement Manual, the Financial Regulations and Rules, review by HCC and contractual provisions, these controls have been overridden by the managers responsible for ensuring their consistent implementation. Furthermore, the controls have proven to be ineffective because there has been no accountability for non-compliance.

Recommendation 8

(8) The Under-Secretary-General for Management, in consultation with the Chief Information Technology Officer, should determine accountability concerning the failure by ITSD, the Procurement Division and the Headquarters Committee on Contracts to properly discharge their fiduciary and oversight responsibilities by their repeated contract extensions beyond the option period and without the required performance evaluation of Company X and Company Y.

59. *DM did not accept recommendation 8, stating that the contracts for the outsourcing of IT activities were extended because the companies participating in the solicitation did not submit a proposal that was in the best interest of the Organization. It is not accepted that the extension of the contracts in order to avoid a disruption to critical IT services due to the inability of the IT market to deliver a proposal that was in the best interest of the United Nations constituted a failure to properly discharge fiduciary and oversight responsibilities. It is therefore requested this allegation be withdrawn. Regarding the statements in paragraph 53, the Director of PD did not exceed his delegation of authority by increasing the NTE by \$200,000. This amount was less than 20% of the contract*

value and did not exceed \$200,000, thus in accordance with the following provisions in the Procurement Manual cited by OIOS regarding this audit, no HCC approval was required for the NTE increase: Please note the provisions of the Procurement Manual regarding approval and delegation of authority: (i) 1998 Procurement Manual: Section 10.02.01 (b) and, (ii) 2004, 2006, 2007 and 2008 Procurement Manuals: Section 12.1.1 (1) (b). Regarding the statements in paragraph 55, proper planning was taken to rebid the contracts in a timely manner as a rebid was undertaken in 2006, but unfortunately the solicitation had to be cancelled in 2008 as the proposals which were submitted in response to the solicitation did not constitute 'best value for money' and it was therefore not in the best interest of the Organization to accept any of these bids. Following a review of the 2006 bid, extensive additional research was performed and the Statement of Work and evaluation criteria were modified. A new solicitation was undertaken which is in the final stages. The 2008 RFP is more comprehensive and has been adapted to take account of changes in the dynamic IT sector. Noting the above, to ensure uninterrupted provision of services, PD had no option but to extend the current contracts. With regard to HCC, this recommendation is also not accepted because HCC is an administrative body which is not responsible for performance evaluations of vendors, nor is it responsible for contract administration.

60. *ITSD stated that all the functionaries involved in the decision making process relating to the extension of the current contracts have been provided the relevant facts and the decisions to extend have been taken with reference to the overall interests of the Organization, especially given the criticality of these services to the Secretariat. The characterization that many of the functionaries failed to properly discharge their fiduciary and oversight responsibilities is not proper or correct.*

61. OIOS is unable to accept DM's and ITSD's explanations for the following reasons. First, contrary to DM's comment that "contracts for the outsourcing of IT activities were extended because the companies participating in the solicitation did not submit a proposal that was in the best interest of the Organization and that proper planning was undertaken in 2006", OIOS has obtained written confirmation from PD that the bidding exercise (RFPS-981) of 2006 was cancelled in January 2008 because there were deficiencies in the technical evaluation criteria established.

62. Second, the contracts with Company X and Y expired in December 2007 and the Director of PD was only able to extend these contracts up to August 2008 without going to HCC as a result of the additional delegation of authority given by the then Controller, who was also the head of OCSS at that time. This additional delegation of authority allowed the Director of PD to extend contract durations up to eight months, but the Controller explicitly prohibited the increase of NTE as stated in paragraph 53 above. In OIOS' opinion, the sections of the Procurement Manual cited by DM (Section 12.1.1 (1) (b) of the 2004, 2006, 2007, 2008 Procurement Manual) were not applicable for renewals of expired contracts beyond the approved option period, which was the case for Company X and Y.

