



INTERNAL AUDIT DIVISION

AUDIT REPORT

Procurement of major contracts in UNAMI

Internal controls over procurement of major contracts were not always in place and operating effectively

12 May 2011
Assignment No. AP2010/812/03

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. Ad Melkert
A: Special Representative of the Secretary-General
United Nations Assistant Mission for Iraq

DATE: 12 May 2011

REFERENCE: IAD: 11-00391

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

Fatoumata

SUBJECT: **Assignment No. AP2010/812/03 – Audit of procurement of major contracts in UNAMI**

OBJET:

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 7 in the OIOS recommendations database as indicated in Annex 1. 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. Your response indicated that you did not accept recommendation 6. In OIOS' opinion however, this recommendation seeks to address significant risk areas. We are therefore reiterating it 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 in its annual report to the General Assembly and semi-annual report to the Secretary-General.

cc: Mr. Raja Arumugham, Officer-in-Charge, Chief Mission Support, UNAMI
Mr. Richard McKervey, Chief Procurement Officer, UNAMI
Mr. Swatantra Goolsarran, Executive Secretary, UN Board of Auditors
Ms. Susanne Frueh, Executive Secretary, Joint Inspection Unit
Mr. Seth Adza, Chief, Audit Response Team, Department of Field Support
Mr. Mario Baez, Chief, Policy and Oversight Coordination Service, DM
Mr. Byung-Kun Min, Special Assistant to the USG-OIOS
Ms. Eleanor T. Burns, Chief, Peacekeeping Audit Service, OIOS
Ms. Amy Wong, Programme Officer, Internal Audit Division, 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

DIRECTOR:

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

DEPUTY DIRECTOR:

Gurpur Kumar: Tel: +1.212.963.5920, Fax: +1.212.963.3388,
e-mail: kumarg@un.org

CHIEF, PEACEKEEPING AUDIT SERVICE:

Eleanor T. Burns: Tel: +1212-963-2792, Fax: ++1212-963-3388,
e-mail: burnse@un.org

EXECUTIVE SUMMARY

Audit of procurement of major contracts in UNAMI

The Office of Internal Oversight Services (OIOS) conducted an audit of the procurement of major contracts in the United Nations Assistance Mission for Iraq (UNAMI). The overall objective of the audit was to assess the adequacy and effectiveness of internal controls over the procurement of major contracts. The audit was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing.

Internal controls over the procurement of major contracts were not always in place and operating effectively. There was a need for additional training and guidance to staff involved in the process to ensure compliance with rules and procedures in the following areas: (a) preparation of cost estimates by requisitioners; (b) adequacy of timelines to potential vendors to prepare and submit offers; (c) consistency in procedures of late submissions to the Tender Opening Committee; and (d) use of criteria established in the solicitation documents as the basis for technical evaluations.

OIOS made seven recommendations to address the issues identified during the audit and to further strengthen internal controls over the contract management process. The Mission informed OIOS that it is planning to hold a comprehensive training for all staff involved in the procurement process.

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I. INTRODUCTION

1. The Office of Internal Oversight Services (OIOS) conducted an audit of procurement of major contracts in the United Nations Assistance Mission for Iraq (UNAMI). The audit was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing.
2. Procurement of goods and services is governed by the United Nations Financial Regulations and Rules and the United Nations Procurement Manual (PM) and is the joint responsibility of the Procurement Section and self-accounting units.
3. Under the direct supervision of the Chief Administrative Services (CAS), the Procurement Section is responsible for the purchase, rental or sale of goods and services. The Procurement Section is organized into five units: Procurement Operations-Kuwait, Procurement Operations-Iraq, Procurement Unit-Amman, Contracts Unit and Vendor Review Unit.
4. The Procurement Section is headed by a Chief Procurement Officer (CPO) at the P-4 level, and has 26 authorized posts (11 national and 15 international). As of April 2011, 21 posts were encumbered. From 1 January 2008 to 31 May 2010, UNAMI awarded contracts valued at over \$51.9 million to procure goods and services.
5. Comments made by UNAMI are shown in *italics*.

II. AUDIT OBJECTIVES

6. The main objective of the audit was to assess the adequacy and effectiveness of internal controls over establishing, managing and administering major contracts.

