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INTEROFFICE MEMORANDUM

MEMORANDUM INTERIEUR

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

TO: Ms. Sahle-Work Zewde, Director-General

DATE: 3 November 2011

A: United Nations Office at Nairobi (UNON)

REFERENCE: IAD: 11- 00667

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

*Fatoumata*

SUBJECT: **Assignment no. AC2010/211/01 – Audit of the construction of additional office facilities at UNON**  
OBJET: **UNON**

**UNON established effective controls in planning and executing the project, but Procurement Manual procedures were not always complied with**

1. Attached please find the final report on the above-mentioned audit.
2. Annex I shows the status of recommendations. Please note that OIOS will report on the progress made to implement its recommendations in its annual report to the General Assembly and to the Secretary-General annually for important recommendations (nos. 1 to 4).
3. The audit also identified a number of opportunities for improvement (see Annex II). While OIOS will not report on the implementation of these opportunities, we encourage you to implement them to improve the efficiency and effectiveness of your operations. OIOS will review their implementation as part of future audits.
4. Please note that under General Assembly resolution 59/272, a Member State may request that the final report be made available. Also, note that pursuant to General Assembly resolution 64/263, OIOS has included the complete management response as an appendix to the present report.
5. We wish to express our appreciation to the Management and staff of UNON for the assistance and cooperation extended to the auditors during the assignment.

cc: Mr. Achim Steiner, Executive Director, United Nations Environment Programme  
Mr. Alexander Barabanov, Director, Division of Administrative Services, UNON  
Mr. Kevin Stork, Audit Focal Point, UNON  
Mr. Andrew Nye, Officer-in-Charge, Facilities and Commercial Services Division, UNHQ  
Mr. Swatantra Goolsarran, Executive Secretary, UN Board of Auditors  
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# **FINAL AUDIT REPORT**

## **Audit of the construction of additional office facilities at UNON**

### **BACKGROUND**

The construction of additional office facilities at the United Nations Office at Nairobi (UNON) was undertaken pursuant to General Assembly resolution 44/211 that called upon all organizations of the United Nations system to make the necessary arrangements for establishing common premises at the country level.

The General Assembly approved, by resolution 63/263, a revised estimated cost of \$25.3 million for the construction of new office facilities (NOF) project in 2008, under the Regular Budget. In addition, the United Nations Environment Programme (UNEP) provided \$1.4 million, as extrabudgetary resources, for the design, supply, installation and maintenance of a solar photo-voltaic (P-V) system at the NOF. In the same resolution, the General Assembly expressed concern about the delays and procedural difficulties in the execution of the project at UNON, which had contributed to project cost escalation, and requested “the Secretary-General to entrust the OIOS with ensuring continuing effective audit coverage as well as regular, thorough management reviews of the construction of additional office facilities at UNON to be reported on in the annual report of the OIOS to the General Assembly.”

In response to the General Assembly’s request, OIOS conducted an audit of the construction of additional office facilities and improvements to conference facilities at UNON in 2009. The audit report (AC2009/514/08 dated 16 November 2009) determined that the new office facilities project had been subject to delays prior to the commencement of construction, identified the main causes of the delays, and made recommendations to promote better control and minimize delays in future. The present audit is a follow up to the 2009 audit.

### **OBJECTIVE AND SCOPE**

The audit was conducted to assess whether UNON effectively implemented adequate risk management, control and governance processes to provide reasonable assurance regarding the effective implementation of the construction project. The key controls tested for the audit included those related to: (a) project management capacity; and (b) regulatory framework. The audit covered the period 2009-2010.

### **AUDIT RESULTS**

UNON established effective controls in planning and executing the project, but Procurement Manual procedures were not always complied with.

UNON established an effective organizational and management structure, with support from the United Nations Headquarters (UNHQ), which facilitated successful planning and execution of the construction project. The construction of the additional office facilities at UNON was practically complete in December 2010 in accordance with the schedule, after which tenants progressively started occupying the facilities. The total cost of the project remained within the \$25.3 million that was approved in 2008 by General Assembly resolution 63/263. Payments to the contractor and consultant were accurate, duly authorized and timely. However, the acquisition of the solar photo-voltaic (P-V) system was not in full compliance with the Procurement Manual procedures.

## **P-V system contract was not established in full compliance with Procurement Manual procedures**

The contracts for the construction of the NOF, amounting to \$17.5 million, and the provision of consultancy services, amounting to \$1.6 million, were established in accordance with Procurement Manual procedures for solicitation, bid submission, technical and commercial evaluation, and review of bids by the UNON Local Committee on Contracts (UNON/LCC). However, a contract for the design, supply, installation and maintenance of the P-V system at the NOF, amounting to \$1.3 million was not established in full compliance with Procurement Manual procedures relating to solicitation, bid submission, technical and commercial evaluation, review of bids by the UNON/LCC and recommendation and award of contract to a successful bidder. Furthermore, UNEP provided funds for the project that UNON will repay through cost savings of operating the system, but there was no formal agreement between UNEP and UNON to ensure clarity on agreed conditions.

