INTERNAL AUDIT DIVISION

REPORT 2015/040

Audit of the new office facility construction project in the Economic Commission for Africa

Overall results relating to efficient and effective management of the new office facility construction project were initially assessed as unsatisfactory. Implementation of one critical and three important recommendations remains in progress.

FINAL OVERALL RATING: UNSATISFACTORY

20 May 2015
Assignment No. AN2014/710/01

CONTENTS

AUDIT REPORT

Audit of the new office facility construction project in the Economic Commission for Africa

I. BACKGROUND

1. The Office of Internal Oversight Services (OIOS) conducted an audit of the new office facility (NOF) construction project in the Economic Commission for Africa (ECA).

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 construction of NOF was proposed by the Secretary-General in December 2001 to increase usable office space within the ECA compound. NOF was originally proposed as a five-storey building with an area of 6,770 square metres for an estimated construction cost of $7.7 million. This was approved by the General Assembly in May 2002. By the time of completion in June 2014, NOF had seven storeys with approximately 13,862 square metres of gross floor area due to additional need for space for ECA and to accommodate more United Nations specialized agencies based in Ethiopia. The final approved budget for the building and its ancillary construction projects was $15.3 million as of 30 June 2014. The estimated project cost of the final NOF design is broken down as follows:

Table 1: Estimated project costs for the new office facility and ancillary works as of 30 June 2014
(In United States Dollars)

	Estimated Project Costs
Construction costs	9,367,400
Design, cost plan, and consultancy services	1,624,200
Site work, utilities connections, technology backbone, local area network/wide area network, enhanced security, fire safety, backup power, etc.	1,565,800
Workstations, furniture, office automation equipment	332,000
Installation of information technology and telephone equipment	614,300
Safety and security	759,800
Ancillary projects (internal access roads, parking and landscaping)	440,300
Generators and generator house	509,200
Contingencies	120,200
Total	**15,333,200**

Source: ECA

4. Initially, the Office of Central Support Services (OCSS) in the Department of Management was directly responsible for the NOF project. The United Nations Procurement Division awarded the contract for the design phase to produce the architectural drawings to an international firm in 2004. After three solicitation exercises, one conducted in 2005 and two others conducted in 2008 and 2009-2010, the contract for the construction phase was awarded to a local contractor on 1 April 2010, with a substantial completion deadline of 28 February 2012. The NOF construction project was substantially completed in June 2014.

5. The General Assembly, by its resolution 63/263 of 24 February 2009, requested the Secretary-General to entrust OIOS with ensuring continuing effective audit coverage as well as regular, thorough

management reviews of the construction of NOF at ECA. Accordingly, OIOS previously conducted audits of NOF in 2009, 2012, and 2013.

6. Comments provided by ECA and OCSS are incorporated in *italics*.

II. OBJECTIVE AND SCOPE

7. The audit was conducted to assess the adequacy and effectiveness of ECA governance, risk management, and control processes in providing reasonable assurance regarding **efficient and effective management of the NOF construction project**.

8. This audit was included in the 2014 OIOS risk-based work plan in response to the request of the General Assembly to conduct audits of the NOF project.

9. The key control tested for the audit was project management. For the purpose of this audit, OIOS defined project management as the controls that provide reasonable assurance that: (a) the NOF construction project has effective governance mechanisms and sufficient human resources capacity to oversee and manage project delivery; (b) prompt action is taken to address project-related issues; and (c) financial and other information related to the project are complete and accurate.

10. The key control assessed for the control objective is shown in Table 2.

11. OIOS conducted the audit in June 2014. The audit covered the period from 1 January to 27 June 2014.

12. OIOS conducted an activity-level risk assessment to identify and assess specific risk exposures, and to confirm the relevance of the selected key control 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. The audit team reviewed the NOF contract documents and amendments, together with supporting procurement documents, minutes of meetings, reports of the Secretary-General on the progress of the construction, and related General Assembly resolutions and other relevant documents. The audit team also interviewed relevant officials at ECA and United Nations Headquarters.

III. AUDIT RESULTS

13. The ECA governance, risk management, and control processes examined were initially assessed as **unsatisfactory**[1] in providing reasonable assurance regarding **efficient and effective management of the NOF construction project**. OIOS made four recommendations to address issues identified in the audit. ECA did not act promptly to exercise the remedies in the contract following the delays by the contractor to complete the NOF building according to the contract provisions. Furthermore, ECA did not have adequate capacity to manage the contractor's performance. OCSS did not prepare comprehensive guidelines to manage the project when it transferred responsibility to ECA. In general, OCSS, in conjunction with ECA, needed to develop a more comprehensive list of lessons learned from the NOF project.