III. AUDIT SCOPE AND METHODOLOGY

7. The audit reviewed the contract management process and included major contracts entered into between 1 January 2008 and 31 May 2010. The audit selected 35 contracts, each with a not-to-exceed (NTE) amount of over \$200,000, which for the purpose of the audit was considered as a major contract. The total NTE amount of reviewed contracts was about \$23.5 million (45 per cent) of the \$51.9 million of the contracts signed in the period.
 8. The audit methodology included interviews and discussions with staff involved in the contract management process, review of records and documents related to the process and analysis of data. The contract management process was tested to assess compliance with the PM, United Nations Financial Regulations and Rules and other instructions and procedures issued by the Mission.
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IV. AUDIT RESULTS

A. Requisitioning and solicitation process

Estimated costs in requisitions

9. In accordance with the PM, the CPO should conduct a market survey to identify potential vendors and to estimate the cost of specific items or services proposed for acquisition.

10. There were major differences between contracted amounts and estimated costs established at the time of the requisition. The contracted amount for 15 of the 35 contracts reviewed by OIOS was either lower or higher by more than 50 per cent of the estimated cost of the respective requisition. This was because cost estimates used in requisitions were not always based on market surveys, the United Nations Standard Cost Manual and previous procurement exercises. Inadequate cost-estimates by a requisitioner impacts on the procurement process, as it can effect the minimum number of vendors to be invited and the selection method of solicitation.

Recommendation 1

(1) The UNAMI Office of Mission Support should ensure that requisitioners prepare their requisitions with reasonable cost estimates based on market surveys, the United Nations Standard Cost Manual and previous procurement experiences.

11. *The UNAMI Office of Mission Support accepted recommendation 1 and stated that the differences noticed by OIOS were mainly due to the impact of the security situation in Iraq on the prices of all goods/services that could not be reasonably foreseen. A comprehensive training on procurement is planned for the second half of 2011 and would include methods of cost estimation for goods and services to be delivered /rendered in austere conditions and in the use of the United Nations Standard Cost Manual. Recommendation 1 remains open pending confirmation that requisitioners have received the requisite training on methods of cost estimation for goods and services and in the use of the United Nations Standard Cost Manual.*

Inadequate time for bid submission

12. Section 9.9.7 of the PM provides that procurement officers shall, to the extent possible, ensure that prospective vendors are given sufficient time to understand the solicitation documents and formulate their replies to solicitations.

13. Vendors were not given adequate time to prepare and submit their bids in about 50 per cent of the 35 contracts reviewed by OIOS. OIOS was informed that this occurred as goods and services were needed to meet immediate operational requirements. OIOS identified that three of the procurement cases related to goods procured under an exigency basis. This condition was also noted in OIOS'

audit of procurement services in UNAMI (AP2008/812/06). The Mission had not yet taken appropriate corrective action; diminishing its ability to identify the best qualified vendors at the most competitive rates.

Recommendation 2

(2) The UNAMI Office of Mission Support should ensure a robust procurement planning process whereby operational requirements are identified in a timely manner to allow adequate time for the procurement process.

14. *The UNAMI Office of Mission Support accepted recommendation 2 and stated that the dynamic nature of the UNAMI operation and the security situation in Iraq often impose unforeseen and immediate operational requirements in order to ensure adequate life support, safety and security of the United Nations staff. Despite these challenges, a considerable improvement in this area was already achieved in 2010. The planning and development of requirements will be included in the procurement training programme planned in 2011. Recommendation 2 remains open pending confirmation that requisitioners have received the requisite training on planning and development of requirements, and OIOS' verification of cases showing an improvement in the bid submission time provided to prospective vendors.*

Handling of late bid submissions

15. As per the PM, the CPO may exceptionally, in the interest of the Organization, and at his/her own discretion, accept or reject late submissions of bids from vendors and document the reasons for such decisions. The reasons for accepting and processing bids that were received late were not always documented as indicated below:

- Two bids with respect to solicitation 8RFP-800017 were received late and opened by the Tender Opening Committee (TOC). However, there was no record of the reasons for accepting these two bids.
- The Procurement Officer in Baghdad requested CAS to approve the opening of technical proposals of two bids in respect of solicitation 9RFP-900022, which were received late. Accordingly, the TOC opened the two bids; however, there was no record of the reasons for accepting these bids.
- A Best and Final Offer for another solicitation (9RFP-900001) was disqualified by the TOC as it was received late; however, that offer was subsequently opened and evaluated. There was no record of the reasons for accepting this offer.