63. Third, with regard to HCC, although it is not directly responsible for vendors performance evaluation and contract administration, its general functions outlined in Section 2.3 of the 2008 Procurement Manual include ensuring that “(1) the proposed reviews presentations, written or electronic, made by and through UN/PD and provides advice to the ASG, or other officials duly authorized under Financial Rule 105.13, on whether proposed procurement actions...are in accordance with the UN Financial Regulations and Rules (FRR), Secretary-General’s Bulletins (SGBs) and Administrative Instructions (AIs), and UN procurement policies...[and] (2) examines and provides general advice regarding the financial implications of any proposed procurement action...inter-alia, is in the best interest of the UN...” OIOS maintains that by repeatedly recommending extension of contract durations with Company X and Y over a prolonged period beyond the contractual expiry dates, HCC did not properly discharge its functions as described in the Procurement Manual.

64. Moreover, the contracts with Company X and Y were extended beyond their approved duration not once but seven times and five times, respectively, over a period of more than two years. The NTE amounts for the contracts increased significantly, by 185 per cent and 525 per cent, respectively, from the initial amounts recommended by HCC and approved by the ASG for Central Support Services.

65. In view of the above, OIOS is concerned that the condoning of such practices will seriously undermine the effectiveness of internal controls and encourage a culture of non-compliance without advancing the need for accountability. Recommendation 8 therefore remains open pending receipt of documentation from DM showing the measures taken for its implementation.

Contracts signed after the commencement of services

66. There were instances where contractors provided services to the United Nations without a valid contract. In 21 out of the 27 contracts and contract amendments that OIOS reviewed, the contractual documents were signed after the effective date of the contractual documents. When OIOS brought this to the attention of procurement officials, they questioned the risk and the impact of this situation. PD officials also stated that many of the delays were due to delays in obtaining the signed copy of the HCC minutes. In OIOS’ opinion, the risk is that services are being rendered without a valid contract, which could expose the Organization to potential liabilities.

Recommendation 9

(9) The Director of the Procurement Division should sign all contracts and contract amendments between the United Nations and vendors in a timely manner in order to fully protect the interests of the Organization.

67. *DM did not accept recommendation 9, stating that PD cannot agree with the statements with regard to this recommendation and the findings on which it is based. PD further noted that the findings are not supported by the facts evidenced in the relevant files. OIOS maintains that its review of PD's records during the audit showed that in 21 out of 27 cases reviewed, the contracts and contracts' amendments had been signed after their effective dates. Therefore, the risk of incurring potential liabilities due to the absence of a duly signed contractual instrument when services are already being rendered by the contractor continues to exist. PD has not provided any information explaining how or why it considers this risk to be insignificant. Recommendation 9 therefore remains open pending receipt of documentation from PD showing the measures taken to ensure that contracts and contract amendments between the United Nations and vendors are signed in a timely manner.*

NTE amount overstated to avoid HCC reviews

68. ITSD had also overstated the NTE required for the contract with Company X in order to avoid reverting to HCC. In its meeting on 24 April 2007, HCC asked whether the calculation of the NTE was based on the highest billing rates instead of blended billing rates. ITSD had replied that this was done so as to avoid reverting to HCC for increases in NTE amount. It is unclear why HCC accepted this response and endorsed the recommendation for the increase in NTE as requested by ITSD.

Recommendation 10

(10) The Headquarters Committee on Contracts (HCC) should explain why it recommended an increase to the Not to Exceed Value (NTE) for an ITSD outsourced activity at its 24 April 2007 meeting even though ITSD had overstated the NTE to avoid reverting to HCC for future review.

69. *HCC accepted recommendation 10 and stated that it will provide explanation to management in this regard. Recommendation 10 remains open pending receipt of HCC's explanation on why it recommended an increase to the NTE value despite indication by ITSD that the NTE had been overstated to avoid reverting to HCC for future review.*

Unauthorized use of subcontractors

70. The United Nations General Conditions of Contract that forms part of all the above mentioned outsourced contracts stipulated that, "in the event the Company requires the services of subcontractors, the Company shall obtain the

prior written approval and clearance of the United Nations for all sub-contractors.” However, during the life of the contract, Company X engaged at least four sub-contractors and Company Y engaged at least 10 sub-contractors to work at the United Nations, without any written approval or clearance by the United Nations.