[1] A rating of **"unsatisfactory"** means that one or more critical and/or pervasive important deficiencies exist 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.

14. The initial overall rating was based on the assessment of the key control presented in Table 2 below. The final overall rating is **unsatisfactory** as implementation of one critical and three important recommendations remains in progress.

Table 2: 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 management of the NOF construction project	Project management	Unsatisfactory	Partially satisfactory	Unsatisfactory	Unsatisfactory
FINAL OVERALL RATING: UNSATISFACTORY					

Project management

Delayed action to exercise remedies in the contract to address the contractor's poor performance

15. The Procurement Manual and the legal provisions of contracts specifically provided controls to manage and resolve disputes related to poor performance by contractors. The Office of Legal Affairs (OLA) was to be consulted to resolve disputes with contractors, as required.

16. The contract for the NOF project was signed on 1 April 2010, whereby the contractor was obligated to complete the NOF building by 28 February 2012. This deadline was extended five times to 31 December 2013. However, the building was not substantially completed until 27 June 2014, 28 months past the original deadline, and six months after the last contractually amended deadline of 31 December 2013. According to the contract, the contractor was liable to the United Nations for financial losses due to noncompliance with the contract's deadline.

17. The contract stipulated three available remedies, totaling up to $2.8 million, to compensate the United Nations for the non-performance of the contractor. These were related to: (a) liquidated damages of 0.5 per cent of the contract price per working week beyond the contractual substantial completion date up to a maximum of 10 per cent of the contract price, or approximately $936,740; (b) a performance bond of 10 per cent of the contract price; and (c) a retention reserve also of 10 per cent of the contract price. The performance bond expired on 28 February 2012, the original substantial completion date. Therefore, this remedy was no longer available to the United Nations, leaving only the liquidated damages and retention reserve as available remedies.

18. ECA initially referred the contractor's inability to complete the contract to OLA in September 2012 and again in May 2013 due to concerns that the contractor would not meet revised contract deadlines. OLA advised ECA of the Organization's contractual rights to available remedies. According to ECA, it decided to defer exercising those rights until the end of the project in order to ensure its completion as soon as possible without further seeking the advice of OLA in this decision.

19. On 8 December 2014, ECA informed the contractor in writing of its intention to exercise its rights to seek liquidated damages for 23 of the 28 months delay in completing the project and to withhold the retention reserve. The letter was written in response to the contractor's enquiry on 26 November 2014

regarding payment of 50 per cent of the retention reserve or $468,370, which had been due to the contractor in July 2014. ECA informed the contractor that it was looking into performance issues and would conduct a comprehensive review of the contract to analyze if there were any other breaches or issues of poor performance. ECA was still withholding the retention reserve of $936,740 and informed the contractor that payment of the initial 50 per cent would be withheld until such time that the performance review was completed.

20. However, ECA informed OIOS in April 2015 that it had decided, after exploring all options, that the only remedy it would exercise to address the contractor's noncompliance with the deadline was the 10 per cent retention reserve that it was currently holding.

(1) ECA should develop and implement mechanisms to enable it to take timely action to exercise contractual remedies for poor performance by contractors.

ECA accepted recommendation 1 and stated that it had already taken action to ensure that all legal agreements and contracts benefit from a thorough legal review by the Legal Advisor and Legal Officer. The Supply-Chain Management Section in the last few months consistently sought legal review on contractual matters to ensure ECA exposure to legal risk was minimized. In addition, the legal team would play a key role in future construction projects by providing legal guidance throughout the full construction cycle in order to identify potential legal issues in a timely manner and assert all remedies available to ECA. Recommendation 1 remains open pending submission of evidence of the measures put in place to ensure that the legal team provides timely legal guidance on contract-related issues.

<u>Inadequate capacity to manage the construction project</u>

21. The Secretary-General's bulletin on the organization of OCSS required the Office to provide integrated and coordinated management, policy, guidelines, and technical assistance to locations outside Headquarters in the implementation of facilities management projects such as the NOF project. The Administrative and Coordination Arrangements for the Construction Phase of the Project signed between ECA and OCSS in November 2010 delineated the roles and responsibilities of each of the project stakeholders. The local project management and supervision responsibilities required ECA to provide a dedicated project team with specialized expertise for the day-to-day operations.

22. OCSS transferred the project to ECA without a proper assessment of the risks associated with the project, including those related to the capacity. ECA did not have adequate capacity in managing major construction projects, including management of the contract, and several shortcomings were observed as summarized below.

