



Office of Internal Oversight Services

INTERNAL AUDIT DIVISION

AUDIT REPORT

Procurement activities at the United Nations Office at Nairobi (UNON)

There is a need to review and clarify the UNON delegation of authority with respect to procurement on behalf of UNEP and UN-HABITAT and improve adherence with procurement rules and procedures

18 October 2010

Assignment No. AA2009/211/02

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: Mr. Achim Steiner, Director-General

DATE: 19 October 2010

A: United Nations Office at Nairobi

Ms. Angela Kane, Under-Secretary-General for
Management

Mr. Warren Sach, Assistant Secretary-General for
Central Support Services

REFERENCE IAD: 10- 00880

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

Fatoumata

SUBJECT: **Assignment No. AA2009/211/02 – Audit of procurement activities at the United Nations
Office at Nairobi**

1. I am pleased to present the report on the above-mentioned audit.
2. Based on your comments, we are pleased to inform you that we will close recommendations 4 and 12 in the OIOS recommendations database as indicated in Annex 1. In order for us to close the remaining 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. Your response indicated that you did not accept recommendations 5, 8, 11, 13 and 17. 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.
4. 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, 3, 6, 7, 8 and 9), in its annual report to the General Assembly and semi-annual report to the Secretary-General.

cc: Ms. Inga Bjork-Klevby, Officer-In-Charge, UN-Habitat
Mr. Alexander Barabanov, Director, Division of Administrative Services, UNON
Mr. Swatantra Goolsarran, Executive Secretary, UN Board of Auditors
Ms. Susanne Frueh, Executive Secretary, Joint Inspection Unit
Mr. Jonathan Childerley, Chief, Oversight Support Unit, Department of Management
Mr. Byung-Kun Min, Special Assistant to the USG-OIOS
Ms. Amy Wong, Programme Officer, IAD, 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).

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EXECUTIVE SUMMARY

Audit of procurement activities at the United Nations Office at Nairobi

The Office of Internal Oversight Services (OIOS) conducted an audit of procurement activities at the United Nations Office at Nairobi (UNON). The overall objective of the audit was to assess the adequacy and effectiveness of internal controls in providing reasonable assurance that the procurement activities in UNON are being carried out in accordance with relevant United Nations Regulations and Rules. The audit was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing.

OIOS concluded that a review and clarification of delegation of authority is needed, and that there were significant opportunities for improvement regarding compliance with the United Nations procurement manual and United Nations Regulations and Rules. In addition, there was a need to implement and strengthen key internal controls.

The current practice of UNON procuring goods and services on behalf of the United Nations Environmental Programme (UNEP) and the United Nations Human Settlements Programme (UN-HABITAT) was based on the Secretary-General's Bulletin, which only referred to administrative and other support services to UNEP and UN-HABITAT, for UNON, but did not explicitly cover procurement and not on clear delegation of authority granted by the Under-Secretary-General for Management. OIOS recommended that the Office of Central Support Services review and amend the delegation of authority to UNON to include procurement services to UNEP and UN-HABITAT.

The Executive Directors of UNEP and UN-HABITAT are responsible for procurement funded from their extra-budget and have the ability to delegate procurement authority. Although UNON provides procurement functions to UNEP and UN-HABITAT, the Executive Directors of the two Organizations have not delegated the procurement authority to UNON. Therefore, OIOS recommended that the Executive Directors delegate the authority to UNON.

Other opportunities for improvement included the following:

- The Department of Management should establish control mechanisms to monitor cases reviewed by the Local Committee on Contracts;
- UNON should comply with the regulations and rules for procuring goods and services on exceptional basis to increase transparency and comply with the UN procurement manual as regards the segregation of duties between the requisitioner and the procurement section;
- UNON should review the vendor database and ensure compliance with vendor registration requirements; and

- UNON should also review the adequacy and appropriateness of the staffing levels in the Procurement Travel and Shipping Section, comply with critical processes in the maintenance of the vendor roster, and measure/evaluate its performance against benchmarks laid down in Service Level Agreements with UNEP and UN-HABITAT.

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I. INTRODUCTION

1. The Office of Internal Oversight Services (OIOS) conducted an audit of procurement activities at the United Nations Office at Nairobi (UNON). The audit was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing.
2. UNON is governed by Secretary-General's Bulletin ST/SGB/2009/3, which states that UNON provides administrative and other support services to the United Nations Environmental Programme (UNEP) and the United Nations Human Settlements Programme (UN-HABITAT) and in accordance with the Memorandum of Understanding (MOU) between the UN-HABITAT, UNEP and UNON dated 4 April 2004. Based on these provisions, UNON is carrying out procurement activities for UNEP and UN-HABITAT at Headquarters in Nairobi and for some programme-related activities in field offices. The procurement is performed by the UNON Procurement, Travel and Shipping Section (UNON/PTSS).
3. UNON carried out procurement activities valued in excess of \$235 million between January 2007 and April 2009 for UN-HABITAT, UNEP and UNON.
4. Comments made by UNON, UNEP and UN-HABITAT are shown in *italics*.

II. AUDIT OBJECTIVES

5. The main objective of the audit was to assess the adequacy and effectiveness of internal controls in providing reasonable assurance that the procurement activities in UNON are being carried out in accordance with relevant United Nations Regulations and Rules.

III. AUDIT SCOPE AND METHODOLOGY

6. The audit covered the procurement of goods and services carried out by UNON for the period from January 2007 to October 2009. The audit focused on the review of the delegation of authority and accountability, organizational structure and staffing, acquisition planning, vendor rostering, requisitioning and solicitation of bids, submission and evaluation of bids, and establishment and administration of contracts.
 7. The audit was conducted by interviewing staff and reviewing documentation for selected samples of contracts and transactions. In performing the audit procedures, OIOS took into account the risks that are inherent in the procurement process. These risks relate to governance, compliance, operational, information resources and human resources.
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IV. AUDIT FINDINGS AND RECOMMENDATIONS

A. Governance

Need to revise the delegation of authority to UNON

8. UNON has been procuring goods and services on behalf of UNEP and UN-HABITAT on the basis of the Secretary-General's Bulletin on the Organization of the United Nations Office at Nairobi (ST/SGB/2009/3), which states that UNON provides administrative and other support services to UNEP and UN-HABITAT. These provisions are reflected in the Memorandum of Understanding (MOU) between UNON and UN-HABITAT and UNEP dated 4 April 2004. In executing these provisions, the Office of Central Support Services' Assistant Secretary-General (ASG/OCSS) delegated, by memorandum dated February 2005, unlimited procurement authority to the Director DAS/UNON.