16. The TOCs were operating at four different locations and due to lack of clear operating procedures, bid opening practices differed from one location to another. OIOS was informed that due to operational urgency, some decisions were communicated through telephone and there were no procedures in place to

ensure that the reasons for accepting late submissions of bids were documented. Non-compliance with the PM regarding the handling of late submissions of bids reduced the integrity of the bidding process.

Recommendation 3

(3) The UNAMI Office of Mission Support should establish clear procedures to guide the Tender Opening Committees and to ensure that the reasons for accepting late submissions of bids are properly documented in compliance with the United Nations Procurement Manual.

17. *The UNAMI Office of Mission Support accepted recommendation 3 and stated that the TOC Terms of Reference are being updated in accordance with the provisions of the PM and would also include detailed procedural guidance on the treatment of late or irregular submissions. TOC members will also attend the proposed procurement training planned for the second half of 2011. Recommendation 3 remains open pending receipt of a copy of the revised Terms of Reference of the TOCs, and confirmation that TOC members participated in the proposed procurement training.*

B. Bid evaluation and award of contract

Technical evaluation of offers received

18. As per Section 11.9 of the PM, the technical evaluation team shall establish evaluation criteria and the criteria shall be documented prior to the release of the solicitation documents.

19. In three of the 35 files reviewed, technical evaluations were not done as per evaluation criteria stated in the solicitation documents. For example:

- In establishing Contract #AMI/CON/2008/023 with NTE amount of \$807,736 for the provision of multi-site internet services in Baghdad and Erbil, the technical evaluation was not done as per the predetermined points in the Statement of Work (SOW). The SOW allotted maximum 60 points. However, the technical evaluation was based on 55 maximum points. Moreover, although four technical proposals were qualified, only financial proposals from three vendors were opened and evaluated.
- In establishing Contract #AMI/CON/2009/030 with NTE amount of \$563,565 for refurbishment of electric distribution system in Baghdad, there were errors in the technical evaluation sheet, as it showed both 45 and 40 as a minimum passing score. The evaluation was conducted using 45 points.
- In establishing Contract #AMI/CON/2008/031 with NTE amount of \$245,890 for construction of IT/COMM backbone cabling at Erbil, two vendors were excluded from the technical evaluation on the grounds that

they did not attend the mandatory site visit. However, the solicitation documents did not require prior site visits.

20. The non-adherence to the evaluation criteria in the evaluation process was not appropriately reviewed and advised to the Technical Evaluation Committee by the Procurement Section for timely correction. This impedes the transparency of the procurement process and may preclude the Mission from obtaining the best value for money for procured goods and services.

Recommendation 4

(4) The UNAMI Office of Mission Support should ensure that the results of technical evaluations are appropriately reviewed to determine if the evaluations were conducted in accordance with the established criteria.

21. *The UNAMI Office of Mission Support accepted recommendation 4 and stated that the Mission circulated a recent detailed United Nations Procurement Division policy guidance to all UNAMI Cost Centers responsible for technical evaluations for their guidance and compliance. In addition, the technical evaluation criteria and reports are subject to scrutiny by the Procurement Section, Local Committee on Contracts (LCC) and Headquarters Committee on Contracts (HCC), and the SOWs and technical evaluation reports are returned for revision to ensure the transparency, fairness and objectivity of the procurement process. Based on the action taken, recommendation 4 has been closed.*

Flawed bid evaluation

22. Primarily due to errors in the commercial evaluation of a bid, contract AMI/CON/2009/029 for the provision of catering services in Erbil was awarded to the wrong bidder for \$10,527,000 although the amount offered by the bidder was \$12,859,000. Had the evaluation been properly performed, the contract would have been awarded to another bidder for \$10,775,000. Following this incorrect calculation, the Mission made payments of \$1,239,500 (excluding mobilization and demobilization) as per invoices submitted by the vendor during the period from 11 December 2009 to 31 July 2010, which contained different rates than the ones used in the commercial evaluation. If the payments were made as per the bid evaluation, the total payment would have been \$883,500 for the same period. This resulted in additional payments of \$356,000. If the Mission continues to reimburse the contractor using rates that are different from those used in the bid evaluation, the Organization will lose approximately \$2 million over the 5 years of the life of contract.

23. The flawed bid evaluation was due to a lack of understanding of the bid price structure by the staff member who performed the analysis. Moreover, there were two P-3 vacant positions which contributed to shortage of procurement officers and inadequate review of the work performed.