**(1) The Director-General of UNON should ensure that all procurement actions relating to solicitation, receipt and evaluation of bids are undertaken in accordance with the Procurement Manual procedures.**

*UNON accepted recommendation 1 and stated that UNON complied with Procurement Manual procedures for solicitation, bid submission, evaluation, contracting and payment during the establishment of contracts for the construction amounting to \$17.5 million and the provision of consultancy services for \$1.6 million. As for the contract for the P-V system, the procurement was performed under the authority of the Executive Director of UNEP. UNON re-iterated that UNON procurement actions performed under authority delegated by the Department of Management at UN Headquarters were undertaken, and shall continue to be undertaken, in accordance with the Procurement Manual procedures. UNON added that the new Director-General of UNON had asked the Department of Management for assistance in clarifying the assignment of responsibility and accountability between UNON, UNEP and UN-Habitat for critical and sequential elements of human, financial and physical resources management. On the other hand, UNEP stated that all procurement aspects of the P-V system project were referred to UNON Procurement Section and the UNON Local Committee on Contracts. In view of the non-compliance with the Procurement Manual procedures in the award of the contract for the P-V system, recommendation 1 remains open pending further explanation by UNON on how it proposes to ensure that such non-compliance will not recur in future given that UNON provides procurement services to UNEP.*

**(2) The Assistant Secretary-General for Central Support Services should determine accountability for non-compliance with the Procurement Manual during the process of acquiring the solar photo-voltaic (P-V) system and take appropriate action.**

*The Department of Management stated that the ASG/OCSS will review the material made available in the OIOS report to determine what elements were at variance with the established procedures. DM further stated that it was not indicating acceptance of recommendation 2 because determination of accountability was usually done by investigators or in a disciplinary context both of which were not within the purview of the ASG/OCSS. OIOS is of the opinion that DM has the responsibility to ensure that the authority delegated by it to UNON is exercised in accordance with applicable rules and procedures. Any deviations should be subject to review and appropriate accountability measures. OIOS therefore reiterates recommendation 2, which remains open pending ASG/OCSS' review of procurement action relating to the acquisition of the P-V system.*

**(3) The Director-General of UNON should draw up a formal agreement with UNEP regarding the funding and repayment of the \$1.3 million provided by UNEP for the solar photo-voltaic (P-V) system.**

*UNON accepted recommendation 3 and stated that UNEP's Office for Operations and UNON Administration were reviewing the costs to be recovered and actual savings generated by the PV system and on that basis will formulate an agreement for repayment of UNEP's investment by December 2011. Recommendation 3 remains open pending receipt of a copy of an agreement between UNON and UNEP on the repayment of UNEP's investment on the P-V system.*

#### **P-V system contract amended to provide for services originally offered by vendor**

The contract for the design, supply, installation and maintenance of the P-V system at the NOF was amended to increase the price by \$97,524 to provide for services that, in OIOS' opinion, were already included in the vendor's original quotation. The services related to connection of the P-V system to the UNON power grid. The amendment was issued following differences between UNON and the vendor in interpretation of the contract. UNON considered it prudent to increase the contract price to ensure timely completion of the works.

**(4) The Director-General of UNON should obtain legal advice from the Office of Legal Affairs on the photo-voltaic system vendor's responsibility to connect the system to the UNON power grid in light of the vendor's original offer made and the signed contract.**

*UNON accepted recommendation 4 and stated that the recommendation will be implemented by 31 December 2011. UNON will request advice from OLA on the matter in November 2011 in order to obtain guidance by the end of 2011. UNEP clarified that the contractor committed to provide a solar system and connection. In their agreed quotation, they indicated that the power line would be routed to the basement and connected to the building at that point. It was later found that a proper connection should be established not to the building but to the power grid on the UN compound. This meant installing a power cable from the basement of the NOF to the generator house outside the NOF. UNON initially insisted that the contractor pay the extra associated costs, but later agreed to advance this unforeseen payment on behalf of UNEP. Therefore, all parties agreed that unforeseen extra work was not the responsibility of the contractor - who has delivered against the agreed quote and contract. Recommendation 4 remains open pending receipt of a copy of legal advice from OLA on the issue.*

#### **ACKNOWLEDGEMENT**

OIOS wishes to express its appreciation to the Management and staff of UNON for the assistance and cooperation extended to the auditors during this assignment.

## CONTENTS

	<i>Page</i>
I. INTRODUCTION	1
II. AUDIT OBJECTIVE	1
III. AUDIT SCOPE AND METHODOLOGY	1
IV. OVERALL ASSESSMENT	1 - 2
V. AUDIT RESULTS	2 - 12
A. Project management capacity	2 - 3
B. Regulatory framework	3 - 12
ANNEX I Status of recommendations	
ANNEX II Opportunities for improvement	

## I. INTRODUCTION

1. The Office of Internal Oversight Services (OIOS) conducted an audit of the construction of additional office facilities at the United Nations Office at Nairobi (UNON). Comments made by UNON are shown in *italics*.

## II. AUDIT OBJECTIVE

2. The audit was conducted to assess whether UNON effectively implemented adequate risk management, control and governance processes to provide reasonable assurance regarding the effective implementation of the construction project. The key controls tested for the audit include those related to: (a) project management capacity, and (b) regulatory framework. For the purposes of this audit, OIOS defined these key controls as follows:

- a) Project management capacity – Those controls that are designed to provide reasonable assurance that there is sufficient project management capacity to achieve mandates.
- b) Regulatory framework – Those controls that are designed to provide reasonable assurance that policies and procedures exist to guide the operations of the activity/programme in procurement, contract management and financial management, and that these are adhered to.

## III. AUDIT SCOPE AND METHODOLOGY

3. OIOS conducted this audit from September 2010 to July 2011. The audit covered the period from 1 January 2009 to December 2010 and included a review of UNON's arrangements for: (a) project management including the organization and management structure, and communication with stakeholders, and (b) regulatory framework including procurement, contract management, and financial management.

4. To gain a general understanding of the practices, processes and activities involved in the construction project, OIOS interviewed staff at UNON and reviewed relevant documents including policies, guidelines and procedures relating to the construction project. The audit team then conducted an activity-level risk assessment to identify and evaluate specific risk exposures of the construction project at UNON and to determine whether key controls identified to mitigate such risks were operating as intended.