9. In February 2007, the Director, DAS/UNON sought clarification from the Procurement Division, Department of Management (DM) regarding the authority delegated to him for procurement on behalf of UNEP and UN-HABITAT. In turn, the Procurement Division sought clarification from the Office of Legal Affairs (OLA). OLA opined in a memorandum dated 14 November 2007 that there was no clear legal basis for UNON to provide procurement services to UNEP and UN-HABITAT.

10. Although there was no documentation precisely indicating that authority was granted to the Director, DAS/UNON to provide procurement services to UNEP and UN-HABITAT, in OIOS view, this authority seems to be consistent with and supported by ST/SGB/2009/3, coupled with the delegation of procurement authority to Director, DAS/UNON by ASG/OCSS even though the delegation did not explicitly state so.

Recommendation 1

(1) The Department of Management should amend the delegation of authority of the Director, Division of Administrative Services, to include procurement for UNEP and UN-HABITAT funded from the regular budget.

11. *The Department of Management did not indicate whether it accepted recommendation 1 but commented that, consistent with the position held in 2007, OCSS would seek legal advice from the Office of Legal Affairs with regard to the interpretation of ST/SGB/2009/3 and whether this can be considered as a basis from including procurement actions for UNEP and UN-HABITAT in the current delegation of procurement authority granted to the Director, DAS. Recommendation 1 remains open pending OLA's advice to the Department of Management on the need to amend the delegation of authority to Director -*

Division of Administrative Services to include the procurement of goods and services for UNEP and UN-HABITAT.

Delegation of authority structure for UNEP is inconsistent with UNEP Financial Rules

12. The Director, DAS/UNON, by memorandum dated 15 October 2003 delegated procurement authority to all Heads of UNEP Offices away from Nairobi Headquarters to procure goods and services up to \$150,000. The delegation of authority to the Director, DAS/UNON only allowed him to further delegate procurement authority and responsibility, as appropriate, to qualified staff under his supervision in UNON.

13. Procurement cases above \$150,000 up to \$200,000 are approved by the Director, DAS/UNON while procurement cases above \$200,000 require the approval of the UNEP Executive Director.

14. UNON provides procurement services to UNEP but has not been delegated the authority to do so by the Executive Director, UNEP. Activities financed from the fund of UNEP are governed by ST/SGB/Financial Rules/2 titled Financial Rules of the Fund of the United Nations Environment Programme (UNEP Financial Rules). In terms of Rule 212.1 "When budgetary provision is made for programme support costs or where provision is made in project budgets for equipment, supplies or services to be supplied by the Fund, the Executive Director shall be responsible for the purchase of equipment and supplies and the contracting of services." Additionally, this means that for programme funds (extra-budget) the Executive Director of UNEP is the only United Nations Official authorized to grant delegation of procurement authority to Director, DAS/UNON and heads of UNEP offices away from Headquarters. Therefore, the current delegation of authority structure was also inconsistent with UNEP Financial Rules, since procurement authority was granted by the Director, DAS/UNON and not by the Executive Director of UNEP.

Recommendation 2

(2) The Executive Director of UNEP should delegate procurement authority for extra budgetary funding to UNON and heads of UNEP Offices away from Nairobi Headquarters in accordance with ST/SGB/Financial Rules/2.

15. UNEP accepted recommendation 2 and stated that it will be implemented in 2010. *UNEP further indicated that with the creation of UNON, its procurement capabilities were transferred to UNON, as were the specialized staff and positions authorized by the ASG/OCSS to perform significant procurement functions in accordance with ST/SGB/2005/7. In this context, UNEP trusts: (a) that the performance of UNON's procurement services in relation to compliance with UN procurement policies and procedures would be monitored by the Department of Management; and (b) that UNON's procurement services would support (monitor, advise, guide and train) the procurement functions exercised by staff in UNEP's offices away from Nairobi.*

Recommendation 2 remains open pending confirmation that the Executive Director of UNEP has delegated procurement authority for extra budgetary funding to UNON and heads of UNEP Offices away from Nairobi.

Need for delegation of authority from UN-HABITAT to UNON

16. UNON provides procurement services to UN-HABITAT without delegation of authority from the Executive Director, UN-HABITAT. For procurements financed by extra budgetary funds, ST/SGB/2006/8 titled "Special Annex for the United Nations Habitat and Settlements Foundation (series 300) to the Financial Regulations and Rules of the United Nations (series 100)" (the Special Annex) Financial Rule 305.3.1 states that the Executive Director of UN-HABITAT is responsible for the administration and management of the Habitat Foundation and has the authority to administer the Habitat Foundation budget and to utilize its funds as planned and approved by the Governing Council, in accordance with the United Nations Financial Regulations and Rules and the provisions of the Special Annex. Accordingly, the Executive Director of UN-HABITAT delegated procurement authority to UN-HABITAT Offices away from Nairobi Headquarters for all procurement matters up to \$150,000 in accordance with the Financial Regulations and Rules. Therefore, it is OIOS opinion that UNON should have delegation of authority from the Executive Director in order to provide the procurement services.

17. The Financial Regulations and Rules do not allow the Executive Director to delegate procurement authority to non-UN-HABITAT staff. Financial Rule 301.1 states that the Executive Director "delegate authority for specific aspects of these Financial Regulations and Rules to officials of the Foundation". Therefore, for the Executive Director to delegate procurement authority to UNON staff members, Financial Rule 301.1 would have to be amended.

Recommendation 3

(3) UN-HABITAT should find an appropriate legal basis under which the Executive Director of UN-HABITAT can provide delegation of authority for procurement to UNON.

18. *UN-HABITAT accepted recommendation 3 and stated that it is undertaking some consultations with its senior management including the Executive Director, its legal adviser and possibly with the UN Office of Legal Affairs to clarify and ascertain the legal basis under which UN-HABITAT should provide delegation of authority for procurement to UNON. While UN-HABITAT agrees that a clear delegation should be provided to UNON to procure on behalf of UN-HABITAT, it is unsure whether such delegation will require an amendment to Financial Rule 301 of the Special Annex for the UN-HABITAT to the Financial Rules and Regulations of the United Nations. Since any amendment of the Financial Rules and Regulations should be undertaken with utmost care and only when necessary, UN-HABITAT wants to adopt a due diligence process to cautiously review the options and the need for an amendment. UN-HABITAT estimates full implementation of recommendation 3 to be 31 March 2011.*

Recommendation 3 remains open pending confirmation that the Executive Director of UN-HABITAT has delegated authority for procurement to UNON.

