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INTEROFFICE MEMORANDUM

MEMORANDUM INTERIEUR

INTERNAL AUDIT DIVISION · DIVISION DE L'AUDIT INTERNE

OFFICE OF INTERNAL OVERSIGHT SERVICES · BUREAU DES SERVICES DE CONTRÔLE INTERNE

TO: Mr. Hédi Annabi
A: Special Representative of the Secretary-General
MINUSTAH

DATE: 23 April 2008

FROM: Dagfinn Knutsen, Director
DE: Internal Audit Division, OIOS

REFERENCE: IAD: 08-01267

SUBJECT: **Assignment No. AP2007/683/10 – Audit of the Local Committee on Contracts in**
OBJET: **MINUSTAH**

1. I am pleased to present the report on the above-mentioned audit, which was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing.

2. Based on your comments, we are pleased to inform you that we will close recommendations 2, 3 and 4 in the OIOS recommendations database as indicated in Annex 1. OIOS is reiterating recommendation 1 and requests that you reconsider your initial response concerning this recommendation. In order for us to close the remaining recommendation, we request that you provide us with the additional information as discussed in the text of the report and also summarized in Annex 1.

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

I. INTRODUCTION

4. The Office of Internal Oversight Services (OIOS) conducted an audit of the Local Committee on Contracts (LCC) of the United Nations Stabilization Mission in Haiti (MINUSTAH) from October to November 2007.

5. According to Section 2.5.1.(1) of the Procurement Manual (PM), the LCC shall review and provide advice to the Chief of Mission Support (CMS), or other officials duly authorized under Financial Rule 105.13, on whether proposed procurement actions, including contracts that generate income to the Organization, are in accordance with the Financial Regulations and Rules (FRRs), Secretary-General's Bulletins (SGBs), Administrative Instructions (AIs) and other procurement policies. OIOS undertook this audit to assess the effectiveness of the LCC in discharging its role as part of the procurement internal control system.

6. Comments made by MINUSTAH are shown in *italics*.

II. AUDIT OBJECTIVES

7. The major objective of the audit was to assess the effectiveness of the LCC as an internal control mechanism. Specifically, the audit assessed whether:

- (a) The composition of the LCC allows it to function independently and competently;
- (b) The LCC is receiving relevant documents needed to properly review procurement actions; and
- (c) The LCC is effectively identifying procurement issues that violate the relevant FRRs, SGBs, AIs and other procurement policies on the fairness, integrity and transparency of proposed procurement action.

III. AUDIT SCOPE AND METHODOLOGY

8. The audit covered procurement transactions processed in fiscal year 2006/07, and included file reviews, analytical tests and interviews with relevant Mission personnel. OIOS reviewed the minutes of 24 of the 29 LCC meetings during the year and 38 non-core procurement case files of the 79 cases greater than \$200,000.¹ The provisions of the PM issued August 2006 (Rev 003) were used as the criteria for this assignment.

IV. OVERALL ASSESSMENT

9. The LCC was established in accordance with policies and procedures for nominating independent and competent members. Relevant documentation supporting LCC deliberations was generally well maintained and the LCC was satisfied with the completeness of the information relating to reviewed cases. However, the lack of timely and clear presentations in 12 of the cases reviewed by OIOS resulted in the *ex post facto* consideration by the HCC.

V. AUDIT FINDINGS AND RECOMMENDATIONS

A. Composition and independence of the LCC

Composition of the LCC

10. The Mission established an LCC, in accordance with Section 2.5.2. of the PM, which was composed of competent and independent members.

¹ Core requirements are essential goods and services which lend themselves to local procurement (e.g. fresh food, waste disposal services, potable water supply, etc.). Non-core requirements are all other goods and services. OIOS examined procurement of core requirements in a separate audit.

Financial disclosure

11. LCC members are required to disclose their financial interests as per Section 2.1. (d) of ST/SGB/2006/6, Financial Disclosure and Declaration of Interest Statements. OIOS obtained confirmation from the United Nations Ethics Office that four of the current members, including alternates, had not filed financial disclosures.

Recommendation 1

(1) The MINUSTAH Mission Support should ensure that all members and alternates of the Local Committee on Contracts file financial disclosures with the United Nations Ethics Office.