5. Through interviews, analytical reviews, verification of processes and other audit procedures, OIOS assessed the adequacy of the established procedures and guidelines and conducted relevant tests of controls to assess whether policies and procedures were implemented consistently.

## IV. OVERALL ASSESSMENT

6. UNON established effective controls in planning and executing the project, but Procurement Manual procedures were not always complied with. UNON established an effective organizational and management structure, with support from the United Nations Headquarters (UNHQ), which facilitated successful planning and execution of the construction project. The construction of the additional office facilities at UNON was practically complete in December 2010 in accordance with the schedule, after which tenants progressively started occupying the facilities. The total cost of the project remained within the \$25.3 million that was approved in 2008 by the General Assembly resolution 63/263. Payments to the

contractor and consultant were accurate, authorized and timely. However, the acquisition of the solar photo-voltaic (P-V) system was not in full compliance with the Procurement Manual procedures.

## **V. AUDIT RESULTS**

### **A. Project management capacity**

#### **Construction of office facilities completed**

7. The construction of the additional office facilities at UNON was practically completed in December 2010 when the contractor handed over the facilities to UNON. The Project Management team and a consultant conducted an inspection of the facilities and confirmed that major works specified in the contract had been satisfactorily completed in accordance with the schedule. Minor defects were noted and were being addressed by the contractor.

8. In January 2011, the United Nations Environment Programme (UNEP), and subsequently the United Nations Settlements Programme (UN-HABITAT), started relocating to the new offices as tenants. The Secretary-General of the United Nations inaugurated the new facilities on 31 March 2011.

#### **Effective organizational and management structure established**

9. UNON established an effective organizational and management structure that facilitated successful planning and execution of the construction project. The structure was composed of three teams: the UNON management and project team; an external professional consultancy services team; and the UNHQ support team in New York.

10. The UNON management and project team comprised the Director-General, a New Office Facilities (NOF) working group composed of representatives of UNON, UNEP and UN-HABITAT as well as an independent Technical Advisor, Director of the Division of Administrative Services (DAS), Chief Procurement Service, Chief Support Services Service (SSS), Chief Facilities Management and Transportation Section (FMST), Chief Building Management and Transportation Unit (BMTU) a Project Manager, a Project Engineer, a Clerk of Works, and a Project Administrator.

11. The NOF project was supported by an external professional consultancy services team. This team comprised a Landscape Architect, a Project Architect, a Technical/Drafting Designer, a Quantity Surveyor, and Engineering Services (Structural/Civil and Mechanical/Electrical engineers).

12. UNHQ supported the NOF project through a structure that included the Assistant Secretary-General, Executive Director, Capital Master Plan (CMP), Assistant Secretary-General, Office of Central Support Services (ASG/OCSS), Director Facilities and Commercial Services Division, Chief Facilities Management Service (FMS), and Chief Planning, Design and Overseas Properties Section, and complemented by the Facilities management and information exchange network.

13. The UNON project team was fully staffed until the Project Manager left in March 2010. However, since the project was about to end, no added value was found in replacing him. Instead, the project administrator was recruited as manager on special post allowance (SPA) at the P3 level while the Chief, FMST and BMTU also took on additional responsibilities.

**United Nations Headquarters support was effective**

14. UNHQ effectively supported the UNON/NOF project through weekly and monthly meetings. Weekly teleconferences were held between the UNON/NOF project team and UNHQ/FMS. In addition, monthly videoconferences were held between UNON/SSS, UNON/FMTS, the NOF working group and UNHQ/FMS. The monthly meetings were based on written end of month reports that included detailed narratives of progress achieved with supporting photos and risk assessment schedules. UNON/FMTS considered responses/feedback from UNHQ/FMS on queries raised to be timely and of good quality that was important for timely decision-making.

**Risk management approach adopted**

15. A risk management approach was used during the execution of the project to anticipate and deal with risks in order to reduce the likelihood and impact of eventualities. Each month, a risk management schedule was updated in the progress reports. The schedule included a risk description, owner, probability of occurrence, impact, mitigation strategy and result.

**Key stakeholders were kept informed of project progress**

16. UNON communicated progress in the execution of the project to key stakeholders through an annual progress report to the General Assembly and the Advisory Committee on Administrative and Budgetary Questions (ACABQ). In 2010, representatives of the Fifth Committee visited the project. On an on-going basis, the NOF working group informed the Director-General of UNON on the progress made on the project. The Director-General also visited the site. UNON held monthly video conferences with UNHQ to discuss progress reports. Tenants were also kept up to date through a tenants working group that was set up in 2007. The first meeting for the tenants was held in 2009 and two meetings were held in 2010. In the last meeting, a finalized office space plan was presented and accepted by tenants. The rentals for the NOF and the old facilities are the same. Therefore, UNEP and UN-HABITAT, who will occupy the NOF, will be paying the same rates of \$167 per square meter (plus utilities) as the new UN agencies that would come to the UNON compound to occupy the offices now vacated by UNEP and UN-HABITAT.

**Lessons learned register maintained**

17. UNON maintained a register on lessons learned during the project. The register would be finalized at the end of the project and will be available for use in future projects.

**B. Regulatory framework**

**Adequate funds were available to complete the project**

18. There were sufficient funds available to complete the project and project costs were within approved limits. According to the report of the Secretary-General to the General Assembly, A/65/351, "Report on overseas property management and construction projects in progress", the total estimated cost of the project remained at approximately \$25.3 million as approved by the General Assembly in 2008. Table 1 provides details.