Inadequate control mechanisms to monitor delegations of procurement authority

19. In UNON, there were inadequate controls to ensure compliance with the delegated authority thresholds. While IMIS built-in-controls prevent the processing of transactions above a particular procurement officer's limit, it does not track transactions of related requisitions, which meant that the controls could be bypassed and go undetected. However, should this occur, there is no monitoring mechanism in place (for example by generating an exception report of transactions above the authorized threshold for each procurement officer) to timely identify and address the issue. It is worth noting that UNON procurement delegation of authority granted to staff members are limited to specific amounts on a calendar year basis, involving commitments to a single contractor in respect of a single requisition or series of related requisitions.

20. All officers in UNEP and UN-HABITAT who have been granted delegated authority to procure are required to submit a monthly procurement report to UNON/PTSS detailing a brief description of each contract; lowest acceptable bidder and total amount of the winning bid; justification of the award and abstract bids. This report provides useful information that should enable UNON/PTSS and the respective regional offices to monitor compliance with procurement procedures. There was no evidence that the monthly reports expected by UNON from UNEP were ever prepared and submitted as required. UN-HABITAT provided examples of the monthly reports that are submitted to UNON.

Recommendations 4 and 5

The UNON Administration should:

- (4) Establish control mechanisms for monitoring compliance with delegated procurement thresholds; and**
- (5) Enforce the requirement for UNEP to submit the monthly procurement reports to the Procurement, Travel and Shipping Section for review.**

21. *The UNON Administration accepted recommendation 4 and stated that the recommendation has been implemented. The UNON Administration further commented that IMIS will not allow approval if a purchase order is above the level of delegation of the approving staff member. Staff members sign a delegation of authority letter that includes precisely what the level of delegation is, in accordance with Financial Regulations and Rules. Based on the explanation given, recommendation 4 is closed.*

22. *The UNON Administration did not accept recommendation 5 and stated that UNEP should address the recommendation. UNEP stated that its Corporate Services Section would support UNON's implementation of this recommendation.*

OIOS re-iterates recommendation 5 which remains open pending confirmation by UNON that UNEP procurement staff are complying with the requirement to submit monthly procurement reports to UNON/PTSS since the Director of Administration of UNON granted the delegation of authority for procurement to the UNEP offices.

There is a need to enhance controls over high value procurements

23. UNON high value procurements under the regular budget are reviewed by the Local Committee on contracts (LCC) and there is no requirement for Headquarters Committee on Contracts (HCC) review. By memorandum dated 19 May 2005, the ASG/OCSS delegated unlimited procurement authority to the Director, DAS/UNON and waived the requirement for an HCC review. Therefore, once the LCC recommends a procurement case for UNON itself, the Director, DAS/UNON can approve it. This effectively means that the LCC is the only reviewing authority for all procurement cases of \$200,000 and above.

24. High value procurements are inherently high risk and should therefore be subjected to additional review after the LCC for re-confirmation of compliance with the United Nations Regulations and Rules.

Recommendation 6

(6) The Department of Management should establish a control mechanism to review Local Committee on Contracts recommendations on high value cases above a threshold to be set in order to ensure compliance with United Nations Regulations and Rules.

25. *The Department of Management accepted recommendation 6 and stated that the delegation of procurement authority granted to UNON is managed in the same manner as the ones granted to UNOG and UNOV. The Department of Management pointed out, however, that it is not adverse to the establishment of a control mechanism for the review of LCC recommendations on high value cases and it believes that this should be applied not only to UNON but also to UNOG and UNOV for amounts in excess of \$5,000,000. Recommendation 6 remains open pending confirmation by the Department of Management that it has established a control mechanism to review Local Committee on Contracts recommendations on high value cases.*

B. Compliance

Non-compliance with requirements for sole source award

26. Contracts were awarded on a sole source basis in UNEP and UNON but there was inadequate documentation and justification available. For example, seven cases amounting to \$3,073,287 did not comply with the pre-conditions for sole source award (refer to Annex 2). For these cases, there was no written documentation on file demonstrating that using formal methods of solicitation was not in the best interests of the United Nations.

27. Four of the seven contracts had been awarded based on cooperation with a government and on an exigency basis without any supporting documentation. In three of the four contracts, UNEP had requested the Director, DAS/UNON, by memorandum to approve the award on an exceptional basis. The Director approved the request for award and subsequently forwarded it to UNON/PTSS. This memorandum was the only supporting documentation available.

28. According to Procurement Manual Section 9.5.2 (1), exigency is defined as “an exception compelling and emergent need not resulting in poor planning or management or from concerns over the availability of funds, that will lead to serious damage, loss or injury to property or persons if not addressed immediately”. Further, Section 9.5.2 (3) provides the conditions for use of exigency as “(a) where the circumstances are such that they do not suitably lend themselves to the time required for competitive bidding to take place, such as the need to react to sudden onset of an urgent situation; (b) when the organization would otherwise face serious damage, loss or injury to property or persons or would incur considerable additional expenditure.”

29. One contract for UNON was awarded on sole source basis based on Financial Rule 105.16 (ix), i.e., that solicitation would not give satisfactory results. This decision was based on a solicitation that had been conducted four years before. In terms of Procurement Manual Section 9.5.1 (f) “the exception for previous solicitations without a result applies if the previous solicitation was without result and completed less than six (6) months earlier without result prior to the new solicitation.”

30. The lack of compliance with the Procurement Manual raises concern about the transparency and integrity of the procurement process. In addition, it may result in the Organization not getting the best value for money.

Recommendation 7

(7) The Assistant Secretary-General for Central Support Services should determine accountability of UNON staff and managers involved in cases of non-compliance with the Financial Regulations and Rules of the United Nations and the Procurement Manual, and take appropriate action including ensuring that delegated authority is exercised properly.