(i) Although ECA appointed a project manager from 1 March 2010 throughout the duration of the project, a full-fledged project team was not assigned to the project and the positions were only filled on an incremental basis. The project team therefore lacked key positions (such as technical supervisor, electromechanical and architectural clerks of works, and mechanical engineer) during certain periods.

(ii) The internal vendor performance evaluation reports prepared by ECA indicated that the contractor's performance was unsatisfactory. However, contrary to the Procurement Manual, ECA amended the NOF contract to extend the project completion deadline five times – twice before consulting with OLA and an additional three times after legal advice had been obtained. Moreover, despite the contractor's poor performance with the existing contract, ECA awarded another contract to the contractor in May 2013 for ancillary projects valued at a total of $1.6 million.

(iii) According to the contract, the contractor was required to procure a performance bond for 10 per cent of the contract price of $9,367,400. There were three issues regarding this requirement: (a) the bond was only issued for about $500,000, or about 5 per cent of the contract price; (b) the provisions of the bond deviated from the standard United Nations "unconditional" independent bank guarantee obligation; it required instead for ECA to prove any default by the contractor within 12 months of discovery; and (c) the bond expired with the original contract deadline of 28 February 2012 and was not extended in line with subsequent revisions to the contract.

23. In addition, there were no guidelines for managing the project when ECA assumed management responsibility in 2010. OCSS began to draft guidelines in 2012 for the management of all United Nations overseas construction projects, but did not finalize them.

(2) ECA should develop dedicated project management capacity for ongoing and future construction projects to enable it to deliver such projects on time and within approved budgets and to effectively manage the related construction contracts.

(3) OCSS should finalize the Guidelines for managing overseas projects.

ECA accepted recommendation 2 and stated that it had begun taking measures to ensure the existence of a dedicated project management capacity for construction projects that would guarantee timely delivery and budgetary effectiveness. Funds were recently approved for a project management team for the current Africa Hall project, and ECA would continue to seek such funds in the future especially in relation to the Strategic Capital Review. Recommendation 2 remains open pending submission of evidence of the measures taken by ECA to ensure dedicated project management capacity was developed for the future construction projects.

OCSS accepted recommendation 3 and stated that the construction project guidelines were currently in draft form and would be finalized by the end of 2015. Recommendation 3 remains open pending submission of the finalized Guidelines for managing overseas projects.

<u>There was a need to conduct a more comprehensive lessons learned exercise for the new office facility project</u>

24. In reviewing the progress made on the construction of NOF, the Fifth Committee recommended that the General Assembly request the Secretary-General to analyze the factors, flaws, and inadequacies that hampered implementation of the construction plan and identify lessons learned to improve management of similar projects throughout the Organization. The General Assembly, in its resolution 68/247, requested the Secretary-General to ensure full accountability for the delays in the NOF project and to include information on measures taken to address contributory factors in his next annual progress report.

25. Numerous reasons for the scope changes, increases in estimated construction costs, and overall delays in the NOF project were documented by OIOS in its previous audit reports on the project in 2009, 2012, and 2013. OIOS took note that ECA had implemented many of the audit recommendations to improve project implementation and ultimately delivered the project in June 2014. Following substantial completion, ECA and OCSS compiled a list of 14 lessons learned from the NOF project in July 2014.

However, the list omitted critical issues that hindered the execution of the project such as the need for: (i) proper project planning, coordination, and risk management during the pre-planning, design, and procurement stages; (ii) effective governance and oversight of the project during the construction stage; and (iii) effective contract management and timely actions to enforce contractual remedies for any breaches. An incomplete list of lessons learned could lead to inconsistent application of insights gained during the NOF project to upcoming capital projects in ECA.

(4) OCSS, in conjunction with ECA, should develop a more comprehensive list of lessons learned from the new office facility project and apply them into ongoing and future ECA capital projects.

OCSS accepted recommendation 4 and stated that it would undertake a workshop with ECA to identify and develop a comprehensive list of lessons learned which would be included in the "lessons learned" section of the construction project guidelines. ECA also accepted the recommendation and stated that the list of lessons learned was developed and partially reported to the General Assembly under the Secretary-General's report A/69/359. Discussions were underway to further expand the lessons learned list, building upon both ECA and OCSS experiences in managing construction projects. Recommendation 4 remains open pending submission of the final list of lessons learned on the NOF project following the workshop held by OCSS and ECA.

