



INTERNAL AUDIT DIVISION

REPORT 2015/100

Audit of contract administration at the United Nations Framework Convention on Climate Change

Overall results relating to efficient and effective administration of contracts were initially assessed as partially satisfactory. Implementation of four important recommendations remains in progress.

FINAL OVERALL RATING: PARTIALLY SATISFACTORY

24 September 2015
Assignment No. AA2014/241/02

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AUDIT REPORT

Audit of contract administration at the United Nations Framework Convention on Climate Change

I. BACKGROUND

1. The Office of Internal Oversight Services (OIOS) conducted an audit of contract administration at the United Nations Framework Convention on Climate Change (UNFCCC).
2. In accordance with its mandate, OIOS provides assurance and advice on the adequacy and effectiveness of the United Nations internal control system, the primary objectives of which are to ensure (a) efficient and effective operations; (b) accurate financial and operational reporting; (c) safeguarding of assets; and (d) compliance with mandates, regulations and rules.
3. The mandate of UNFCCC requires the UNFCCC Secretariat to focus on providing support to intergovernmental negotiations, assisting the Parties in the regulatory functions required by the Kyoto Protocol and facilitating the flow of authoritative information on the implementation of the Convention. The Executive Secretary is responsible for administering the Convention's Secretariat in accordance with the United Nations Financial Regulations and Rules and such special rules as maybe established by the Executive Secretary.
4. The UNFCCC administrative guidelines on procurement policy and procedures (AG/2011/4) were established in October 2011 to secure cost-efficient, high quality and environmentally sustainable goods and services required to effectively carry out the activities mandated under the Convention and its Protocol. The administrative guidelines were mainly based on the United Nations Financial Regulations and Rules and the Procurement Manual.
5. Procurement activities at UNFCCC were carried out by the Procurement Team which was composed of eight staff members organized into two groups. Group 1 was in charge of requirements such as information technology equipment and office supplies. Group 2 was in charge of procurement activities relating to conferences and workshops.
6. As of December 2014, UNFCCC had a total of 36 active contracts amounting to \$83.75 million. In addition, UNFCCC utilized 13 contracts amounting to \$1.61 million that had been established by other United Nations and international agencies.
7. Comments provided by UNFCCC and the Department of Management are incorporated in *italics*.

II. OBJECTIVE AND SCOPE

8. The audit was conducted to assess the adequacy and effectiveness of UNFCCC governance, risk management and control processes in providing reasonable assurance regarding the **efficient and effective administration of contracts at UNFCCC**.
9. The audit was included in the 2014 OIOS internal audit work plan in view of the high risks associated with contract administration, which could potentially have an adverse affect on UNFCCC operations and its capacity to deliver its mandate.

10. The key control tested for the audit was regulatory framework. For the purpose of this audit, OIOS defined regulatory framework as controls that provide reasonable assurance that policies and procedures: (a) exist to guide the administration of procurement contracts at UNFCCC; (b) are implemented consistently and effectively; and (c) ensure the reliability and integrity of financial and operational information.

11. The key control was assessed for the control objectives shown in Table 1.

12. OIOS conducted this audit from February to May 2015 in Bonn, Germany. The audit covered the period from January 2013 to December 2014.

13. OIOS conducted an activity-level risk assessment to identify and assess specific risk exposures, and to confirm the relevance of the selected key controls in mitigating associated risks. Through interviews, analytical reviews and tests of controls, OIOS assessed the existence and adequacy of internal controls and conducted necessary tests to determine their effectiveness.

III. AUDIT RESULTS

14. The UNFCCC governance, risk management and control processes examined were initially assessed as **partially satisfactory**¹ in providing reasonable assurance regarding the **efficient and effective administration of contracts at UNFCCC**. OIOS made four recommendations to address issues identified in the audit. Regulatory framework was assessed as partially satisfactory because: (a) action was needed to address the absence of appropriate delegation of authority to the Executive Secretary for procurement matters in accordance with the United Nations Financial Regulations and Rules; (b) procedures for making amendments to contracts needed to be strengthened; (c) performance management of consultants engaged through service agreements with vendors needed to be improved; and (d) measures were needed to ensure that appropriate safeguards are in place to protect the interests of UNFCCC in the event of non-performance of obligations by contractors.