## AUDIT RESULTS

**Table 1: Estimated cost for completing the NOF at UNON (amounts in US\$)**

Costs	Estimates in first report A/62/794 <i>(a)</i>	Estimates in previous report A/64/486 <i>(b)</i>	Current Estimates (A/65/351) <i>(c)</i>	Change compared to previous report <i>(c)-(b)</i>
<b>1. Construction cost</b>	18,700,000	18,931,493	19,980,000	1,048,507
<b>2. Architects' fee</b>	1,977,000	1,976,792	1,976,792	-
<b>3. Project supervision and management</b>	1,423,000	1,423,363	1,423,363	-
<b>4. Other costs</b>				
4.1 Borrowing costs (interests accrued on a loan of \$1,416,800 from UNEP incurred in 2002 for the project. The loan was repaid in 2006)	163,000	163,045	163,045	-
4.2 Security requirements	1,119,200	1,119,200	56,647	(1,062,553)
4.3 Contingency	1,870,000	1,638,307	1,652,353	14,046
<b>Total project cost estimate</b>	<b>25,252,200</b>	<b>25,252,200</b>	<b>25,252,200</b>	-

Source: Report of the Secretary-General A/65/351 "Report on overseas property management and construction projects in progress"

19. There was a significant change in cost estimates for construction and security requirements as reported in the Secretary-General's report A/65/351. Construction costs were estimated to increase by approximately \$1.1 million due to fluctuations in exchange rates as payments were made in Kenya Shillings. The Office of Programme Planning, Budget and Accounts (OPPBA) provided allotments for the additional expenditure. As for security requirements, in 2008, the General Assembly approved an amount of \$1.1 million for the provision of security coverage during the construction phase. However, by the time actual construction took place, UNON had strengthened its security capacity in the biennium 2010-2011 and was able to utilize existing vacancies to accommodate most of the security needs. In addition, the contractor hired a private company to provide security services at the construction site. Therefore, UNON only used \$56,647 for the security requirements and it was anticipated that \$1.1 million would remain unutilized at the end of the project.

20. The UNON Budget Office monitored the project expenditure on a monthly basis. As at 31 May 2011, total allotments for the project amounted to approximately \$21.9 million and expenditure was approximately \$20.9 million. In addition, the UNON/FMTS monthly reports on the NOF highlighted actual payments made in comparison to a payment schedule.

### **Contract for solar P-V system was awarded without full compliance with Procurement Manual procedures**

21. The construction of the NOF was carried out mainly through three important contracts:
- (a) Contract number UNON/2009/006, amounting to \$17.5 million for constructing the NOF;
  - (b) Contract number UNON/09/016, amounting to \$1.6 million for providing architecture and engineering consultancy services; and
  - (c) Contract number UNON/2010/022 amounting to \$1.3 million for the design, supply, installation and maintenance of a solar P-V system at the NOF.

## AUDIT RESULTS

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22. The contracts for the construction of the NOF and the provision of consultancy services were established in accordance with Procurement Manual procedures for solicitation, bid submission, technical and commercial evaluation, review of bids by the UNON Local Committee on Contracts (UNON/LCC), and recommendation and award of contract to successful bidders. However, the contract for the P-V system was not established in full compliance with Procurement Manual procedures.

23. The UNEP Headquarters was allocated part of the NOF. UNEP intends to use these offices as a global showcase for sustainable building and greening in United Nations operations. As part of this initiative, UNEP contracted a vendor for the supply, installation and maintenance of a P-V system for the NOF, (contract number UNON/2010/022), amounting to \$1.3 million and had provided funding for the project which UNON would repay through cost savings from operating the system. However, there was no formal agreement between UNEP and UNON regarding this arrangement to assist in ensuring clarity on agreed conditions.

24. The contract for the P-V system was awarded without full compliance with Procurement Manual procedures for solicitation, bid submission and safeguarding, and technical and commercial evaluation. Inadequate information was presented to the UNON/LCC before the committee recommended award of contract. UNEP undertook the solicitation process, received offers from vendors and evaluated them without involving the Procurement Travel and Shipping Section of UNON (UNON/PTSS). UNON/PTSS performs procurement activities for UNEP in Nairobi in accordance with the Secretary-General's Bulletin ST/SGB/2009/3, which states that UNON provides administrative and other support services to UNEP. The adopted procedure also did not comply with the Memorandum of Understanding (MOU) between UNEP and UNON dated 4 April 2004.

25. According to staff members interviewed, as well as documentation in the procurement case file, the chain of activities was as follows:

(a) The approved plans were that the NOF buildings would be "solar ready". This meant that a P-V system could be installed on the buildings at a later stage. According to the UNEP representative to the NOF working group, the Executive Director of UNEP, (who was also Director-General of UNON at the time), asked the NOF working group to look into the possibility of installing a solar P-V system to make the building energy neutral. The Executive Director also asked the UNEP NOF working group members to take the initiative to look into the technical details of this, consult with UNON and report to the Executive Director and NOF working group to see if this would be a viable option. The UNEP staff members, in consultation with UNON, assessed that it was feasible to proceed as envisaged by the Executive Director. However, UNON clarified that it did not participate in a joint assessment of the feasibility of the project. Instead, the UNEP representative to the NOF working group had informed UNON that the Executive Director of UNEP had decided to proceed with the project.

(b) In September 2009, the Executive Director of UNEP (who was also Director-General of UNON at the time), distributed an expression of interest to Country Permanent Representatives of UNEP, through the Committee of Permanent Representatives in Nairobi, Kenya, and to 24 international P-V system producers (the world top producers) inviting them to partner with UNEP by donating or providing at subsidized costs a P-V system for the NOF. The solicitation was sent out and in the name of UNEP and UNON.