24. UNAMI informed OIOS that this error was noted by UNAMI when the vendor submitted its first invoice in January 2010. Once discovered, it was communicated to the Procurement Division (PD), Department of Management and the LCC and HCC. Based on the PD's recommendation, the Procurement Section initiated a new procurement action to rectify the situation, with the target date to award the new contract including mobilization/demobilization being 30 September 2011.

C. Contract management

25. Section 15.1 of PM states that contract management is an ongoing monitoring and management of the vendor's performance and obligations regarding the promised goods, services or works as well as other terms and conditions of the contract, such as price and discounts. The Mission did not adequately monitor the performance and obligations of contractors as indicated below.

- The required monthly performance evaluation meetings were not held for four of the five contracts reviewed by the audit. The Mission explained that meetings were held with contractors as required; however, there were no records of the meetings.
- Contractor Performance Reports (CPRs) were not always prepared and filed in compliance with Section 15.1.2 of the PM. For example, the required CPRs were not completed for 12 of the 35 contracts reviewed by OIOS. This could preclude the Mission from ensuring the fulfillment of contractual requirements by the contractor with regard to quality, delivery, timeliness and other performance indicators.
- The United Nations General Conditions of Contract (UNGCC) require that contractors provide and maintain performance bonds and all necessary insurance, including medical coverage for their personnel, equipment and operations under the relevant contract. However, contractors did not comply with these conditions. There were no insurance policies or any correspondences between the Mission and contractors regarding such policies. For two contracts, the Mission did not ensure that the performance bonds were valid for the duration of the contracts and in another case, the contractor submitted the bond more than ten months late.
- All engineering contracts provide that when works and services have been substantially completed and have satisfactorily passed tests prescribed by the contract, the project manager is required to issue a Certificate of Substantial Completion to the contractor. This provision was not always complied with. For example, the required certificates were not issued by the project managers in four of the nine engineering contracts reviewed by the audit. This was because the Mission did not have a responsible unit or person assigned to perform contract management functions.

26. There is a need to implement adequate monitoring procedures to mitigate the risk of the Mission's operational requirements not being met.

Recommendation 5

(5) The UNAMI Office of Mission Support should establish and implement appropriate monitoring procedures including, for example, identifying responsible contract management staff to ensure compliance with the terms and conditions of the contracts.

27. *The UNAMI Office of Mission Support accepted recommendation 5 and stated that the recommendation will be fully implemented upon establishment of the Contract Management Unit (CMU) and the recruitment of the P-3 Contract Management Officer (CMO) post. Recommendation 5 remains open pending confirmation of the establishment of the CMU and the recruitment of the CMO post.*

D. Contract administration

Amendment of contract payment terms

28. Section 15.6.1 of the PM defines contract administration as all actions following the award of a contract relating to the administrative aspects, such as contract amendment, extension, closure, record retention, maintenance of the contract file, and handling of security instruments (e.g. performance bonds). Furthermore, Section 15.7 of the PM provides that original contract award procedures should be followed at the time of amending terms and conditions of contracts. However, the Mission did not comply with this requirement when amending the payment terms in a construction contract as explained below.

29. Article 9.3 of the construction contract (#AMI/CON/2009/021) with NTE amount of \$729,600 provides that 90 per cent of the total contract amount will be paid after the successful completion of 100 per cent work and the balance 10 per cent will be paid after 12 months from the date of completion of the project, subject to confirmation from the Chief Engineering Section. The Procurement Section amended the payment terms of the contract without the prior review of the LCC and approval by the Chief of Mission Support as follows: 50 per cent of the contract NTE - \$364,800 was made after completion of 80 per cent work, 40 per cent - \$291,840 after 100 per cent completion of work, and 10 per cent - \$72,960 after a 12-month warranty retention period. The amendment was submitted to the LCC on ex-post facto basis.

30. If the amended payment terms were included during the solicitation process, it may have affected the selection of the vendor. Moreover, the revision of the payment terms after the award of the contract undermines the integrity of the procurement process.

Recommendation 6

(6) The UNAMI Office of Mission Support should review the circumstances under which the terms of payment were amended and take appropriate action to prevent ex-post facto cases.