15. The initial overall rating was based on the assessment of the key control presented in Table 1 below. The final overall rating is **partially satisfactory** as implementation of four important recommendations remains in progress.

Table 1: Assessment of key control

Business objective	Key control	Control objectives			
		Efficient and effective operations	Accurate financial and operational reporting	Safeguarding of assets	Compliance with mandates, regulations and rules
Efficient and effective administration of contracts at UNFCCC	Regulatory framework	Partially satisfactory	Partially satisfactory	Partially satisfactory	Partially satisfactory
FINAL OVERALL RATING: PARTIALLY SATISFACTORY					

¹ A rating of “**partially satisfactory**” means that important (but not critical or pervasive) deficiencies exist in governance, risk management or control processes, such that reasonable assurance may be at risk regarding the achievement of control and/or business objectives under review.

Regulatory framework

Need for delegation of authority for procurement and contract administration activities

16. According to General Assembly resolution 50/115, a critical element of the UNFCCC Secretariat's institutional linkage with the United Nations system is the delegation of authority in procurement and financial matters and the attendant requirement to ensure the observance of relevant United Nations Financial Regulations and Rules. The Conference of the Parties (COP) to the Convention decided that the financial administration of the UNFCCC Secretariat would be governed by the financial procedures adopted by it, and with respect to matters not specifically provided for under these procedures, the Financial Regulations and Rules of the United Nations shall apply.

17. On 2 September 2004, in accordance with Financial Rule 105.13, the Assistant Secretary-General/Controller, who was also the Assistant Secretary-General for Central Support Services (ASG/OCSS) at that time, delegated the authority for procurement activities to the Executive Secretary of UNFCCC for a trial period of one year, which was further extended up to 31 March 2006 pending the issuance of a revised version of the delegation of authority. However, in July 2006, the Controller informed the UNFCCC Secretariat of the decision to not renew the delegation of authority on the grounds that the UNFCCC Secretariat had "its own independent legal personality, with its own governance and financial structure".

18. On 21 November 2007, in response to the Controller's request for guidance, the Office of Legal Affairs (OLA) opined that it saw no legal basis for discontinuing the delegation of authority to the Executive Secretary in procurement and financial matters. OLA further stated that if delegation is to be discontinued, this would seem to require prior consultation with and approval by the COP and the General Assembly. However, there was no further delegation of authority to the Executive Secretary since the expiration of the previous delegation on 31 March 2006.

19. OIOS is of the view that in the absence of any change endorsed either by the COP or the General Assembly to the institutional linkage between the UNFCCC Secretariat and the United Nations that was established in General Assembly resolution 50/115, the procurement and contract administration activities performed by the UNFCCC Secretariat since April 2006 are outside the ambit of the applicable United Nations Financial Regulations and Rules. Therefore, the validity and regularity of these actions and decisions is questionable due to lack of delegation of authority.

(1) The UNFCCC Executive Secretary should follow up with the ASG/OCSS to obtain appropriate delegation of authority for procurement matters. In the event that such delegation is not accorded by the ASG/OCSS, UNFCCC should initiate action in coordination with the United Nations Secretariat to obtain the approval of the Conference of the Parties and the General Assembly to authorize the Executive Secretary to exercise authority on procurement matters concerning UNFCCC.

UNFCCC accepted recommendation 1 and stated that implementation is in progress. The Department of Management concurred and stated that OCSS will continue to follow up with UNFCCC in line with this recommendation. Recommendation 1 remains open pending receipt of the delegation of authority accorded to the UNFCCC Executive Secretary on procurement matters.

Need to ensure that contract amendments are in accordance with the Procurement Manual

20. Section 15.7 of the Procurement Manual states that amendment of a contract is necessary when there is a need to change the material aspects of the contract, such as extension of the duration of the contract, or modification of the goods or services to be delivered. The Manual further states that the nature of the amendment shall be clearly described, and the procedures for signing an amendment are the same as those for the original contract.