31. *The Assistant Secretary-General for Central Support Services accepted recommendation 7 and stated that UNON was requested to provide a list of all contracts awarded following an exemption of formal methods of solicitations during 2009 and 2010. A review of this will be undertaken to determine the procedures that need to be strengthened and remedial action will be taken accordingly. Recommendation 7 remains open pending the results of the review by the Assistant Secretary-General.*

Contract not processed through the normal procurement process

32. A UNON contract for strengthened and unified security management system for the United Nations: standardized access control amounting to \$5,998,843 including three amendments did not go through the normal procurement process. A Project Access Control Team (PACT), which was formed to manage the project, also undertook some procurement functions. The team, composed of consultants, performed functions such as posting the expression of interest, assessing and selecting qualifying vendors, performing the technical and financial evaluation, representations to the LCC, awarding the original contract and the subsequent amendment contract to the winning bidder. As a result there was no segregation of responsibilities between the procurement functions and the requisitioner's functions.

33. In performing some of the procurement functions, the PACT did not comply with the Procurement Manual. For example, the award of a fire and life safety system works contract on sole source basis and ex-post facto amendments to the contract were not in compliance with the Procurement Manual. The fire and life safety system works contract was awarded to the same contractor who provided the strengthened and unified security management system as an amended sole source contract based on Financial Rule 105.16 (ix) (formal solicitation will not give satisfactory results). No formal solicitation had been conducted, but rather a previous solicitation conducted in 2004 had been used to justify the sole source award. This is contrary to Procurement Manual Section 9.5.1 (f) which requires that the previous solicitation should have been completed less than six (6) months earlier.

34. In addition, two amendments amounting to \$280,768 were made to the contract as a result of changes to the original scope of work. One of these amendments for \$48,218 was done on a partial ex-post facto basis. According to Procurement Manual section 12.1.8, the ex-post facto cases may patently contradict the letter of the Financial Regulations and Rules but may be accepted by the Organization under exceptional circumstances, provided all the other United Nations procurement practices and procedures have been followed. However, ex-post facto cases shall be rare exceptions, and when they occur, written justification shall be provided to explain the reasons why timely presentation was not possible. Section 12.1.8 (4) (a) (i) states that the conditions that should be taken into account in reviewing ex-post facto cases is "not taking action on the post facto" procurement action would have seriously jeopardized the operational capability of Field Mission/OAH or endangered the lives, health and safety of United Nations or other personnel." Furthermore, the matter should have been beyond the reasonable control of the Mission/OAH. While justification for not timely presenting the case was made, the justification did not meet the conditions for an ex-post facto case. The ex-post facto case was approved by the Director, DAS/UNON in his capacity as the Head of the service. However, the Director, DAS/UNON also has the responsibility to approve the case after it is reviewed by the LCC. In this particular case, there was no segregation of duties between the requisitioner and the approver as the functions were done by the same officer.

Recommendation 8

(8) The UNON Administration should ensure that all procurement actions are processed through the Procurement, Travel and Shipping Section.

35. *The UNON Administration did not accept recommendation 8 and stated that it was of the opinion that the recommendation was raised due to a misunderstanding of the circumstances of the PACT 1 project. All procurement actions in UNON are processed through PTSS. In the case of PACT, given the high volume of work and extremely tight time frame of the project, imposed by the General Assembly, the PACT team included additional resources including dedicated procurement staff that assisted PTSS to process PACT procurement requirements in a more expeditious manner. OIOS reviewed the additional documentation provided by UNON Administration, which confirmed the result that the PACT team, not UNON PTSS, was actually responsible for posting the expression of interest, assessing and selecting qualifying vendors, performing the technical and financial evaluation and making representations to the LCC. Based on this additional review of documentation and substantiation of the finding, OIOS reiterates recommendation 8 which remains open pending UNON's Administration confirmation that all procurement actions will be processed through UNON/PTSS.*

Maintenance of the vendor roster

36. The UNON vendor roster is not a reliable source of suppliers. UNON maintains one vendor roster which encompasses both the UNON/PTSS vendors and the Budget and Financial Management Service vendors for accounts payable purposes. Vendors were being registered before they are vetted for compliance with the minimum vendor registration requirements. At the end of June 2009, 6,382 of the 7,119 (90 per cent) vendors registered had not been evaluated to ascertain whether they met the minimum criteria for registration. This is contrary to the registration requirements which state that an application that does not meet the minimum registration criteria will neither be retained nor acknowledged. In addition, 3,760 (53 per cent) vendors had not been used in the past five years.

37. UNEP and UN-HABITAT use the same UNON vendor roster database. However, in their registration process, these agencies use application forms which do not capture the information required to meet the minimum criteria for registration. In addition, there is no documentation supporting the application to enable UNON/PTSS to perform due diligence before vendor registration.

38. Lack of, or inadequate vetting of prospective vendors, could result in UNON awarding contracts to suppliers who are unable to deliver goods or services or those who are not eligible to do business with the United Nations.

Recommendations 9 and 10

The UNON Administration should:

(9) Review the vendor database and ensure compliance with vendor registration requirements; and

(10) Delete vendors in the database that do not meet the minimum criteria for registration for procurement purposes.

39. *The UNON Administration accepted recommendations 9 and 10 and stated that the issues are being addressed by (a) promulgating vendor registration procedures for out-posted offices for UNEP and UN-HABITAT, and (b) a major review of the vendor registration database, which has been commenced. These recommendations are expected to be implemented by December 2010. Recommendations 9 and 10 remain open pending the receipt of evidence of promulgation of vendor registration procedures to out posted offices for UNEP and UN-HABITAT, and the review of the vendor data base by UNON Administration.*

Inadequate procurement planning

40. UN-HABITAT provided annual acquisition plans for the years 2007 to 2009 to UNON/PTSS. However, the acquisition plans for UNEP and UNON were only available for 2007 but not for 2008 and 2009. In terms of Procurement Manual Section 8.1.1 "Procurement planning is essential for the effective and timely solicitation of bids or proposals, award of contracts and delivery of the goods and services required." The responsibility to develop the procurement plans and to communicate them to the Chief Procurement Officer rests with the requisitioners.

41. In the absence of annual acquisition plans for the three entities, there is a risk that UNON may not be able to obtain value for money in procurement through competitive prices and bulk purchase discounts. In addition, there was a possibility of inadequate planning resulting in, among other things, hastily prepared contracts and transactions regularized on an ex-post facto basis.

