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**OFFICE OF INTERNAL OVERSIGHT SERVICES
INVESTIGATIONS DIVISION**

**REDACTED
REPORT OF INVESTIGATION**

ID CASE NO. 0374/04

28 February 2005

INVESTIGATION INTO ALLEGED IRREGULARITIES IN THE PROCUREMENT OF PERSONAL DIGITAL ASSISTANTS (Case 0374/04)

I. BACKGROUND

1. The Investigations Division of the Office of Internal Oversight Services (ID/OIOS) received information relating to problems in a procurement exercise for the purchase of Personal Digital Assistants (PDA) undertaken in April 2004 by UNMIK's Directorate of Rural Affairs (DRA), Kosovo. A letter of complaint from one of the bidders alleged possible irregularities in the bid evaluation and selection process.
2. An internal Pillar II review by the Policy Review and Internal Oversight Unit (PRIO) highlighted possible irregularities in its preliminary report on the procurement exercise with a recommendation for further investigation. This report was provided to ID/OIOS with a request for further investigation. Based on the issues raised in the complaint and subsequently in the PRIO Unit's preliminary report, ID/OIOS investigated the entire tender process to determine whether any violations of UN rules had occurred.
3. The Directorate of Rural Affairs (DRA) is located within UNMIK Civil Administration (Pillar II); it was formed in October 2001 out of the former Department of Agriculture in the Joint Administrative Interim Structure. The DRA comprises Veterinary Services & Veterinary Border Control, Phytosanitary Border Control and Public Forests. The DRA remains a reserved area under Security Council Resolution 1244 and the staff are United Nations staff members subject to the UN Rules and Regulations. Also, the DRA undertakes its own procurement for all of the divisions within the DRA.

II. INVESTIGATION DETAILS

4. ID/OIOS Investigators conducted interviews of all witnesses relevant to this matter, including detailed interviews of the alleged subjects; collected documents and records concerning the procurement, including all the bids submitted and the bid evaluation documents; and analyzed the evidence.
5. The ID/OIOS investigation also reviewed the project funded by the European Agency for Reconstruction (EAR) called "Strengthening of Public Veterinary Services in Kosovo" (SPUVESEK), which identified the need for Personal Digital Assistants (PDAs) to undertake the task of Identification & Registration (I & R) of animals in Kosovo. The intent was to provide veterinarians in the field with electronic devices to record all movements of animals in Kosovo.
6. In late 2002, the EAR consultant prepared the technical specifications for the PDAs based on the proposal in SPUVESEK's inception report of August 2002. Based on these specifications, the DRA launched an initial tender in November 2003 for the PDAs, inclusive of both hardware and software. All bids submitted exceeded the amount set aside for the purchase of the PDAs (€170,000), therefore that tender was cancelled in February 2004 based on advice from the Central Procurement Entity (CPE).

7. A second tender for the purchase of the required PDAs was then launched in April 2004, using the same technical specifications. For the second tender, the DRA provided the bidders with a price ceiling of €135,000 and requested that they state the number of devices in total that the company could offer within the price ceiling. On 19 May 2004, the deadline for the submission of bids, the DRA had received eight bids. As required, the bids were opened and certified by members of a bid-opening panel consisting of DRA logistics officer 1, a DRA procurement officer, DRA employee 1 and a DRA finance officer. The complainant told ID/OIOS that the bid opening process occurred without incident and in accordance with correct procedural requirements.

8. In the preliminary PRIO report, the price estimates as stated in the EAR consultant's inception report showed five different PDA models with integrated scanner capabilities. The prices of the PDA models shown ranged from USD \$323.38 to USD \$818.30. ID/OIOS adduced that the initial estimates were of regular PDAs, not the more rugged PDAs specified in the technical specifications and required for use by veterinarians working in inclement weather conditions. ID/OIOS also found that the estimates were obtained from the Internet for the inception report and did not include the features that would make it technically appropriate for the veterinarians in the field. The actual technical specifications prepared by the EAR consultant later envisaged a more rugged, durable product that would be water, dust and drop resistant. The price per unit of "rugged" PDAs, as required by the technical specifications, is higher than the initial estimate made in the inception report. ID/OIOS verified this through Internet research.

9. The complainant raised two main issues: firstly, that the bid submitted by Vendor 1, was the lowest bid because it offered the most number of devices within the ceiling price. Secondly, although two other bidders offered the same product as the winning bidder, but at a lower price, they had not been selected. The PRIO preliminary report also identified these issues. ID/OIOS Investigators reviewed all eight bids submitted and noted that DRA logistics officer 1 had disqualified two, Vendor 2 and Vendor 3, because neither the Vendor 2 nor the Vendor 3 bid was substantially responsive in that the total price of the product offered exceeded the price ceiling of €135,000. During his/her pre-qualification of bids, DRA logistics officer 1 noted that Vendor 2 did not include taxes "CIP" Pristina Kosovo as required in the bid document, meaning the total price would exceed the ceiling of €135,000 by more than €17,000; and Vendor 3's total offer did not include its yearly €16,500 maintenance surcharge fee, causing its bid to exceed the stated price ceiling by more than €15,000.

10. In order to find out why the lowest bidder, Vendor 1, was still not selected, ID/OIOS spoke separately with two members of the bid evaluation panel who explained the evaluation process and why the panel recommended the selected bidder, Vendor 4. ID/OIOS was told that the evaluation panel examined the bid documents submitted by the six pre-qualified bidders and made comments and annotations on the table provided to them by the DRA logistics officer. The evaluation panel relied heavily on the technical expertise of one panel member, DRA logistics officer 2, who was responsible for the evaluation of the technical features of the PDAs offered. DRA logistics officer 2 told ID/OIOS that his/her handwritten entries on the table were based on the discussions of the entire evaluation panel, but that he/she independently verified that the product offered by each bidder did possess the declared features and that he/she checked the

technical data submitted by the individual bidders with the product datasheet and brochures included in the bidding documents.