Recommendation 11

(11) The Procurement Division should take appropriate action regarding the failure of Company X and Company Y to comply with the United Nations General Conditions of Contracts pertaining to sub-contracting.

71. *DM did not accept recommendation 11, stating that PD has reviewed its files and finds no formal communication from the vendors regarding their use of sub-contractors. However, PD will consult with the contract manager, ITSD, in order to ascertain whether the contractor used sub-contractors. Appropriate action will be initiated by PD in collaboration with ITSD, upon receipt of confirmation of non-compliance by the contractor with the UN General Conditions of Contract.*

72. During the audit, OIOS had brought these specific cases to PD’s attention. When OIOS made attempts to confirm whether the specific cases of sub-contracting had been approved by PD, PD staff had indicated that no approvals had been given. The fact that PD is now stating that it has no formal communication from contractors regarding their use of sub-contracting does not mean that no sub-contractors were used, particularly since OIOS had specifically brought such cases to PD’s attention during the audit. Recommendation 11 remains open pending receipt of documentation from PD showing the action taken regarding the failure of Company X and Y to comply with the United Nations General Conditions of Contract pertaining to sub-contracting.

G. Payments

73. According to Financial Rule 105.5, “certifying officers are responsible for managing the utilization of resources in accordance with the purposes for which those resources were approved, the principles of efficiency and effectiveness and the Financial Regulations and Rules of the United Nations”. The Financial Rule further states that “certifying officers must maintain detailed records of all obligations and expenditures against the accounts for which they have been delegated responsibility”.

Certifying officers did not properly perform their responsibilities, exposing the Organization to risk of incorrect payments

74. Certifying officers in ITSD did not properly discharge their duties in accordance with Financial Rule 105.5. The certifying officers had either certified invoices with errors or invoices that were not properly supported. In an extreme example, a certifying officer in ITSD certified an invoice that included 25 hours

of overtime in a single day for one staff of Company Y. Other discrepancies noted in the invoices from Company Y included the following:

- (a) unapproved timesheets;
- (b) computation errors that led to overstatement of hours billed;
- (c) overtime hours that exceeded the authorized overtime hours;
- (d) certain personnel did not take lunch during the 8-hour working day or only had 15-30 minutes of lunch time contrary to the 1 hour non-chargeable lunchtime requirement stipulated in the contract; and
- (e) submission of duplicate copies of timesheets and overtime forms despite the requirement to submit original copies as stipulated in the contract.

75. The certifying officer in ITSD also did not properly manage the funds for the provision of services to operate and maintain the PABX (telephone) systems. These services were outsourced to Company Z whose billings included invoices for the provision of technicians on-site, repair costs of telephones and sales of telephone units to the Organization. For billings on the provision of on-site technicians, the certifying officer had certified invoices although the timesheets of the contractors' personnel were not duly approved; justifications for overtime were inadequate; and overtime was paid without prior written authorization. Although ITSD claimed to have reconciled the invoices to the timesheets, OIOS noted 7 cases in 2006 where the total hours invoiced were 1,008 while the total hours worked as per the timesheets were only 807. When OIOS brought this to ITSD's attention, the section chief of ITSD's Voice and Messaging System (VMS) who was supervising the work of Company Z responded that he was aware of these cases but decided not to pursue because the Company had sometimes provided an additional technician on-site without charge.

76. The certifying officer was also unable to demonstrate to OIOS that the invoiced repair costs were valid charges. ITSD did not track the warranty information on telephones and therefore was not in the position to detect whether Company Z had charged repair costs of telephones that were under warranty. Inventory management of telephones was also weak. Installation of new telephones was based on work orders without due consideration to the serviceability of the existing telephone and the inventory of replaced telephones was not tracked. Consequently, there were risks of waste, theft and abuse.