42. *The UNON Administration stated that UNON Administration cannot put a control mechanism in place that would force clients to compile procurement plans, short of UNON refusing to process any procurement action that is not included in their procurement plans. This notwithstanding, UNON is systematically working with UNEP and UN-HABITAT with a view to encouraging them to formulate procurement plans. UNON received a draft of UN-HABITAT's procurement plan for 2009-2010 and was working with them to refine it. UNON is awaiting the receipt of UNEP's procurement plan, but they have been reminded. OIOS would like to stress that preparation of procurement plans is best practice and should be encouraged by UNON as it will assist UNON to assess the workload and staffing requirements and serve clients better.*

Signing of contracts without proper authority

43. Section 3.2.4 (4) of the Procurement Manual stipulates the levels of delegated contractual signing authority to procurement officials on an individual basis. OIOS noted instances where UNON officers were signing contracts on behalf of other officers who had higher delegations of authority than themselves. For example, amendment contract number UNON/2007/042 for \$232,550 was signed by an official who had a signing authority limit of only \$150,000.
44. Non-compliance with the delegated authority results in officers making contractual obligations for the Organization without proper authority.

Recommendation 11

(11) The UNON Administration should put in place control measures to ensure compliance with the Procurement Manual concerning the delegated authority for signing contracts.

45. *The UNON Administration did not accept recommendation 11 and stated that there was no such thing as delegated authority for signing contracts. Once the statement of award is approved by an appropriate official, actual signature of a contract becomes a processing function which can be performed by any official designated to do this.* OIOS disagrees with such an interpretation and maintains that contracts are commitment documents and wishes to remind UNON the provisions of the Procurement Manual, which states that "only those officials duly authorized pursuant to Financial Rule 105.13, and as described in section 3.2.3 and 3.2.4 of the procurement manual shall enter into commitments regarding procurement on behalf of the United Nations". Procurement Manual in Section 3.2.4 further stipulates that contractual signing authority is delegated to field procurement officials on an individual basis. Therefore, UNON contracts should only be signed by staff members who have been designated to do so, in accordance with their delegated financial thresholds. OIOS recommendation 11 will remain open pending confirmation by UNON that the requirements of the manual as it relates to the delegation of authority for signing commitment documents would be adhered to.

Performance bond not on file

46. There were performance bonds in five of six case files for UNON procurement that were reviewed. There was no evidence on file that a bond for contract number UNON/2007/024 for \$1,868,609 for the construction of the United Nations Commissary and Central Materials Management Facility (CMMF) at UNON had been obtained. The contract required the contractor to furnish a performance bond of 10 per cent of the contract value prior to signing of the contract. At the time of the audit, UNON/PTSS indicated that they were looking for the missing performance bond.

47. The non-availability of the bond could expose UNON to a possible loss of up to \$186,860.97 in recoverable costs in case the vendor failed to execute the agreed terms and conditions of the contract.

Recommendation 12

(12) The UNON Administration should ensure that performance bonds are available on file for all contracts that require them.

48. The UNON Administration accepted recommendation 12 and stated that the recommendation has been implemented. *The Chief Procurement Officer has written to procurement staff to remind them that all tender documents must contain a request for a performance bond when applicable, as per established procurement guidelines. Copies of the bonds are to be filed in the case files and originals stored in the safe.* Based on the action taken by UNON Administration, recommendation 12 is closed.

C. Operational

Vendor responses not analyzed

49. Procurement Manual Section 9.3.4 sets the minimum number of vendors that should take part in a solicitation exercise. The number ranges from 5 to 25 depending on the value of the goods/services to be provided. This minimum number of vendors was established to ensure maximum competition.

50. Of the 13 contracts amounting to \$25,888,122 reviewed, in five contracts worth \$20,695,594, the minimum number of bidders required by the procurement manual were not met. The reasons for such a low response could not be determined as there was no analysis performed stating reasons why the minimum levels were not met. If the response levels to bids are low, it is doubtful whether UNON/PTSS achieves a satisfactory level of competition that would assure that the Organization was obtaining best value for money. This information, if collected could prove useful when designing strategies to improve bidders' response.

Recommendation 13

(13) The UNON Administration should establish mechanisms to determine the reasons for low response levels to bids.

51. *The UNON Administration did not accept recommendation 13 and stated that it would hardly be cost effective to expect UNON procurement to do additional post-facto research on the non respondents. This notwithstanding, UNON is in the process of identifying means to more accurately target suitably qualified vendors who will be able to appropriately respond to tender requests.* OIOS would like to reiterate that it is important for UNON to identify the reasons for low vendor responses to solicitations for bids, which hampers competition.

Recommendation 13 will therefore remain open pending confirmation that mechanisms have been put in place to determine the reasons for low response levels to bids.

Performance not measured and evaluated against benchmarks in Service Level Agreements (SLAs)

52. The MOU between UN-HABITAT, UNEP and UNON dated 14 April 2004, states that "The terms and conditions for specific services provided by UNON to UN-HABITAT and UNEP shall be agreed upon by the Parties in the SLAs, including benchmarks for each service." These benchmarks include those relating to procurement services. There were, however, no control mechanisms in place to measure and monitor that the benchmarks laid down in the SLAs are being complied with by UNON. In discussions held with UN-HABITAT and UNEP, it became apparent that some of these benchmarks were not being met. However, both UN-HABITAT and UNEP also do not have control mechanisms in place to monitor from their end whether the benchmarks are being met.

53. In the absence of a proper monitoring system, it is difficult to assess the performance of UNON against the established benchmarks under the SLAs and could result in poor service delivery and lost opportunity for improvement.

Recommendations 14 to 16

(14) The UNON Administration should establish a mechanism to measure and evaluate UNON's performance against benchmarks laid down in Service Level Agreements.

(15) UNEP should establish a mechanism for reviewing UNON's performance against benchmarks laid down in Service Level Agreements.

(16) UN-HABITAT should establish a mechanism for reviewing UNON's performance against benchmarks laid down in Service Level Agreements.

54. *The UNON Administration accepted recommendation 14 and stated that the recommendation would be implemented by December 2010. Recommendation 14 remains open pending confirmation that a mechanism is in place to measure and evaluate UNON's performance against Service Level Agreements.*

55. *UNEP accepted recommendation 15 and stated that the recommendation would be implemented in 2010. Recommendation 15 remains open pending confirmation that a mechanism is in place in UNEP for reviewing and evaluating UNON's performance against Service Level Agreements.*

56. *UN-HABITAT accepted recommendation 16 and stated that the recommendation would be implemented by 31 March 2011. Recommendation 16 remains open pending confirmation that a mechanism is in place in UN-*

HABITAT for reviewing and evaluating UNON's performance against Service Level Agreements.