(c) On 27 November 2009, a Japanese company offered to donate to UNEP solar panels capable of producing 250,000 KWH per year which would meet about one-third of NOF power requirements, at no cost to the UN.

## AUDIT RESULTS

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(d) On 24 February 2010, a memorandum from the Director, DAS/UNON to the Director General of UNON (who was also Executive Director of UNEP), explored funding options for the P-V system project. Two viable offers had been received: (i) the aforementioned donation from a Japanese company; and (ii) a discounted offer from a Chinese company to cover two thirds of the requirements at a total cost of \$1,500,000 (\$1,300,000 plus installation costs of \$200,000). The funding options were either for UNON to seek an additional appropriation from the General Assembly or for UNEP to use its resources and recover the cost through utility charges. With regard to procurement procedures, the Director, DAS/UNON advised that “we estimate that we are getting the solar power generating equipment for approximately 50 % of market. We can use this justification for your approval of a sole source procurement”. UNON clarified that Director, DAS/UNON was asked to comment on a solicitation, bid submission and evaluation exercise conducted by UNEP staff under the authority of the Executive Director of UNEP.

(e) On 28 April 2010, a German public-private partnership company offered UNEP panels capable of producing 500,000 KWH per year and other components to complete the P-V system for 750,000 KWH per year (including using the panels donated by the Japanese company) at the cost of \$1,296,000. The offer included connection to the UNON power grid and training for three years with support from the German Technical Cooperation (GTZ).

(f) The UNEP representative to the NOF working group indicated that UNEP received concrete expressions of interest from five companies. A team, comprising staff members from UNEP and UNON assessed the expressions of interest and determined that four were viable. UNON clarified that UNON FMTS/BMTU was not involved in the assessment to shortlist the offers to four vendors, nor did it have visibility of this. The Executive Director of UNEP, through the UNEP representative to the NOF working group, requested the Chief, FMTS and BMTU and NOF electrical consultant to assist to informally review and provide technical/ related advice on the remaining offers only.

(g) On 3 May 2010, the UNEP representative to the NOF working group informed the Executive Director of UNEP that staff members from UNEP and UNON were involved in reviewing the offers received and agreed with the following recommendations: (i) accept a donation from the Japanese company; and (ii) recommend an offer from the German company. The other two offers, from Chinese companies, were not recommended because of technical considerations and incompleteness of proposals. UNON clarified that there was no formal evaluation of offers. Indeed, in NOF working group minutes of the 20<sup>th</sup> meeting held on 22 April 2010, UNON/FMTS had “emphasized that a technical evaluation had not been carried out by the group as this was not part of a formal procurement process. The solar power systems, albeit mainly donations – would have cost implications and associated procurement to go with them”. The Director, DAS/UNON “proposed and recommended that the submissions received could be used as a basis for a Request for Proposal”.

(h) On 7 May 2010, the Chief, Executive Office, UNEP requested the Director, DAS/UNON to seek support and approvals for the procurement of the P-V system from the German company. In preparing to attend to this request, on 4 June 2010, UNON/PTSS obtained from UNEP the results of a survey that had been conducted on the internet that had concluded that a P-V system would cost \$2,577,500. In addition, on 7 June 2010, UNON/PTSS also obtained from the German company an estimate of the market value for the system of \$2,512,900. On 7 June 2010, the company confirmed to UNON/PTSS that it would provide the system to UNON at \$1,296,000.

26. On 10 June 2010, the UNON/LCC discussed the offer by the German company for supply, installation and maintenance of a P-V system at UNON. UNON/PTSS presented the case to the

## AUDIT RESULTS

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committee and provided a detailed estimate of current market value by the German company of \$2,512,900 and a comparative estimate of \$2,471,500 by UNEP. According to the UNON/LCC minutes, “The Committee noted that the appropriate procurement procedure was not followed as no formal solicitation was done by Procurement Section. However, UNEP had sent out an Expression of Interest (EOI) distributed to Country Permanent Representatives of UNEP and to a list of international solar P-V panel producers asking for their interest in partnering with UNEP for the provision and installation of a solar panel system. UNEP therefore made significant efforts to contact all major suppliers and manufactures and many donors were contacted for a solution”. Therefore, the UNON/LCC recommended the award of the contract based on United Nations Financial Rule 105.16 (a) (ix): Formal solicitation will not give satisfactory results. Based on this recommendation, the Executive Director of UNEP signed a contract for the P-V system with the German company on 21 July 2010.

27. OIOS is of the opinion that there was no compelling reason for not carrying out formal solicitation and evaluation by UNON/PTSS. Furthermore, offers were received by email hence they were not received, safeguarded and opened in accordance with procedures in the Procurement Manual (November 2007), Section 10 on “Treatment of Submissions”. UNEP staff did not comply with the procedures set out in Section 11 of the Procurement Manual (November 2007) on “Source selection”. Indeed the case presented to the UNON/LCC was not supported by technical and commercial evaluation reports which should have been done independently of each other in accordance with Section 11.6.2 of the Procurement Manual (November 2007). In addition, UNEP and UNON did not provide the UNON/LCC with details of responses that were received, criteria used to evaluate the responses, and appropriateness or inappropriateness of those responses to meet NOF requirements. Only a statement in a memorandum from UNEP to UNON stated that “a number of EOI were received and reviewed” and “a number of these offers were not relevant, some were withdrawn and others were of a purely commercial nature”. Therefore, OIOS concluded that the information provided to the LCC was not sufficient to enable the committee to make a proper evaluation and recommendation. For example, UNON/LCC guidelines and procedures (12 January 2009) in Annex B provide for criteria to be set for evaluating the offers received but this was not established and used in the evaluation of the case.

