

TO: Mr. Gurpur Kumar  
A: Deputy Director, Internal Audit Division  
Office of Internal Oversight Services

DATE: 27 June 2011

THROUGH: Neeta Tolani  
S/C DE: Director *Neeta Tolani*  
Office of the Under-Secretary-General for Management

*Mario E. Baez*  
FROM: Mario E. Baez  
DE: Chief, Policy and Oversight Coordination Service  
Office of the Under-Secretary-General for Management

SUBJECT: **Assignment No. AC2011/514/01 – Audit of CMP procurement and contract management  
including change orders**  
OBJET:

1. With reference to the above subject, please find attached as Annex 1 the CMP comments to the draft report on the above subject transmitted by your office to the Department of Management (DM) by way of memorandum dated 25 May 2011.
2. Thank you for the opportunity to provide comments on the draft report.

## RESPONSE AND IMPLEMENTATION OF RECOMMENDATIONS

## Assignment No. 2011/514/01 – Audit of CMP procurement and contract management including change orders

Para. no.	Recommendation	Risk category	Risk rating	Accepted (Yes/No)	Implementation date	Client Comments
52	The Office of CMP should review and approve bidders lists without delay to prevent situations when bidding has reached advanced stages before bidders' lists are approved.	Compliance	Moderate	Yes	Continuously implemented	<p>PD response times to the Skanska bid lists (issued under RFAs) noted were as follows:</p> <p>For Secretariat Abatement scope:</p> <ul style="list-style-type: none"> <li>- RFA 419 Dated 15 May - PD approval memo dated 18 May '09.</li> <li>- RFA 419A Dated 22 June - PD approval memo dated 24 June '09; CMP approved on 2 July 2009.</li> </ul> <p>For Curtain Wall Temporary Protection scope:</p> <ul style="list-style-type: none"> <li>- RFA 864 Dated 9 June - PD approval memo dated 10 June '10; CMP approved on 15 July 2009.</li> </ul>
53	The Procurement Division should instruct Skanska to (i) maintain proof of transmission of invitations to bid; (ii) document and maintain leveling summaries; (iii) document reasons for dropping or adding a trade contractor	Compliance	Moderate	Yes	Letter sent on 24/11/2009; continuously implemented	Please refer to Annex I. The attached letter was issued to Skanska on 24 Nov '09 and was intended to address the points raised in the previous OIOS report. Based on the cases of missing/incomplete records of leveling

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	in the next round of bidding; (iv) file written approvals of the Procurement Division to solicit best and final offers from a list of trade contractors to promote transparency in the bidding process.					meetings identified by the OIOS, the Procurement Division will ensure compliance of Skanska with PD directives and will send a reminder on importance of compliance with terms of the contract.
54	The Procurement Division should improve oversight of the procurement of trade contracts process and ensure that (i) trade contractors that did not return bids actually received invitations to bid for contracts over a threshold amount to be established in consultation with the Office of CMP; (ii) all qualified bidders are invited to next rounds of bidding; (iii) no qualified bidder is eliminated from the competition without a valid documented reason.	Compliance	High	Yes		[To be commented upon by OCSS]
69	The Assistant Secretary-General, Office of Central Support Services should ensure consistency between the terms of reference of the Post Award Review Committee which establishes that all change orders and contract amendments greater than \$500,000 will be reviewed, and the delegation of authority to the Executive Director of CMP which sets the financial threshold at	Compliance	Low			[To be commented upon by OCSS]

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	\$200,000.					
73	The Assistant Secretary-General, Office of Central Support Services should review current arrangements pertaining to PARC and its work plan in light of the large backlog of cases and lack of adequate resources to support PARC.	Operational	Moderate			[To be commented upon by OCSS]
89	The Office of CMP should ensure that change orders are justified and their origins identified clearly before they are approved. The Office of CMP should also keep a summary of all change orders and the reasons for them in order to provide management information and enable appropriate actions in cases where changes are caused by user departments, delays in designs, mistakes by architects and engineers, or field conditions.	Operational	High	Yes	Continuously implemented	<p>General comment by the Procurement Division on process related observations in paragraph 78: Change Orders are administered in accordance with Article 5 of the CM Agreement (Part B). The 'COV' (Change Order - value to be Determined) is one form which may be used in the change process (in accordance with 5.3 extract below) however it is for use when the work is urgent in nature and for which pricing cannot be confirmed at an early stage. If a COV is used (and accepted by UN) then it is subsumed into a Standard Owner Directed Change Order - this is the normal Change Order form on CMP and should include all relevant pricing information.</p> <p>Extract from CM Agreement (Part) Article 5.3 Change Order Contents: 'If</p>

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						<p>the extent or cost of the Change Work is not determinable until after the Change Work is performed, the Change Order shall specify the method for determining the cost and extent of the Change Work when completed'.</p> <p>Comment on this recommendation: Nova contains information for reasons for and causes of change orders. Please refer to Annex II, III and IV for examples.</p>
92	The Office of CMP should instruct Skanska to provide an analysis of unit and time and material rates (Exhibit C of the trade contract) at the time of recommendation for award of trade contracts to ensure the agreed rates for change orders were competitive.	Operational	Moderate	Yes	31 July 2011	<p>Comments on observations in paragraph 91:</p> <p>The CMP/G&amp;T have instigated a discipline of reviewing all unit rates and hourly rates at time of award to ensure they are competitive. The rates are checked against the other bidders in the particular trade package and other similar trade packages on other sub projects in the CMP.</p> <p>When a change order is present where there are no applicable unit rates within the existing contract the sources used by G&amp;T to determine market conditions for a specific rate are.</p> <ol style="list-style-type: none"> <li>1. A review of other similar contracts on the Capital Master plan</li> </ol>

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						<p>2. A review with G&amp;T's estimators for applicable units rates obtained on other projects being managed in New York City.</p> <p>Please refer to Annex V.</p> <p>Comments on observations in paragraph 97: Clause 10.10.01 of the CM contract states "The first progress payment shall include all insurance costs, contract security costs and SDI costs for the sub project" Clause 10.15 stipulates "Fee, Insurance Costs, SDI costs and contract security costs ..... shall be recalculated when actual costs are finally determined at the completion of a sub project"</p> <p>Under these clauses, at the financial close out of the sub project a full reconciliation of all percentage markups is made. At this time all credits are agreed and any overpayment of insurance is settled and a credit issued against the contract. This was the mechanism used for the close out of the Basement B1 contract and the 305 E 46th Street contract. The specific contract referenced in the OIOS report, Contract B – Package 2, is still in construction and will continue through to the end of the project – 2014. It is therefore projected the recalculations</p>

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						for this contract will take place in late 2014 and 2015.
96	The Procurement Division should review recommendations for the award of all new trade contracts to ensure best value for money in accordance with the 'Special Procedures for the procurement of goods and services required to complete CMP' irrespective of whether they are processed as an allowance usage or change orders.	Compliance	Low	Yes		[To be commented upon by OCSS]