Requisitioners following up contractor's payments

57. Requisitioners followed up payments from Budget and Financial Management Service (BFMS) on behalf of contractors at UNON. For example, in January 2009, a requisitioner, after receiving a query from the contractor, asked BFMS when payment was to be paid to a firm that was providing architectural services under contract number UNON/CON/07/0021. Furthermore, in February 2009, a requisitioner requested the same contractor to submit an invoice for processing so that the officer could approve the invoice before proceeding on leave. The requisitioner explained that BFMS took too long to process payments hence the need for follow-up in order to ensure that UNON met its contractual obligations.

58. OIOS is of the opinion that contractors should deal directly with Budget and Financial Management Service on payment matters in order to ensure segregation of duties, and to avoid undue influence by contractors on staff members. In this way, the independence of approving officers in requisitioning units will be preserved thereby reducing the risk of staff members receiving undue pressure from contractors.

Recommendation 17

(17) The UNON Administration should ensure that requisitioners do not get involved in following up with the Budget and Financial Management Service (BFMS) for payments on behalf of contractors, in order to avoid undue influence on staff members.

59. *The UNON Administration did not accept recommendation 17 and stated that BFMS is fully aware of the payment process and the need not to allow any interference in the process.* OIOS acknowledges that BFMS is aware of the payment process but wishes to stress the fact that the audit noted a number of interferences by requisitioners during the payment process. In OIOS' view, there is a need for UNON Administration to remind all staff to refrain from such interferences in future. Recommendation 17 remains open pending receipt of evidence that UNON Administration has reminded requisitioners not to follow up payments on behalf of contractors.

D. Information resources

Lack of coding of vendors in the database

60. The vendor database system that is being used by UNON currently has no capability to code commodities that vendors provide. As a result whenever there is a requirement for a particular commodity, a staff member goes through the vendors listed in the vendor database manually identifying the vendors that can provide those services.

61. In this process, there is a risk that not all the vendors who provide that service could be identified. Therefore, not all qualifying vendors may be invited to participate in the tendering process. This may also lead to restriction of competition which could result in public perception that certain vendors are favoured.

Recommendation 18

(18) The UNON Administration should develop the vendor database system to enable the coding of commodities provided by vendors.

62. *The UNON Administration accepted recommendation 18 and stated that the implementation of UN Commodity Code System in the vendor registration database will assist in attracting qualified vendors and assist requisitioners. This is being looked into by PTSS in conjunction with UNON information and Communication Technology Services.(UNON/ICTS) The recommendation is expected to be implemented by December 2010.* Recommendation 18 remains open pending confirmation that the vendor database system has been developed to code commodities provided by vendors.

Further development of the contracts database

63. The contracts database system has not been fully developed. For example, the contracts database has a functionality to alert the procurement officers when contracts are about to expire, thereby allowing them time to take appropriate action to renew contracts. However, this functionality has not been fully developed. Therefore, there is a risk of overlooking contract renewal dates.

64. The contracts database system also has a contracts evaluation module which has not been developed for all the units due to lack of financial resources. Only the UNON/ICTS had this module developed. This contract evaluation module can also be used as a repository of contracts. Currently UNON/PTSS does not have a central repository for signed contracts.

65. According to Section 7.11.1 (1) of the Procurement Manual, proper vendor database maintenance requires regular reporting on vendor performance. To achieve this purpose, requisitioners are responsible for the timely evaluation of vendor performance. From the sample of 20 contracts selected for review, OIOS noted that no vendor performance rating forms were found on the procurement case/contracts files.

Recommendations 19 and 20

The UNON Administration should:

(19) Ensure that all requisitioners comply with the Procurement Manual regarding evaluating vendor performance; and

(20) Develop the contract database system to ensure that maximum benefit can be obtained from the system.

66. *The UNON Administration accepted recommendation 19 and stated that UNON/PTSS is working in conjunction with UNON ICTS to extend their vendor performance evaluation application to all services. The recommendation is expected to be implemented by December 2010. Recommendation 19 remains open pending confirmation that requisitioners are evaluating vendor performance in accordance with the Procurement Manual.*

67. *The UNON Administration accepted recommendation 20 and stated that the recommendation is expected to be implemented by June 2010. Recommendation 20 remains open pending confirmation that contracts database system has been fully developed.*

E. Human resources

Inadequate staffing capacity

68. UNON/PTSS is responsible for processing procurement for UNON, UNEP and UN-HABITAT in Nairobi and outside Nairobi. They are also responsible for processing procurement for other United Nations agencies.

69. In its previous audit report on UNON Support Services – Procurement (AA2006/211/04, dated 26 February 2006), OIOS had recommended the review and submission for reclassification of the job description of the Chief of Procurement to ensure that it is in line with United Nations requirements and reflects current responsibilities. The UNON Administration responded that the Department of Management (DM/UNHQ) was expected to review the procurement positions and harmonize them with similar ones in New York, Geneva and Vienna. However, a budgetary approval for the reclassification would be required if new positions were to be created.

Recommendation 21

(21) The UNON Administration should review the staffing capacity of the Procurement, Travel and Shipping Section to ensure that it is adequately staffed to enable it to effectively provide services to its clients.

70. *The UNON Administration accepted recommendation 21 and stated that the recommendation is expected to be implemented by December 2010. Recommendation 21 remains open pending the outcome of UNON Administration's review of the adequacy of the PTSS staffing capacity.*

V. ACKNOWLEDGEMENT

71. We wish to express our appreciation to the management and staff of UNON, UNEP, UN-HABITAT and the Department of Management 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	The Department of Management should amend the delegation of authority of the Director, Division of Administrative Services, to include procurements for UNEP and UN-HABITAT funded from the regular budget.	Governance	High	O	Submission to OIOS, OLA advice to the Department of Management on the need for amendment of the delegation of authority to Director - Division of Administrative Services to include the procurement of goods and services for UNEP and UN-HABITAT	Not provided
2	The Executive Director of UNEP should delegate procurement authority for extra budgetary funding to UNON and heads of UNEP Offices away from Nairobi Headquarters in accordance with ST/SGB/Financial Rules/2.	Governance	High	O	Submission to OIOS, delegation of procurement authority for extra budgetary funding to UNON and Heads of UNEP Offices away from Nairobi by the Executive Director of UNEP	31 December 2010
3	UN-HABITAT should find an appropriate legal basis under which the Executive Director of UN-HABITAT can provide delegation of authority for procurement to UNON.	Governance	High	O	Submission to OIOS delegation of authority for procurement to UNON by the Executive Director of UN-Habitat	31 March 2011
4	The UNON Administration should establish control mechanisms for monitoring compliance with delegated procurement thresholds.	Governance	Medium	C		Implemented
5	The UNON Administration should enforce the requirement for UNEP to submit the monthly procurement reports to the Procurement, Travel and Shipping Section for review.	Governance	Medium	O	confirmation by UNON that UNEP procurement staff are complying with the requirement to submit monthly procurement reports to UNON PTSS	Not provided