77. *ITSD stated that for the contract for the management of the PABX systems defines any work order with more than 40 moves, additions and changes as a project to be priced separately. Of the total of \$231,226.17 spent on overtime and additional staff resources from Company Z in 2006, a sum of \$107,010 was for a project to wire the FF building 1st and 14th floor. The scope of work, material estimates and cost estimates received from the vendor has already been provided to OIOS which corroborates this information.*

78. *The contract also has a provision to hire three cable technicians as a part of regular crew to work on installation of voice and data cables. As there was no continuous work load for three cable technicians, technicians were*

brought in on as needed basis based on review of work load. The requirement was closely monitored on a daily basis on the amount of cable MAC received. In 2006, a total of \$106,914.00 was spent on cable technicians brought in on as needed basis. The cost of hiring 3 cable technicians for the duration would have cost the organization \$351,776.

79. Only a sum of \$17,301.60 was spent on overtime for work outside the normal working hours for emergency system repair during weekends, work on 38th floor and other areas that could not be accessed during normal working hours. Any work done outside the working hours has been pre-authorized by the chief of VMS/ITSD or the chief of the Voice Unit/VMS/ITSD. Only on rare occasions, when a service is required to correct a major system failure and neither the Unit chief nor the VMS Chief could be reached for prior authorization, was the vendor allowed to send in a repair technician without having obtained a pre-approval. Subsequent to each of those occasions the Chief of VMS would evaluate the nature of the failure and the corrective work undertaken to ensure action taken and costs charged by the vendor were in line with the contract.

80. Service orders are created by the vendor and signed by the Chief of VMS/ ITSD to track the use of overtime and additional resources. Payments are made only against service orders approved by ITSD. ITSD was using the approval of service order as the tracking mechanism for any overtime or additional resources required not the monthly attendance sheet. Following the draft audit observation, ITSD has since requested the vendor to reflect overtime and any additional resources, including shift hours of all contract personnel on the attendance sheet; this has been implemented.

81. Under the contract, the vendor is responsible for repair/replacement of all equipment parts and telephones, irrespective of whether they were just installed or had been in service for the last twenty years. The repair cost of \$9,800 of 140 phones referred to in the report was to refurbish the used phones recovered from the field so that they could be reused in new installations. Once a request for a telephone is received, a detailed survey is conducted to determine whether there is wiring and a telephone at the requested location. A new telephone is provided only in instances when a new line is installed. VMS/ ITSD keeps track of all display phones issued and the user departments are charged back for all newly issued display phones on a periodic basis. Issuances of all new phones are recorded on the "Application Suite", telephone system management software. The software in PBX shows all telephones connected to the system. In 2006, a total of 278 display phones were issued and a sum of \$62,494 was recovered from the client offices and departments.

82. OIOS' findings above were based on interviews with staff in VMS, and the review of invoices and supporting documentation. These findings were shared with the Chief of VMS in March 2008 but no response was received despite follow-ups. While OIOS takes note of the steps subsequently taken by VMS to address the audit findings, it maintains that these findings remain factual based on the conditions that existed at the time of the audit.

Recommendation 12

(12) The Department of Management should determine accountability of the certifying officers of ITSD for failing to properly execute their functions.

83. *DM did not indicate whether or not it accepted recommendation 12, but stated that it was under consideration.* Recommendation 12 remains open pending receipt of documentation on the actions taken by DM to determine accountability of the certifying officers of ITSD for failing to properly execute their functions.

V. ACKNOWLEDGEMENT

84. We wish to express our appreciation to the Management and staff of ITSD, PD, HCC, and OHRM for the assistance and cooperation extended to the auditors during this assignment.