21. OIOS reviewed 12 out of 36 contracts and noted that some contract amendments were not in accordance with the provisions of the Procurement Manual as explained below:

- a) Contract CO07-06 for Euro 14.6 million was amended by a staff member who did not have the authority to sign the amendment. Although the reduction in the performance bond was agreed to by the Chief of Administrative Services, the contract amendment should have been signed by an authorized official.
- b) Changes were made to service level agreements that were appended to contracts without formal amendments to the contract.
- c) In two contracts (CO17-11 and CO18-11), UNFCCC dropped a requirement for vendors to provide performance bonds for Euro 202,653 and Euro 434,776 without amending the contracts.

22. The anomalies in contract amendment arose due to lack of compliance with the UNFCCC procurement policy (AG/2011/4) which assigns responsibility for the commercial and technical aspects of contract implementation respectively to the Procurement Team and the programme concerned. OIOS review of minutes of meetings of the steering groups established by the requesting programmes to oversee the delivery of goods and services, monitor contractually agreed technical requirements and evaluate vendor performance showed that the steering groups also considered commercial aspects and made decisions to amend the contract provisions. The Procurement Team was not represented in the meetings of the steering groups to provide guidance on commercial aspects and appropriate procedure for amending contract provisions.

23. Amending contracts without following the procedures established in the Procurement Manual, or as stated in contracts, could expose UNFCCC to financial risk as the Convention could be bound by amendments that are not in its best interests.

(2) UNFCCC should establish a mechanism to ensure that: (a) contract amendments are made only in accordance with applicable procedures and by authorized officials; and (b) the Procurement Team participates in all steering group meetings to provide guidance on commercial aspects of contract management.

UNFCCC accepted recommendation 2 and stated that it will implement the recommendation. Recommendation 2 remains open pending receipt of evidence of the mechanism established to ensure that: contract amendments are made only in accordance with applicable procedures and by authorized officials; and (b) the Procurement Team participates in all steering group meetings to provide guidance on commercial aspects of contract management.

Need to improve monitoring and evaluation mechanisms for service agreements

24. Chapter 15.2 of the Procurement Manual prescribes that the vendor's performance shall be evaluated in accordance with the performance measurement criteria included in the solicitation documents, and that the Procurement Office should ensure that this is done and documented in case files.

25. UNFCCC established two service agreements for the provision of human resources to augment the capacity of its Information Technology Services (ITS). The two agreements (contract numbers CO02-10 and CO03-10) were established with a total not-to-exceed limit of Euro 8.2 million for an initial duration of three years, with possibility of extension up to two more years. The vendors were required to provide a list of consultants to UNFCCC for specific functions required by ITS. The contract terms required UNFCCC to: evaluate the profiles of the consultants provided by the vendors; interview shortlisted consultants; and hire the consultants that best fit the terms of reference. The implementing programme manager was required to evaluate the vendors' ability to source and provide consultants based on the performance indicators stated in the solicitation documents/service agreements.

26. However, UNFCCC did not evaluate the performance of individual consultants against specific tasks, expected output, specific duration for the services and key performance indicators in cases where contracts were extended. While service agreements included the objectives of the functions, tasks to be performed, expected output, qualifications of the consultants needed for the job, and the duration of the services for each job, these were not translated to performance agreements with individual consultants. This was because UNFCCC did not have specific guidelines for managing and evaluating performance of consultants recruited through vendors. In the absence of milestones and key performance indicators, the implementing programme was unable to monitor and objectively evaluate the performance of the consultants obtained by UNFCCC through the two service agreements.

27. OIOS reviewed 23 paid invoices for the services of individual consultants hired through these two service agreements and noted that the invoices were stamped with "satisfactory services" by the implementing programme prior to payment. However, the stamping of "satisfactory services" was not linked with the achievement of appropriate key performance indicators, milestones or tasks that the consultants were expected to achieve for the agreed period. Therefore, it was not clear whether UNFCCC was obtaining value for money through the service agreements.

(3) UNFCCC should establish a mechanism to evaluate the performance of consultants engaged through service agreements to ensure that value is received for the payments made to vendors.

UNFCCC accepted recommendation 3 and stated that the currently ongoing tender for this type of services in the information technology area addresses this finding. Recommendation 3 remains open pending receipt of evidence of the mechanism established to evaluate the performance of consultants engaged through service agreements.