28. The UNON/LCC Chairman explained that the contract was awarded despite non-compliance with procurement regulations and rules because it was a partial donation since the vendor had offered to provide UNEP with the P-V system at only 50 per cent of the commercial value and the offers had been evaluated by UNEP staff members who are the subject matter experts. OIOS is of the view that, even though the P-V system was partially donated to UNON, the contract value involved of \$1,296,000 was substantial and required compliance with Procurement Manual procedures.

29. The UNON Administration explained that the Project Management team was working on strict deadlines to ensure timely completion of the project. Therefore, re-starting the solicitation process for the P-V system when UNEP requested procurement of the system would have delayed the construction project. UNEP clarified that it did not request procurement of the system rather referred the offers that had been received to the UNON/PTSS and subsequent procurement procedures were undertaken by UNON and the LCC.

30. UNEP management was of the opinion that the acquisition of the P-V system from the German company was done in compliance with the Procurement Manual. UNON/PTSS presented the case to UNON/LCC that reviewed the case and recommended award of the contract. This had resulted in savings of about \$1.2 million. In addition, UNEP had achieved energy efficiency by acquiring the system. Due to the non-compliance issues explained above, OIOS is unable to accept the assertion that the Procurement Manual procedures were complied with in this case.

31. *UNEP stated that the NOF was designed to incorporate a P-V system but the construction budget did not provide for the acquisition of such a system. In this regard, UNEP and UNON distributed a booklet aimed at identifying interest in the establishment of a partnership with UNEP/UNON to provide a P-V system for the NOF. From the outset, this was not a procurement action because UNEP hoped to acquire a P-V system through a voluntary contribution to the UN. In this regard, it is inappropriate and inaccurate to compare the process applied to the solicitation of voluntary contributions – a common and core responsibility of UN programme managers – with the process applied to UN procurement actions and to suggest that the former is a violation or circumvention of the latter. OIOS is unable to accept this reasoning. All three offers involved cost to the UN and thus included a commercial element. The contract awarded to the German company involved an expenditure of \$1.3 million to the UN. OIOS therefore maintains that the acquisition of the P-V system was essentially a procurement action which was not in full compliance with the Procurement Manual provisions concerning solicitation, bid submission, technical and commercial evaluation, review by UNON/LCC, and recommendation and award of contract to a successful bidder.*

### **Recommendation 1**

**(1) The Director-General of UNON should ensure that all procurement actions relating to solicitation, receipt and evaluation of bids are undertaken in accordance with the Procurement Manual procedures.**

32. *UNON accepted recommendation 1 and stated that UNON complied with Procurement Manual procedures for solicitation, bid submission, evaluation, contracting and payment during the establishment of contracts for the construction amounting to \$17.5 million and the provision of consultancy services for \$1.6 million. As for the contract for the P-V system, the procurement was performed under the authority of the Executive Director of UNEP. UNON re-iterated that UNON procurement actions performed under authority delegated by the Department of Management at UN Headquarters are undertaken, and shall continue to be undertaken, in accordance with the Procurement Manual procedures. UNON added that the new Director-General of UNON had asked the Department of Management for assistance in clarifying the assignment of responsibility and accountability between UNON, UNEP and UN-Habitat for critical and sequential elements of human, financial and physical resources management. On the other hand, UNEP stated that all procurement aspects of the P-V system project were referred to UNON Procurement Section and the UNON Local Committee on Contracts. In view of the non-compliance with the Procurement Manual procedures in the award of the contract for the P-V system, recommendation 1 remains open pending further explanation by UNON on how it proposes to ensure that such non-compliance will not recur in future given that UNON provides procurement services to UNEP.*

### **Recommendation 2**

**(2) The Assistant Secretary-General for Central Support Services should determine accountability for non-compliance with the Procurement Manual during the process of acquiring the solar photo-voltaic (P-V) system and take appropriate action.**

33. *The Department of Management stated that the ASG/OCSS will review the material made available in the OIOS report to determine what elements were at variance with the established procedures. DM further stated that it was not indicating acceptance of recommendation 2 because determination of accountability was usually done by investigators or in a disciplinary context both of which were not within the purview of the ASG/OCSS. OIOS is of the opinion that DM has the responsibility to ensure that the authority delegated by it to UNON is exercised in accordance with applicable rules and procedures. Any deviations should be subject to review and appropriate*

accountability measures. OIOS therefore reiterates recommendation 2, which remains open pending ASG/OCSS' review of procurement action relating to the acquisition of the P-V system.

**Recommendation 3**

**(3) The Director-General of UNON should draw up a formal agreement with UNEP regarding the funding and repayment of the \$1.3 million provided by UNEP for the solar photo-voltaic (P-V) system.**

34. *UNON accepted recommendation 3 and stated that UNEP's Office for Operations and UNON Administration were reviewing the costs to be recovered and actual savings generated by the P-V system and on that basis will formulate an agreement for repayment of UNEP's investment by December 2011. Recommendation 3 remains open pending receipt of a copy of an agreement between UNON and UNEP on the repayment of UNEP's investment on the P-V system.*

**P-V system contract amended to provide for services originally offered by vendor**

35. As stated above, on 21 July 2010, UNEP signed a contract with a German company to supply, install and commission a P-V system at the NOF at a cost of \$1.3 million. In Section 2.1 of the contract, the parties agreed that this contract shall commence on 1 August 2010, and shall be in force until 31 December 2010. During this period, the contractor shall execute all works necessary to complete and commission the P-V system reflected in the Contractor's offer.