IV. ACKNOWLEDGEMENT

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

(*Signed*) David Kanja
Assistant Secretary-General for Internal Oversight Services

ANNEX I

STATUS OF AUDIT RECOMMENDATIONS

Audit of the new office facility construction project in the Economic Commission for Africa

Recom. no.	Recommendation	Critical[2]/ Important[3]	C/ O[4]	Actions needed to close recommendation	Implementation date[5]
1	ECA should develop and implement mechanisms to enable it to take timely action to exercise contractual remedies for poor performance by contractors.	Critical	O	Submission of evidence of the measures put in place to ensure that the legal team provides timely legal guidance on contract-related issues.	31 January 2016
2	ECA should develop dedicated project management capacity for ongoing and future construction projects to enable it to deliver such projects on time and within approved budgets and to effectively manage the related construction contracts.	Important	O	Submission of evidence of the measures taken by ECA to ensure dedicated project management capacity was developed for the future construction projects.	31 January 2016
3	OCSS should finalize the Guidelines for managing overseas projects.	Important	O	Submission of the finalized Guidelines for managing overseas projects by OCSS.	31 December 2015
4	OCSS, in conjunction with ECA, should develop a more comprehensive list of lessons learned from the new office facility project and incorporate them into the ongoing and future ECA capital projects.	Important	O	Submission of the final list of lessons learned on the NOF project following the workshop held by OCSS and ECA.	31 December 2015

[2] Critical recommendations address significant and/or pervasive deficiencies or weaknesses in governance, risk management or internal control processes, such that reasonable assurance cannot be provided regarding the achievement of control and/or business objectives under review.
[3] Important recommendations address important deficiencies or weaknesses in governance, risk management or internal 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 ECA and OCSS in response to recommendations.

APPENDIX I

Management Response

United Nations Nations Unies

INTEROFFICE MEMORANDUM MEMORANDUM INTERIEUR

TO: A:	Ms. Muriette Lawrence-Hume, Officer-in-Charge New York Audit Service, Internal Audit Division, OIOS	DATE:	14 April 2015
THROUGH:	Mr. Christian Saunders, ~~Director~~ Office of Under-Secretary-General for Management	REFERENCE:	IAD: 15-00214
FROM: DE:	Mario Baez, Chief, Policy and Oversight Coordination Service Office of the Under-Secretary-General for Management		

SUBJECT: OBJET: **Draft report on an audit of the new office facility construction project in the Economic Commission for Africa (Assignment No. AN2014/710/01)**

1. With reference to your memorandum dated 27 March 2015, please find attached the Management response to the above subject draft report.

2. Thank you for the opportunity to provide comments on the draft report.

Form AUD-3.18 (MAY 2014)

15-00996
15 April 2015

APPENDIX I

Management Response

Audit of the new office facility construction project in the Economic Commission for Africa

Rec. no.	Recommendation	Critical[1]/ Important[2]	Accepted? (Yes/No)	Title of responsible individual	Implementation Date	Client comments
1	ECA should obtain advice from the Office of Legal Affairs on the basis of determining compensation for the delays in completing the construction contract for the new office facility and take steps to enforce available remedies.	Critical				
2	ECA should develop and implement mechanisms to enable it to take timely action to exercise contractual remedies for poor performance by contractors.	Critical				
3	ECA should develop dedicated project management capacity for ongoing and future construction projects to enable it to deliver such projects on time and within approved budgets and to effectively manage the related construction contracts.	Important				
4	OCSS should finalize the Guidelines for managing overseas projects.	Important	Yes	Chief, Overseas Properties Management Unit, OCSS	31 December 2015	The construction project guidelines are currently in a draft form and they will be finalised by the end of this year.
5	OCSS, in conjunction with ECA, should develop a more comprehensive list of lessons learned from the new office facility project and incorporate them into the ongoing and future ECA capital projects.	Important	Yes	Chief, Overseas Properties Management Unit, OCSS	31 December 2015	OCSS will undertake a workshop with ECA to identify and develop a comprehensive list of lessons learned. Such lessons will then be included in the lessons learned section of the construction project guidelines.

[1] Critical recommendations address significant and/or pervasive deficiencies or weaknesses in governance, risk management or internal control processes, such that reasonable assurance cannot be provided regarding the achievement of control and/or business objectives under review.
[2] Important recommendations address important deficiencies or weaknesses in governance, risk management or internal control processes, such that reasonable assurance may be at risk regarding the achievement of control and/or business objectives under review.