31. *The UNAMI Office of Mission Support did not accept recommendation 6 and stated that the progress payment was duly cleared by CPO and Officer-in-Charge, Chief Mission Support as per a memorandum which was based on Financial Rule 105.19 (b) and PM (Rev.6) Section 9.36 (1 and 2). OIOS notes that Section 9.36 (1 and 2) of the PM is applicable for the initial establishment of payment terms. The above reference would not be valid for the above referenced case since the payment terms had already been established in the awarded contract. Justification for the amendment of the payment terms of an established contract should be appropriately recorded and approved by the LCC. Therefore, OIOS reiterates recommendation 6 and is requesting Management to reconsider its initial response. Recommendation 6 remains open pending receipt of a copy of the procedure developed to ensure payment terms and payment flows agreed on in the initial contract award are complied with.*

Performance bond clause

32. The UNGCC require contractors to submit performance bonds and insurance certificates covering third party liability, basic war risks, and workers compensation. A performance bond protects the United Nations in the event a contractor fails to deliver goods or services in a timely manner. For contracts with a value over \$100,000, it is prudent to require the contractor to provide a performance bond.

33. The Mission did not always include a performance bond clause in contracts. For example, 6 of the 35 contracts reviewed by OIOS did not include a performance bond clause. As a result, there was no performance bond to protect the Mission when one of the contractors (contract # AMI/CON/2008/049) did not perform in accordance with the terms and conditions of the contract.

Recommendation 7

(7) The UNAMI Office of Mission Support should ensure that the performance bond clause is included in contracts as appropriate and ensure that when required, performance bonds are received and are active during the period of the contract to safeguard the interests of the Mission.

34. *The UNAMI Office of Mission Support accepted recommendation 7 and stated that the absence of performance bond clause did not affect the successful completion of projects while the requirement for armored buses (AMI/CON/2008/049) was promptly re-tendered which resulted in the purchase and delivery of the buses at lower prices. The recommendation will be fully implemented upon fulfillment of the vacant post of Supervisor Contracts Unit and*

the establishment of a CMU. Based on the assurances provided by Management, recommendation 7 has been closed.

V. ACKNOWLEDGEMENT

35. We wish to express our appreciation to the Management and staff of UNAMI 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 UNAMI Office of Mission Support should ensure that requisitioners prepare their requisitions with reasonable cost estimates based on market surveys, the United Nations Standard Cost Manual and previous procurement experiences	Operational	Medium	O	Evidence that requisitioners have received the requisite training on methods of cost estimation for goods and services and in the use of the United Nations Cost Manual	31 December 2011
2	The UNAMI Office of Mission Support should ensure a robust procurement planning process whereby operational requirements are identified in a timely manner to allow adequate time for the procurement process	Operational	Medium	O	Confirmation that requisitioners have received the requisite training on planning and development of requirements, and OIOS' verification of cases showing an improvement in the bid submission time provided to prospective vendors.	30 June 2011
3	The UNAMI Office of Mission Support should establish clear procedures to guide the Tender Opening Committees and to ensure that the reasons for accepting late submissions of bids are properly documented in compliance with the United Nations Procurement Manual	Operational	Medium	O	Receipt of a copy of the revised Terms of Reference of the TOCs, and confirmation that TOC members participated in the proposed procurement training.	31 December 2011
4	The UNAMI Office of Mission Support should ensure that the results of technical evaluations are appropriately reviewed to determine if the evaluations were conducted in accordance with the established criteria.	Operational	Medium	C	Action taken	Implemented
5	The UNAMI Office of Mission Support should establish and implement appropriate monitoring procedures including, for example, identifying responsible contract management staff to ensure compliance with the terms and conditions of the contracts.	Governance	Medium	O	Confirmation of the establishment of the CMU and the recruitment of the CMO post	30 September 2011

Recom. no.	Recommendation	Risk category	Risk rating	C/O¹	Actions needed to close recommendation	Implementation date²
6	The UNAMI Office of Mission Support should review the circumstances under which the terms of payment were amended in favor of the contractor and take appropriate action to prevent ex-post facto cases.	Compliance	Medium	O	Receipt of a copy of the procedure developed to ensure payment terms and payment flows agreed on in the initial contract award are complied with.	May 2011
7	The UNAMI Office of Mission Support should ensure that the performance bond clause is included in contracts as appropriate and ensure that when required, performance bonds are received and are active during the period of the contract to safeguard the interests of the Mission.	Operational	Medium	C	Action taken.	Implemented

1. C = closed, O = open

2. Date provided by UNAMI in response to recommendations.

ANNEX 2

*Use this page if the orientation of Annex 2 is portrait. If the orientation is landscape, insert a section break at the end of Annex 1 and continue on the new page. (On the **Insert** menu, point to **Break**, select **Next page** under **Section break types**.) Leave the page blank if not required; do not delete it.*