12. *The MINUSTAH Mission Support did not accept recommendation 1, stating that the Ethics Office normally contacts the individuals with a request to submit their financial disclosure statements and that reminders for the submission of disclosure statements are also sent by the Ethics Office directly to the concerned staff members. In this light, the Mission added that it remains unaware if all LCC members and alternates have filed the financial disclosure with the United Nations Ethics Office and, hence, is unable to follow up on this issue. A memorandum (# CMS/08/M/103) dated 20 March 2008 has however been sent to the LCC Chairperson, to remind all LCC members to file their financial disclosure statements with the Ethics Office immediately.* OIOS wishes to reiterate this recommendation, to ensure that all concerned staff comply with the requirement to disclose financial interests with the ultimate goal of protecting the integrity of the procurement process. OIOS also acknowledges the confidentiality of the financial disclosure statements, but believes that the Mission can confirm with the United Nations Ethics Office whether the concerned Mission staff had already filed the required declarations, without compromising the confidentiality of the filed statements. Recommendation 1 remains open pending the receipt of confirmation from the Mission that all LCC members and alternates have filed the required financial disclosure statements with the United Nations Ethics Office.

B. Activities of the LCC

Approval and distribution of LCC meeting minutes

13. OIOS reviewed 24 LCC meeting minutes for the fiscal year 2006/07. The minutes were generally well kept and relevant supporting documentation was attached. However, the minutes were not always approved timely and were not properly distributed.

14. Section 12.1.6.(3) of the PM requires that the LCC meeting minutes be approved by the CMS and distributed within 10 business days after conclusion of the meeting. Although all 24 LCC meeting minutes were appropriately approved by the CMS, OIOS noted 6 instances where they were approved within 32 and 57 calendar days. There were also two instances wherein the CMS approved the minutes but did not date the approval, making it impossible to determine whether the minutes were approved timely. The MINUSTAH Mission Support informed OIOS that the lapse of time in approving the minutes was due to the absence of the LCC Secretary which delayed the finalization of

the minutes. In OIOS' opinion, delays in approval cause delays in the procurement process and the provision of needed goods and services.

15. Section 12.1.6.(3) of the PM also requires the LCC meeting minutes to be distributed to the following individuals/offices:

- CMS or the Director of Mission Support (DMS);
- Members of the LCC;
- Chief Procurement Officer;
- Requisitioning offices; and
- OIOS.

16. The approved minutes were distributed to all the appropriate individuals/offices except for OIOS. During the audit, the MINUSTAH Mission Support began distributing the minutes to OIOS. To ensure the activities of MINUSTAH are carried out efficiently and effectively, the LCC meeting minutes need to be approved timely and distributed appropriately.

Recommendation 2

(2) The MINUSTAH Mission Support should ensure that the Local Committee on Contracts meeting minutes are approved and distributed timely, in compliance with the provisions of the Procurement Manual.

17. *The MINUSTAH Mission Support accepted recommendation 2 and issued a memorandum (CMS/08/M/103) to the LCC Chairperson to ensure compliance.* Based on the action taken by the MINUSTAH Mission Support, recommendation 2 has been closed.

Deliberations of the LCC

18. In accordance with the provisions of the PM, the LCC should ensure that the proposed procurement actions are based *inter alia* on fairness, integrity and transparency and as such are impartial and unambiguous. Additionally, the PM states, in Section 2.5.1, the LCC shall review and provide advice to the CMS/DMS on whether proposed procurement actions are in accordance with the FRR, SGBs, AIs and procurement policies. The MINUSTAH Procurement Section's (PS) submissions should provide sufficient detail to enable the committee members to perform this function.

19. Based on 16 individual cases reviewed, it appears that the LCC was generally satisfied with the documentation provided for its deliberations. OIOS also observed that there was a fairly standardized format in the presentation of documents to the LCC. However, the following issues were identified:

- In two cases (MIN/2007/069 and 084), the LCC was not satisfied with the clarity and sufficiency of the information provided for its deliberations. However, these cases were endorsed by the LCC;

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- Although Section 12.1.3.(3) of the PM requires that case presentations be received by the LCC at least two days before the meeting day, OIOS identified one case (MIN/2007/084) where the submission was made only one day before; and
 - In two cases (MIN/2007/069 and 079), the LCC deliberations were endorsed by the CMS and rejected by the United Nations Procurement Division (UNPD). In both cases, the LCC had endorsed sole-source procurement (exempt from effective competition) and UNPD requested a re-bid based on the lack of clarity in the technical specification and lack of public bid opening.