36. The vendor's quotation dated 28 April 2010 contained the following:

- a) Top features of the offer included that there would be "no further costs for UNEP";
- b) Delivery and time of installation included "connection to the grid: latest middle of December 2010."
- c) Price and payment conditions included "the payment schedule should be 1/3 in the following week after signing the contract, 1/3 after receiving the shipping documents of the equipment, and 1/3 after the successful connection to the grid."

37. On 8 December 2010, the Director, DAS/UNON informed the vendor that the United Nations expected the vendor "to integrate the Solar P-V System into the UNON electrical infrastructure/grid in accordance with your offer of 28 April 2010 (Contract UNON/2010/022, Annex B)" and sought confirmation, by 10 December 2010, that the obligations would be executed. On 23 December 2010, the vendor responded to UNON, and referred to a meeting held on 14 December 2010 with UNON and UNEP, and a further meeting with the Executive Director of UNEP in which the vendor offered a solution for \$98,550 and provided a breakdown of the costs involved. The vendor also requested UNON to place an order by 3 January 2011 because of a four-week delivery time of a cable that was to be used. Later, the vendor reduced the price of the service by \$1,026 to \$97,524.

38. The contract did not specifically state that the vendor was responsible for connecting the P-V system to the UNON grid and the payment schedule did not refer to it as was the case in the quotation. UNON's interpretation of the offer and the signed contract was that the vendor was "fully responsible for these integration works at no extra costs, as without them the Solar P-V system is not usable". This is according to an internal memorandum dated 31 December 2010 from the Director, DAS/UNON to the Director-General of UNON. UNON/PTSS also reiterated that the offer was an integral part of the

contract, since it was an annex to the contract, hence there was no need to re-state in the contract that the vendor was responsible for connecting the P-V system to the grid.

39. In the memorandum of 31 December 2010, the Director, DAS/UNON informed the Director-General of UNON that the vendor had informed UNON on 23 December 2010 that they would “take responsibility for integrating, but at an extra cost of \$97,524”. Given that the system could not be used without integration to the grid and the Director-General’s requirement that the system be operational and connected by 20 February 2011, the Director, DAS/UNON recommended additional payment to the vendor so that the works could be undertaken immediately. Accordingly, contract number UNON/2010/0022 was amended on 15 February 2011.

40. UNON Administration explained that they considered that the vendor was responsible for connecting the P-V system to the UNON grid without additional costs. However, UNON considered that it would take long to resolve the difference with the vendor that would delay the completion of the project. Therefore, in this circumstance, it was deemed prudent to proceed with the amendment of the contract so that the existing vendor could complete the works.

41. OIOS is of the opinion that UNON should still obtain legal advice from the Office of Legal Affairs (OLA) regarding the vendor responsibility to integrate the P-V system to the UNON power grid as per the original contract.

#### **Recommendation 4**

**(4) The Director-General of UNON should obtain legal advice from the Office of Legal Affairs on the photo-voltaic system vendor’s responsibility to connect the system to the UNON power grid in light of the vendor’s original offer made and the signed contract.**

42. *UNON accepted recommendation 4 and stated that the recommendation will be implemented by 31 December 2011. UNON will request advice from OLA on the matter in November 2011 in order to obtain guidance by the end of 2011. UNEP clarified that the contractor committed to provide a solar system and connection. In their agreed quotation, they indicated that the power line would be routed to the basement and connected to the building at that point. It was later found that a proper connection should be established not to the building but to the power grid on the UN compound. This meant installing a power cable from the basement of the NOF to the generator house outside the NOF. UNON initially insisted that the contractor pay the extra associated costs, but later agreed to advance this unforeseen payment on behalf of UNEP. Therefore, all parties agreed that unforeseen extra work was not the responsibility of the contractor - who has delivered against the agreed quote and contract. Recommendation 4 remains open pending receipt of a copy of legal advice from OLA on the issue.*

#### **Investment appraisal analysis for P-V system not available**

43. There was no formal investment report that analyzed and demonstrated that the P-V system was cheaper than normal electricity that was available. However, according to the UNEP representative to the NOF working group, the solar panels carried a warranty for 25 years while inverters had a 10-year warranty. Therefore, the investment payback period was estimated at about 8 to 10 years. The UNEP representative reiterated that while cost recovery was important, the main motivation for the project was to “walk the talk” by constructing a global showcase of a carbon neutral building in Africa to illustrate what UNEP represented. In the same spirit, UNEP opted to buy more expensive recycled carpets even though ordinary carpets were available at cheaper prices. The UNEP representative explained that the United Nations considered social and environmental factors in its procurement decisions and that in the P-

V system case, the Organization had achieved reduced emissions, a showcase, cost savings and reputation benefits.

44. According to UNON, the project costs will be paid back to UNEP in about five years. The Director, DAS/UNON, in a memo dated 24 February 2010 to the Director-General of UNON on the subject of funding options, stated that “UNEP will recover the cost of the project through utility charges to be collected by UNON from NOF tenants. It is estimated that it will take 4.5 - 5 years to fully recover \$1.5 million through this mechanism”.

45. OIOS is of the opinion that a project of this nature and significance should be supported by clear justification in terms of an investment appraisal with cost benefit analysis as well as payback period. Such an appraisal would give assurance that a high-value procurement best meets the environmental and cost objectives after other alternatives were considered. In addition, the appraisal would provide a benchmark for assessing the success of the project in terms of both financial and non-financial objectives.

46. **UNON and UNEP would benefit from conducting a formal investment appraisal of the P-V system and use it as a benchmark for evaluating the success of the project.** *UNON stated that this would be implemented by June 2012 subject to confirmation by UNEP. UNON stated that it was likely that additional time will be required in order to conduct a more accurate investment appraisal, as full clarity and understanding of the solar operation, and electricity produced will not be available until all solar panels are installed and the system has been in operation for at least one year.*

#### **Change orders placed for items that could have been foreseen at design stage**

47. During construction, change orders were raised to provide facilities that were not previously included in the design. Notably, changes were made to include environment-friendly carpets, energy saving lighting systems, executive bathrooms and kitchens.