Action was needed to ensure appropriate safeguards in the event of non-performance of obligations

28. According to Section 9.34 of the Procurement Manual, the purpose of security instruments is to provide the Organization with security against expenses and losses that may result from failure by a vendor to perform its obligations. The Manual further states that any decision to refrain from requiring security must be recorded in writing and disclosed in the source selection plan and submissions to the appropriate committee on contracts.

29. Only six out of the 22 local contracts that were above \$200,000 (or its equivalent) had performance bonds to safeguard the interests of UNFCCC in case of poor performance by vendors. In one of the six contracts, the performance bond was only valid until June 2014, although the contract was valid until December 2014. The reasons for not requiring performance security were not documented in the procurement case files as required in the Procurement Manual. The Procurement Team explained that security instruments were not enforced because it imposes costs to the vendor who may seek to pass part of the cost to UNFCCC.

30. Non-compliance with the provisions of the Procurement Manual relating to performance bonds could result in financial loss to UNFCCC in the event that vendors fail to comply with their contractual obligations.

(4) UNFCCC should take measures to ensure that appropriate safeguards are in place to protect its interests in the event of non-performance of obligations by contractors.

UNFCCC accepted recommendation 4 and stated that it is already drafting a policy on remedies/securities. Recommendation 4 remains open pending receipt of evidence of the measures taken to protect UNFCCC against non-performance of obligations by contractors.

IV. ACKNOWLEDGEMENT

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

(Signed) David Kanja
Assistant Secretary-General, Acting Head
Office of Internal Oversight Services

STATUS OF AUDIT RECOMMENDATIONS

Audit of contract administration at the United Nations Framework Convention on Climate Change

Recom. no.	Recommendation	Critical ² / Important ³	C/ O ⁴	Actions needed to close recommendation	Implementation date ⁵
1	The UNFCCC Executive Secretary should follow up with the ASG/OCSS to obtain appropriate delegation of authority for procurement matters. In the event that such delegation is not accorded by the ASG/OCSS, UNFCCC should initiate action in coordination with the United Nations Secretariat to obtain the approval of the Conference of the Parties and the General Assembly to authorize the Executive Secretary to exercise authority on procurement matters concerning UNFCCC.	Important	O	Receipt of the delegation of authority accorded to the UNFCCC Executive Secretary on procurement matters.	31 December 2016
2	UNFCCC should establish a mechanism to ensure that: (a) contract amendments are made only in accordance with applicable procedures and by authorized officials; and (b) the Procurement Team participates in all steering group meetings to provide guidance on commercial aspects of contract management.	Important	O	Receipt of evidence of the mechanism established to ensure that: contract amendments are made only in accordance with applicable procedures and by authorized officials; and (b) the Procurement Team participates in all steering group meetings to provide guidance on commercial aspects of contract management.	31 March 2016
3	UNFCCC should establish a mechanism to evaluate the performance of consultants engaged through service agreements to ensure that value is received for the payments made to vendors.	Important	O	Receipt of evidence of the mechanism established to evaluate the performance of consultants engaged through service agreements.	31 March 2016
4	UNFCCC should take measures to ensure that appropriate safeguards are in place to protect its interests in the event of non-performance of obligations by contractors.	Important	O	Receipt of evidence of the measures taken to protect UNFCCC against non-performance of obligations by contractors.	31 December 2015

² Critical recommendations address critical and/or pervasive deficiencies in governance, risk management or control processes, such that reasonable assurance cannot be provided with regard to the achievement of control and/or business objectives under review.

³ Important recommendations address important (but not critical or pervasive) deficiencies in governance, risk management or control processes, such that reasonable assurance may be at risk regarding the achievement of control and/or business objectives under review.

⁴ C = closed, O = open

⁵ Date provided by UNFCCC in response to recommendations.