Recom. no.	Recommendation	Risk category	Risk rating	C/O	Actions needed to close recommendation	Implementation date ²
6	The Department of Management should establish a control mechanism to review Local Committee on Contracts recommendations on high value cases above a threshold to be set in order to ensure compliance with United Nations Regulations and Rules.	Governance	High	0	Establishment of a control mechanism to review Local Committee on Contracts recommendations on high value cases by the Department of Management	Not provided
7	The Assistant Secretary-General for Central Support Services should determine accountability of UNON staff and managers involved in cases of non compliance with the Financial Regulations and Rules of the United Nations and the Procurement Manual, and take appropriate action including ensuring that delegated authority is exercised properly.	Compliance	High	0	Review of cases by the Assistant Secretary-General for Central Support Services to determine accountability of UNON staff and managers.	Not provided
8	The UNON Administration should ensure that all procurement actions are processed through the Procurement, Travel and Shipping Section.	Compliance	High	0	Confirmation that all procurement actions will be processed through PTSS.	Not provided
9	The UNON Administration should review the vendor database and ensure compliance with vendor registration requirements.	Compliance	High	0	Completion of UNON PTSS' review of the vendor database to ensure compliance with vendor registration requirements	31 December 2010
10	The UNON Administration should delete vendors in the database that do not meet the minimum criteria for registration for procurement purposes.	Compliance	Medium	0	Deletion from the database of vendors that do not meet vendor registration requirements	31 December 2010
11	The UNON Administration should put in place control measures to ensure compliance with the Procurement Manual concerning the delegated authority for signing contracts.	Compliance	Medium	0	Confirmation that UNON will observe delegation of authority for signing contracts	Not provided

Recom. no.	Recommendation	Risk category	Risk rating	C/O ¹	Actions needed to close recommendation	Implementation date ²
12	The UNON Administration should ensure that performance bonds are available on file for all contracts that require them.	Compliance	Medium	C		Implemented
13	The UNON Administration should establish mechanisms to determine the reasons for low response levels to bids.	Operational	Medium	O	Confirmation that mechanisms have been put in place to determine the reasons for low response levels to bids.	Not provided
14	The UNON Administration should establish a mechanism to measure and evaluate UNON's performance against benchmarks laid down in Service Level Agreements (SLAs).	Operational	Medium	O	Confirmation that a mechanism is in place to measure and evaluate UNON's performance against SLAs	31 December 2010
15	UNEP should establish a mechanism for reviewing UNON's performance against benchmarks laid down in Service Level Agreements (SLAs).	Operational	Medium	O	Confirmation that a mechanism is in place in UNEP for reviewing and evaluating UNON's performance against SLAs	31 December 2010
16	UN-HABITAT should establish a mechanism for reviewing UNON's performance against benchmarks laid down in Service Level Agreements (SLAs).	Operational	Medium	O	Confirmation that a mechanism is in place in UN-HABITAT for reviewing and evaluating UNON's performance against SLAs	31 March 2011
17	The UNON Administration should ensure that requisitioners do not get involved in following up with the Budget and Financial Management Service (BFMS) for payments on behalf of contractor in order to avoid the risk of the staff members receiving undue influence from contractors.	Operational	Medium	O	Evidence that UNON Administration has reminded requisitioners not to follow up payments on behalf of contractors.	Not provided
18	The UNON Administration should develop the vendor database system to enable the coding of commodities provided by vendors.	Information resources	Medium	O	Confirmation that the vendor database system has been developed to code commodities provided by vendors	31 December 2010

Recom. no.	Recommendation	Risk category	Risk rating	C/O ¹	Actions needed to close recommendation	Implementation date ²
19	The UNON Administration should ensure that all requisitioners comply with the Procurement Manual regarding evaluating vendor performance.	Compliance	Medium	O	Confirmation that requisitioners are evaluating vendor performance in accordance with the procurement manual.	31 December 2010
20	The UNON Administration should develop the contract database system to ensure that maximum benefit can be obtained from the system.	Information resources	Medium	O	Activation of IMIS functionalities for alerting management when contracts are about to expire and extending availability of vendor evaluation capabilities to other users beyond UNON ICT	30 June 2010
21	The UNON Administration should review the staffing capacity of the Procurement, Travel and Shipping Section to ensure that it is adequately staffed to enable it to effectively provide services to its clients.	Human resources	Medium	O	Report on UNON Administration's review of the adequacy of the PTSS staffing capacity	31 December 2010

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

ANNEX 2

Details of certain contracts awarded on a sole source basis

	Contract Number	Contract Amount US\$	Basis of Award	OIOS Comments	UNON comments
1	UNEP/2007/010	1,103,109	Sole Source based on Exigency and 105.17b 'Cooperate with a government'	Conditions for Exigency not met.	<p><i>Contract UNEP/2007/010 is one of the two cases whereby UNON was not in a position to ensure compliance as the case came to PTSS as a fait accompli. If any staff member should have their accountability determined it is not any in UNON.</i></p> <p><i>UNON's records indicate that during the presentation of this case to the LCC, (LCC/UNON/07/011/jg) UNON made the following observation:</i></p> <p><i>Observation 2.1 – "UNON observed that the Director of UNEP/DCPI did not consult with UNON (Administration) prior to signing of the Agreement of 21 March 2007 with the Norwegian Government which had severely limited UNON's options in this procurement exercise. If UNON (Administration) had been consulted at the outset, a different course of action may have been suggested to prevent presentation of this case on a sole source basis."</i></p> <p>OIOS position is that while UNON was not able to ensure compliance, they should not have approved the case but rather comply with the following sections of the procurement manual.</p> <p>1) Section 9.5.2 (5) which states that "In a case of exigency, review by LCC and/or the HCC and approval by CAO/DOA and/or ASG/OCSS, if applicable, may be on an ex-post-facto basis only if the conditions of Section 12.1.8 are also met and</p>