48. The change orders were initiated by UNON, UNEP and UN-HABITAT, and reviewed by the NOF working group in accordance with established change procedures. However, there was no documentary evidence that the Director-General always approved the change orders in writing.

49. The change order items should have been foreseen at the planning and design stage and included in the initial designs. During the design stage, UNON staff members were involved in meetings with the architect on a weekly basis. In addition, the architect presented the designs to top management, including the Director-General of UNON before they were accepted. Therefore, there were opportunities to propose and review the desired features at the design stage. UNON/FMTS explained that some of the items that were originally left out of the design, such as executive bathrooms and kitchens, were not standard United Nations requirements for offices and so could not have been forecast. In addition, there had been three different Directors-General of UNON during the designing of the NOF hence their different perspectives had to be taken into account. OIOS favours an approach where changes to scope are kept to a minimum with contingency sums used on unforeseeable aspects, such as adverse ground conditions.

50. **UNON would benefit from establishing a mechanism to ensure that approval of major change orders (i.e. those exceeding \$10,000) for construction projects are always documented in writing.** *UNON stated that for future construction projects all change orders will not only be documented in writing but will be signed off in writing.*

51. **The Director-General of UNON should approve, on an *ex post facto* basis, all major change orders (i.e. those exceeding \$10,000) for the construction of new office facilities project that were not approved in writing.** *UNON stated that this would be addressed by November 2011 and noted that*



## AUDIT RESULTS

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*the main changes requiring formal sign off are the processional staircase and the environmental lighting system.*

### **Vendor's performance was satisfactory**

52. UNON/FMITS assessed both the consultant and contractor to be performing satisfactorily. At the time of the audit, actual project progress was being tracked against a baseline project schedule and there were no delays. Performance monitoring was done through the weekly and monthly meetings. A final appraisal for the vendors will be done at the end of the contracts.

### **Controls over payments were adequate**

53. Payments to the contractor and consultant were accurate, authorized and timely. Monthly payments to the contractors were in accordance with the contract and were based on quantity surveyor valuations of work completed and stocks on site, certificates for payments from the architect and service performance certificates from UNON/FMITS. Similarly, monthly payments to the consultant were supported by service performance certificates from UNON/FMITS and were in accordance with the contract. All the invoices submitted by the main contractor from February to September were paid within 30 days of UNON/FMITS' certification of the contractors invoice. On average, UNON took 20 days to pay the invoices.

**ANNEX I**  
**STATUS OF RECOMMENDATIONS**  
**Audit of the construction of additional office facilities at UNON**

<b>Recom. no.</b>	<b>Recommendation</b>	<b>Risk category</b>	<b>Critical/ Important</b>	<b>C/O<sup>1</sup></b>	<b>Actions needed to close recommendation</b>	<b>Implementation date<sup>2</sup></b>
1	The Director-General of UNON should ensure that all procurement actions relating to solicitation, receipt and evaluation of bids are undertaken in accordance with the Procurement Manual procedures.	Compliance	Important	O	Receipt of explanation from UNON on how it proposes to ensure that such non-compliance will not recur in future including in cases where UNON provides procurement services as was the case with UNEP on the P-V system contract.	Not indicated
2	The Assistant Secretary-General for Central Support Services should determine accountability for non-compliance with the Procurement Manual during the process of acquiring the solar photo-voltaic (P-V) system and take appropriate action.	Compliance	Important	O	ASG/OCSS review of procurement action relating to the acquisition of the P-V system.	Not indicated
3	The Director-General of UNON should draw up a formal agreement with UNEP regarding the funding and repayment of the \$1.3 million provided by UNEP for the solar photo voltaic (P-V) system.	Operational	Important	O	Receipt of a copy of an agreement between UNON and UNEP on the repayment of UNEP's investment on the P-V system.	December 2011
4	The Director-General of UNON should obtain legal advice from the Office of Legal Affairs on the photo-voltaic system vendor's responsibility to connect the system to the UNON power grid in light of the vendor's original offer made and the signed contract.	Operational	Important	O	Receipt of a copy of legal advice from the Office of Legal Affairs on the issue.	December 2011

**ANNEX II**  
**OPPORTUNITIES FOR IMPROVEMENT**  
**Audit of the construction of additional office facilities at UNON**

Para. no.	Opportunity for improvement	Client's comments
46	UNON and UNEP would benefit from conducting a formal investment appraisal of the photo-voltaic system and use it as a benchmark for evaluating the success of the project.	<i>UNON stated that this would be implemented by June 2012 subject to confirmation by UNEP. UNON stated that It was likely that additional time will be required in order to conduct a more accurate investment appraisal, as full clarity and understanding of the solar operation, and electricity produced will not be available until all solar panels are installed and the system has been in operation for at least one year.</i>
50	UNON would benefit from establishing a mechanism to ensure that approval of major change orders (i.e. those exceeding \$10,000) for construction projects are always documented in writing.	<i>UNON stated that for future construction projects all change orders will not only be documented in writing but will be signed off in writing.</i>
51	The Director-General of UNON should approve, on an <i>ex post facto</i> basis, all major change orders (i.e. those exceeding \$10,000) for the construction of new office facilities project that were not approved in writing.	<i>UNON stated that this would be addressed by November 2011 and noted that the main changes requiring formal sign off are the processional staircase and the environmental lighting system.</i>