APPENDIX I

Management Response

United Nations  Nations Unies
INTEROFFICE MEMORANDUM MEMORANDUM INTERIEUR

TO: Mr. Gurpur Kumar, Deputy Director, Internal Audit Division DATE 21 September 2015
A: Office of Internal Oversight Services

THROUGH: Christian Saunders, Director
S/C DE: Office of the Under-Secretary-General for Management

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

SUBJECT: **Draft report on an audit of contract administration at the United Nations**
OBJET: **Framework Convention on Climate Change (UNFCCC) - Assignment No. AA2014/241/2**

1. With reference to your memorandum dated 8 September 2015, please find below the comments of the Department of Management on the above subject draft report.
2. Paragraphs 19 and 20 of the OIOS draft report make reference to the Assistant Secretary-General/Controller delegating authority for procurement activities to the Executive Secretary of UNFCCC. It should be noted that the then Controller was also heading OCSS at the time. Since OCSS now has its own Assistant Secretary-General, OIOS should consider revising recommendation 1 by limiting it to the delegation of procurement authority so that it reads as follows:

Recommendation 1

The UNFCCC Executive Secretary should follow up with the Controller Assistant Secretary-General for Central Support Services (ASG/OCSS) to obtain appropriate delegation of authority for procurement and financial matters. In the event that such delegation is not accorded by the ASG/OCSS, UNFCCC should initiate action in coordination with the United Nations Secretariat to obtain the approval of the Conference of the Parties and the General Assembly to authorize the Executive Secretary to exercise authority on procurement and financial matters concerning UNFCCC.

3. OCSS fully concurs with the recommendation that UNFCCC should follow up with the ASG/OCSS to obtain appropriate procurement delegation. OCSS would also like to point out that in 2009, as a result of an OIOS audit recommendation, UNFCCC requested delegation of procurement authority from United Nations Headquarters. In response to the request, OCSS sent a draft delegation of procurement authority document to UNFCCC in December 2010.

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5. UNFCCC provided comments on the draft delegation of authority in November 2012. Further exchanges on the matter took place between OCSS and UNFCCC without reaching a conclusion. OCSS will continue to follow up with UNFCCC in line with this recommendation.

6. The draft report makes several references to "the Secretariat". OIOS should consider changing those references to "the UNFCCC Secretariat" in order to avoid any confusion that they are referring to the United Nations Secretariat.

7. Thank you for giving us the opportunity to provide comments on the draft report.

Management Response

Audit of contract administration at the United Nations Framework Convention on Climate Change

Rec. no.	Recommendation	Critical ¹ / Important ²	Accepted? (Yes/No)	Title of responsible individual	Implementation date	Client comments
1	The UNFCCC Executive Secretary should follow up with the ASG/OCSS to obtain appropriate delegation of authority for procurement matters. In the event that such delegation is not accorded by the ASG/OCSS, UNFCCC should initiate action in coordination with the United Nations Secretariat to obtain the approval of the Conference of the Parties and the General Assembly to authorize the Executive Secretary to exercise authority on procurement matters concerning UNFCCC.	Important	Yes	Executive Secretary	31 December 2016	Implementation in progress
2	UNFCCC should establish a mechanism to ensure that: (a) contract amendments are made only in accordance with applicable procedures and by authorized officials; and (b) the Procurement Team participates in all steering group meetings to provide guidance on commercial aspects of contract management.	Important	Yes	Coordinator AS	31 March 2016	The UNFCCC Secretariat will implement the recommendation.
3	UNFCCC should establish a mechanism to evaluate the performance of consultants engaged through service agreements to ensure that value is received for the payments made to vendors.	Important	Yes	Programme Coordinators	31 March 2016	The UNFCCC secretariat informs that the currently ongoing tender for this type of services in the IT areas addresses this finding.

¹ Critical recommendations address critical and/or pervasive deficiencies in governance, risk management or control processes, such that reasonable assurance cannot be provided with regard to the achievement of control and/or business objectives under review.

² Important recommendations address important (but not critical or pervasive) deficiencies in governance, risk management or control processes, such that reasonable assurance may be at risk regarding the achievement of control and/or business objectives under review.

Management Response

Audit of contract administration at the United Nations Framework Convention on Climate Change

Rec. no.	Recommendation	Critical ¹ / Important ²	Accepted? (Yes/No)	Title of responsible individual	Implementation date	Client comments
4	UNFCCC should take measures to ensure that appropriate safeguards are in place to protect its interests in the event of non-performance of obligations by contractors.	Important	Yes	Chief, PGSU	31 December 2015	The UNFCCC secretariat informs that it is already drafting a policy on remedies/securities.