ECONOMIC COMMISSION FOR AFRICA
COMMISSION ECOMONIQUE POUR L'AFRIQUE

INTEROFFICE MEMORANDUM – MEMORANDUM INTERIEUR

To: A	Ms. Muriette Lawrence-Hume, Chief NY Audit Service Internal Audit Division, OIOS	Date: 14 April 2015 Ref.: SPOQD/15/04/0051
Through: S/C De:		
From: De:	Eskedar Nega, Officer-in-Charge Strategic Planning and Operational Quality Division Economic Commission for Africa	
Subject: Objet:	**Draft report on the audit of the new office facility construction project in the Economic Commission for Africa (Assignment No. AN2014/710/01)**	

This is in reference to the memo on the above mentioned subject addressed to Mr. Carlos Lopes, the Executive Secretary of Economic Commission for Africa (ECA), dated 27 March 2015, Ref. IAD: 15-00214.

On behalf of Ms. Ingrid Cyimana, the Director for Strategic Planning and Operational Quality Division (SPOQD), kindly find attached herewith ECA's management response including an action plan with target dates and units responsible for implementing the recommendations.

Please do not hesitate to contact us if further information is required.

Best Regards.

APPENDIX I

Management Response

Audit of construction of new office facilities in Economic Commission for Africa

Rec. no.	Recommendation	Critical[1]/ Important[2]	Accepted? (Yes/No)	Title of responsible individual	Implementation date	Client comments
1	ECA should obtain advice from the Office of Legal Affairs on the basis of determining compensation for the delays in completing the construction contract for the new office facility and take steps to enforce available remedies.	Critical	NO			As previously communicated, ECA has discussed and exchanged several times with the Office of Legal Affairs. After having explored all options, it was agreed that in terms of the way forward, the only option applicable is the 10% retention which ECA is currently holding.
2	ECA should develop and implement mechanisms to enable it to take timely action to exercise contractual remedies for poor performance by contractors.	Critical	Yes	Head of Facility Management Section	January 2016	ECA has already taken action to ensure all legal agreements and contracts benefit from a through legal review by the P5 Legal Advisor and a P3 Legal Officer. All performance bonds require clearance from the legal team to ensure they conform to the standard United Nations “unconditional” independent bank guarantee obligation, and Supply Chain Management Section has in the last few months consistently sought legal review on contractual matters to ensure ECA’s exposure to legal risk is minimized. Moving forward, the legal team will play a key role in future construction projects by providing legal guidance though out the full construction cycle in order to

[1] Critical recommendations address significant and/or pervasive deficiencies or weaknesses in governance, risk management or internal control processes, such that reasonable assurance cannot be provided regarding the achievement of control and/or business objectives under review.
[2] Important recommendations address important deficiencies or weaknesses in governance, risk management or internal control processes, such that reasonable assurance may be at risk regarding the achievement of control and/or business objectives under review.

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Management Response

Audit of construction of new office facilities in Economic Commission for Africa

Rec. no.	Recommendation	Critical[1]/ Important[2]	Accepted? (Yes/No)	Title of responsible individual	Implementation date	Client comments
						identity potential legal issues timely and assert all remedies available to ECA.
3	ECA should develop dedicated project management capacity for ongoing and future construction projects to enable it to deliver such projects on time and within approved budgets and to effectively manage the related construction contracts.	Important	Yes	Head of Facility Management Section	January 2016	ECA has begun to take measures to ensure the existence of a dedicated project management capacity for construction projects that will guarantee timely delivery and budgetary effectiveness. This is evident with the concurrent request of funds specifically for a project management team for the most recent project of renovating the Africa Hall. The funds were granted as per paragraph 18 of A.C.5.69.L.26_Agenda item 132_PBB 2014-15 attached. Moving forward ECA will continue to seek funding to ensure this system remains in place especially in relations to the Strategic Capital Review which could entail, for ECA, approximately $130 million of projects for the next two decades.
4	OCSS should finalize the Guidelines for managing overseas projects.	Important	N/A	N/A	N/A	N/A
5	OCSS, in conjunction with ECA, should develop a more comprehensive list of lessons learned from the new office facility project and incorporate them into the ongoing and future ECA capital projects.	Important	Yes	Head of Facility Management Section	October 2015	The comprehensive list was developed and partially reported in A/69/359, para 39, internal to ECA discussion are currently under way to further expand the list of lessons learned once agreed they will be

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Management Response

Audit of construction of new office facilities in Economic Commission for Africa

Rec. no.	Recommendation	Critical[1]/ Important[2]	Accepted? (Yes/No)	Title of responsible individual	Implementation date	Client comments
						shared with OCSS. Building upon both ECA and OCSS experiences a final mutually agreed list of lessons learned will be finalized.