STATUS OF AUDIT RECOMMENDATIONS

Recom. no.	Recommendation	Risk category	Risk rating	C/O ¹	Actions needed to close recommendation	Implementation date ²
1	ITSD should demonstrate that activities currently outsourced or proposed for outsourcing would be performed significantly more economically and equally efficiently by an external party as required by General Assembly resolution 55/232.	Strategy	High	O	Documentation showing that the savings arising from outsourcing have been quantified and reported in accordance with General Assembly resolution 55/232.	Not provided
2	The Procurement Division should comply with the provisions of the Procurement Manual and ensure that future solicitation documents (e.g. the Request for Proposal) clearly indicate that "prior to Bid Closure no communication shall take place between the recipients of the Solicitation Documents and the UN, except with the issuing Procurement Officer designated as the UN's sole point of contact".	Compliance	High	O	A revised template of solicitation documents that incorporates the above-mentioned requirement.	1 st quarter of 2009
3	The Procurement Division should investigate whether Company Y was properly registered prior to the award of the contract and complete the registration of Company Y on a post facto basis if it cannot be verified.	Compliance	Medium	O	Supporting documentation showing that Company Y was properly registered with the United Nations prior to the award of contract in 2001.	Not provided
4	ITSD should comply with the United Nations General Conditions of Contracts and should in future include revised job descriptions as part of the amendment to the contract, in order for these revisions to be valid.	Compliance	Medium	O	Confirmation from ITSD that revisions to the job descriptions forming part of the contract are being reflected in contract amendments.	Not provided
5	The Department of Management should investigate the circumstances where candidates were apparently referred to contractors by ITSD officials and take appropriate action to address any	Compliance	High	O	Results of the investigation by DM including the action taken against the staff members who made referrals to vendors prior the conclusion of the bidding process (RFP-210) and those who made referrals	Not provided

Recom. no.	Recommendation	Risk category	Risk rating	C/O ¹	Actions needed to close recommendation	Implementation date ²
	improprieties or conflict of interest situations found.				after the award of the contract.	
6	The Department of Management should ensure that staff members adhere to the standards of conduct of international civil servants and prohibit staff members from requesting contractors to employ specific individuals they have identified.	Governance	High	O	Documentation from DM showing the measures taken to ensure that staff members adhere to the standards of conduct of international civil servants, and to prohibit staff members from requesting contractors to employ specific individuals of their choice.	1 st quarter of 2009
7	The Department of Management should review the circumstances that led to the unsupported and incorrect statements in the recruitment memoranda of 1 October 2003 and 3 November 2003, in order to prevent recurrence of similar incidents.	Operational	Medium	O	Results of DM's review of the circumstances that led to the unsupported and incorrect statements in the recruitment memoranda as well as measures taken to prevent recurrence of similar events.	Not provided
8	The Under-Secretary-General for Management, in consultation with the Chief Information Technology Officer, should determine accountability concerning the failure by ITSD, the Procurement Division and the Headquarters Committee on Contracts to properly discharge their fiduciary and oversight responsibilities by their repeated contract extensions beyond the option period and without the required performance evaluation of Company X and Company Y.	Governance	High	O	Documentation from DM showing the measures taken for implementing the recommendation.	Not provided
9	The Director of the Procurement Division should sign all contracts and contract amendments between the United Nations and vendors in a timely manner in order to fully protect the interests of the Organization.	Operational	High	O	Documentation from PD showing the measures taken to ensure that contracts and contract amendments between the United Nations and vendors are signed in a timely manner.	Not provided
10	The Headquarters Committee on Contracts (HCC) should explain why it recommended an increase to the Not to Exceed Value (NTE) for an ITSD outsourced activity at its	Financial	Medium	O	HCC's explanation on why it recommended an increase to the NTE value despite indication by ITSD that the NTE had been overstated to avoid reverting to	1 st quarter of 2009

Recom. no.	Recommendation	Risk category	Risk rating	C/O ¹	Actions needed to close recommendation	Implementation date ²
	24 April 2007 meeting even though ITSD had overstated the NTE to avoid reverting to HCC for future review.				HCC for future review.	
11	The Procurement Division should take appropriate action regarding the failure of Company X and Company Y to comply with the United Nations General Conditions of Contracts pertaining to sub-contracting.	Compliance	Medium	O	Documentation from PD showing the action taken regarding the failure of Company X and Y to comply with the United Nations General Conditions of Contract pertaining to sub-contracting.	Not provided
12	The Department of Management should determine accountability of the certifying officers of ITSD for failing to properly execute their functions.	Compliance	Medium	O	Documentation on the actions taken by DM to determine accountability of the certifying officers of ITSD for failing to properly execute their functions.	Not provided

1. C = closed, O = open
2. Date provided by Department of Management in response to recommendations.