20. OIOS noted 13 partial *ex post facto* cases. According to Section 12.1.8.(2) of the PM, “*ex post facto* cases shall be rare exceptions; and when they occur, written justification shall be provided to explain the reasons why timely presentation was not possible.” These cases represent procurement actions in which deliverables have commenced without obtaining the advice of the LCC due to exigency. These cases totaled \$3,586,112.

21. Six cases (MIN/2007/005, 010, 028, 029, 037 and 052) were considered partial *ex post facto* cases due to late presentation of the case. Two cases (MIN/2007/038 and 039) relating to one procurement exercise that resulted in splitting the award between two vendors were rejected by the HCC (HCC/07/57) on grounds of substantive weaknesses and lack of transparency. Additionally, four consecutive, partial *ex post facto* cases (MIN/2007/08, 018, 048 and 081) for the extension of the contract for security services were not endorsed by the HCC due to deficiencies in contract award.

22. OIOS reviewed nine procurement cases related to property leases or renewal thereof to determine whether the LCC obtained assurance that the property was in compliance with Minimum Operating Security Standards (MOSS). None of the lease cases reviewed contained Security Section reports indicating whether the property met MOSS requirements. Additionally, the LCC minutes (except for one case) were silent on MOSS compliance issues. Later in the year, however, the LCC noted that MOSS compliance should be included in all lease related case presentations (LCC meeting # MIN/25/FY2007).

Recommendations 3 to 5

The MINUSTAH Mission Support should:

- (3) Submit cases for review by the Local Committee on Contracts in a timely manner in order to avoid unnecessary *ex post facto* review;**
- (4) Ensure that case presentations are clear before submission to the Headquarters Committee on Contracts in order to avoid delays in the approval process; and**
- (5) Ensure that the Local Committee on Contracts verify that all cases relating to the lease of properties are cleared by the Security**

Section based on the Minimum Operating Security Standards (MOSS).

23. *The MINUSTAH Mission Support accepted recommendation 3 and stated that efforts would be made to eliminate ex post facto cases but also indicated that sometimes due to operational requirements that are beyond the Mission's control, some cases become ex post facto. Based on the action taken by the MINUSTAH Mission Support, recommendation 3 has been closed.*

24. *The MINUSTAH Mission Support accepted recommendation 4 and stated that the overwhelming majority of case presentations to the LCC are sufficiently comprehensive and clear. Notwithstanding, the Mission agrees that there is always room for improvement and toward this end the Mission has organized training for Procurement staff, LCC members and requisitioners during the period 24 March to 4 April 2008. Based on the action taken by the MINUSTAH Mission Support, recommendation 4 has been closed.*

25. *The MINUSTAH Mission Support accepted recommendation 5 and stated that the requirement for MOSS compliance for every property forms an integral part of the identification and selection of the property and is therefore considered a "requirement". The Security Section is included in all surveys undertaken in the identification and ultimate selection of property. Notwithstanding, operational requirements often impose severe restrictions on the choice of available properties and require the Mission to lease the property which is strategically located and subsequently improve it by modifying the facilities and achieve MOSS compliance. This, unfortunately, can only be done after the lease has been executed. The Mission, however, agrees that the requisitioner, as part of his/her request to the Procurement Section, should include a statement of confirmation with regard to MOSS compliance, which then would be incorporated in the case presentation to the Committee. Necessary action will be taken to enforce this requirement. Recommendation 5 remains open pending receipt of a copy of the internal memorandum outlining clear instructions on the requirement to address MOSS requirements when presenting cases involving property leases to the LCC.*

VI. ACKNOWLEDGEMENT

26. We wish to express our appreciation to the Management and staff of MINUSTAH for the assistance and cooperation extended to the auditors during this assignment.

cc: Mr. Luiz Carlos da Costa, PD/SRSG, MINUSTAH
Mr. Paul B. Aghadjanian, Chief of Mission Support, MINUSTAH
Mr. Swatantra Goolsarran, Executive Secretary, UN Board of Auditors
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STATUS OF AUDIT RECOMMENDATIONS

Recom. no.	C/O ¹	Actions needed to close recommendation	Implementation date ²
1	O	Reconsideration by MINUSTAH of its initial response to this recommendation	Not provided
2	C	Action completed	Implemented
3	C	Action completed	Implemented
4	C	Action completed	Implemented
5	O	Submission to OIOS of a copy of the internal memorandum outlining clear instructions on the requirement to address MOSS requirements when presenting cases involving property leases to the LCC	Not provided

¹ C = closed, O = open

² Date provided by MINUSTAH in response to recommendations