11. In terms of the priority selection criteria of the evaluation panel, DRA logistics officer 2 stated that the DRA had advised them to monitor not only the technical specifications but to focus particularly on Section VII of the Bidding Documents “Obligatory Requirements to be fulfilled by the bidders.” DRA logistics officer 2 highlighted the criteria of after-warranty repair service located within Kosovo and repair or replacement within five working days (based on the existing regulations in Kosovo as to notification, registration and recording of information concerning movement of animals within five days of the movement). Therefore, if a PDA device used for the communication of such data broke down and was not replaced within a week, farmers and veterinarians would run the risk of not complying with the law.

12. ID/OIOS requested DRA logistics officer 2 to review each individual bid and to explain his/her

13. annotations. DRA logistics officer 2 pointed out that Vendor 4, Vendor 5 and Vendor 6 had offered virtually the same technical device. He/she found out that the “Gotive H41 IB” model offered by Vendor 6 did not substantially differ from the “Gotive H41” model offered by Vendor 4 and Vendor 5. DRA logistics officer 2 stated that the “Gotive H41” model complied with all the requirements laid out in the technical specifications and pointed out that this device was very well protected against environmental impact, notably in the field.

13. According to DRA logistics officer 2, the PDA model offered by Vendor 1 was not a rugged PDA; it did not comply with the IP54 protection standards essential for outdoor use. At first glance, Vendor 1 appeared to be the lowest bidder, because they offered the largest number of PDAs for the stated price ceiling. However, the product did not comply with the technical specifications and hence would be inappropriate for use by KVS veterinarians. As such, the members of the evaluation panel did not short-list Vendor 1 for further examination.

14. However, the complainant contended that the PDA model offered by Vendor 1 did match the technical specifications sought by the DRA and referred ID/OIOS to “Vendor 1’s” handwritten responses to Section VI “Technical Specifications” of the Bidding documents. These handwritten responses simply mark “Y” for yes and “N” for No as to whether the product conformed to the technical specifications. The handwritten version shows a “Y” in the column next to the technical requirement of environmental sealing. Investigators noted that the annex submitted by the complainant is different from the typed page of the Vendor 1 response to Section VI found in all three sets of bid documents submitted to the DRA at the bid opening. The typed page clearly indicates that the product does not contain the required dust and weather resistance feature required.

15. ID/OIOS learned that Vendor 1 did not retain a copy of the completed bid documents submitted to the DRA as they had only prepared three sets, all of which were submitted to the DRA on 19 May. The complainant seemed unaware of the discrepancy between the two versions. ID/OIOS verified that the PDA model offered by Vendor 1 (EIA PD264-XB) does not

contain the IP54 feature that would ensure environmental sealing against dust and rain. It did appear from the complainant's statements to ID/OIOS that Vendor 1 did not fully understand the bidding document requirements and thus failed to offer a technically compliant product that would be appropriate for outdoor use by Kosovo veterinarians.

16. ID/OIOS also addressed the issue of why Vendor 4 was selected even though two other bidders offered the same model PDA at a lower price. Based on the technical specifications, the evaluation panel narrowed the choices to three bidders whose product was technically compliant with the specifications. Two panel members told ID/OIOS that among the three short-listed bidders, the Vendor 4 offer seemed to be slightly more expensive than that of Vendor 5 and Vendor 6. A more thorough review indicated that both Vendor 5 and Vendor 6 did not include VAT in their offers; therefore, the total bid by these two vendors did not offer the best value. In addition, neither Vendor 5 nor Vendor 6 offered servicing and repair of the PDAs in Kosovo and the required five days turnaround time to replace a faulty device. Only the selected bidder, Vendor 4, offered these two features along with a training component for the price submitted. Given the fact that approximately 70 veterinarians were to be equipped with these PDAs, the training component, although not included in the obligatory requirements, seemed to be a valuable addition to the evaluation panel members. In the end, the evaluation panel members selected Vendor 4 over the two other short-listed bidders because that bid included training as part of the total package thereby offering the best value within the stated price ceiling for DRA-KVS.

III. FINDINGS

17. ID/OIOS finds that the DRA finally procured PDAs from Vendor 4 based on the fact that the product offered was in compliance with the technical specifications and met the requirements of the bid specifications. The lower price estimates quoted in the inception report related to standard office use PDAs as opposed to rugged, environmentally sealed PDAs that would be suitable for outdoor use.

18. ID/OIOS also finds that the evaluation panel selected Vendor 4 because it was the only bidder that complied with all technical specifications as well as the obligatory requirements in Section VII of the bid documents such as the 12 months warranty for servicing and repair in Kosovo and the five days turnaround time. In addition, it offered the best value by including a training component in their offer.

19. The evidence adduced by the investigation further confirms that the PDAs offered by Vendor 1 did not conform to the technical specifications of the ITB. Although the complainant offered the largest number of PDAs within the stated ceiling price, the PDAs offered were not appropriate for the designated use as set forth in the bid documents.

20. ID/OIOS determined that the procurement exercise was conducted in accordance with the UN Financial Rules and Regulations governing procurement and with UNMIK's Finance Administrative Instruction 2/1999 on public procurements using KCB funds.

IV. RECOMMENDATION

21. Based on the above, ID/OIOS makes the following recommendation:

Recommendation 1: It is recommended that UNMIK take note of ID/OIOS' findings and conclusions and advise DRA staff members, DRA employee 2 and DRA logistics officer 1 of the result of this investigation. (ID Rec. IV04/374/01)