<p>2) Section 12.1.9 (4) which states that "If UN/PS determines that the case is non-compliant, the case should be presented to the ASG/OCSS on how to proceed."</p>	<p>Contract UNON/2007/042 – Security System: <i>There appears to be some confusion with regard to this case, a full procurement process was conducted in 2007 with the contract signed in November of the same year. The reference to 2004 appears to be erroneous. Attached is supporting documentation.</i></p> <p><i>UNON's records indicate that:</i></p> <p><i>a. The EOI was issued on 22 June 2007 and advertised locally and internationally.</i></p> <p><i>b. The Request for Proposal was issued on 10 August 2007 to 19 companies.</i></p> <p><i>c. A site visit was conducted on 16 August 2007 and a bidder's conference was held on 17 August 2007.</i></p> <p><i>d. The case was presented to the LCC on 24 October 2007</i></p> <p><i>e. The contract was signed on 23 November 2007.</i></p> <p>OIOS would like to amend their comments to "No formal solicitation was conducted to justify the basis for awarding a contract on a sole source basis in terms 105.16 (ix) – formal solicitation will not give satisfactory results."</p> <p>OIOS also notes that the formal solicitation process described above by UNON relates to the original ORAD contract whose terms of reference did not include those for the Fire and Life Safety system for \$718,075 whose scope of work included the supply of alarm and fire panels with a full cabling network/infrastructure.</p>	<p>The unsatisfactory formal solicitation on which sole source award was based on had been conducted in 2004 and the sole source was awarded in 2008.</p>	<p>Sole source based on 105.16(ix) – formal solicitation will not give satisfactory results.</p>	<p>718,075</p>	<p>UNON/2007/042</p>
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3	UNON/2008/034	1,097,703	Sole source based on 105.16(ix) – formal solicitation will not give satisfactory results.	No formal solicitation conducted for electrical works “only”.	<p>3. UNON/2008/034 – Electrical Works: <i>the decision to award this contract is within the FRRs and the process to arrive at the decision is fully explained in both the PTSS presentation to the LCC and the minutes of the LCC meeting following their deliberation.</i></p> <p><i>UNON's records indicate that the initial tender called for an all inclusive civil works project for the modernization of conference facilities at UNON which included electrical, mechanical and renovation works. However, the lowest bidder was considered more expensive than the available budget for the entire project. Accordingly, FMTS, PTSS and DCS concluded that it was in the best interest of the Organization to separate the electrical component of the project in order to avoid incurring penalties with the equipment contractor, the Danish Interpretation Systems company (DIS).</i></p> <p><i>At this juncture, Central Electricals had recently won the contract for the provision of Electrical, Mechanical and Catering Equipment Maintenance. Due to time constraints and cost effectiveness, the company was approached to undertake the electrical component of the project. It should be noted that during the initial tender exercise, Central Electricals was not invited as the company is qualified as an electro-mechanical works provider and not for civil works.</i></p> <p>OIOS position is that the contractors who had quoted UNON to provide electrical, mechanical and renovation services were not provided an equal opportunity to quote for electrical works only. Therefore, the award of a contract, on a sole source basis, to a company that had not participated in the tender, in OIOS view, was not transparent and may have been necessitated by inadequate planning on the part of UNON which had resulted in a risk of incurring penalties with the equipment contractor who was already in the compound. In this regard, OIOS did not agree with the justification provided to the LCC that formal solicitation</p>
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	4	UNEP/2009/011	15,600	Sole source based on exigency	Justification for not adequately supported by documentation.	<p>would not give satisfactory results as the basis for awarding the contract on a sole source basis.</p> <p>UNEP/2009/10&11&12 –Forest Complex: these all pertain to the same project. UNON does not agree that the "justification for exigency is not adequately supported by documentation". <i>The letter from UNEP-ROA to the Director, DAS, attached, with the ED's support and additional comments fully justify the approval.</i></p> <p><i>UNON's records indicate that exigency was justified as per the memorandum of the Director, UNEP-ROA, that is supported by the ED, dated 29 September 2009.</i></p> <p><i>In accordance with the Procurement Manual section 9.5.2(4)</i></p> <p><i>"The head of the Department at Headquarters requesting a waiver on the basis of 'exigency' shall certify the factual circumstances warranting procurement on such basis."</i></p> <p><i>Given the fact that the Government of Kenya requested the executive Director-UNEP on 9 September 2009 to support the Kenya Government in the preparation of a comprehensive fundraising document for proposed interventions for the rehabilitation of the Mau Forest Complex by the end of October 2009, UNEP agreed to support GoK as soon as possible in order to fulfil GoK's objectives by said date. The memorandum underscored the urgency of the project and maintained that the identified consultants were immediately available to initiate and complete the project by the deadline of 30 October 2009.</i></p> <p>Notwithstanding the above comments from UNON, OIOS is still of the opinion that the justification for exigency did not meet the definition of exigency and the conditions precedent for contracting on an exigency basis in terms of the section 9.5.2 (1), (2) and (3). Further no attempts were made by UNPS to conduct</p>
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					<p>a survey, to ensure that the costs of the service purchased under such circumstances are reasonable as required by the section 9.5.2 (4)</p>
5	UNEP/2009/010	23,200	Sole source based on exigency	Justification for exigency not adequately supported by documentation.	As above
6	UNEP/2009/012	15,600	Sole source based on exigency	Justification for exigency not adequately supported by documentation.	As above
7	UNEP/2009/022	100,000	Ex-Post Facto, Sole source award.	No formal solicitation or prior approval for the decision to award on a sole source basis sought.	<p><i>UNEP/2009/022 – Knowledge management: this is the other case, amongst those quoted, whereby UNON was not in a position to ensure compliance as the case came to PTSS as a fait accompli. Attached is a copy of a memo from Chief QAS to the Director, DAS clearly detailing the process. If there is a recommendation to make the determination of accountability it should not be directed at UNON staff.</i></p> <p>OIOS position is that while UNON was not able to ensure compliance, they should not have approved the case but rather comply with the section 12.1.9 (4) of the procurement manual which states that “If UN/PS determines that the case is non-compliant, the case should be presented to the ASG/OCSS on how to proceed.”</p>