



**Office of Internal Oversight Services
Internal Audit Division II**

AUD: UNON (054/2005)

1 November 2005

TO: Mr. Klaus Töpfer, Director General
United Nations Office at Nairobi (UNON)

FROM: Egbert Kaltenbach, Director
Internal Audit Division II
Office of Internal Oversight Services (OIOS)

SUBJECT: **Audit of UNON Support Services: Recreation Centre (AA2005/211/03)**

1. I am pleased to submit the final report on the audit of UNON Support Services: Recreation Centre, which was conducted in Nairobi, Kenya in May and June 2005, by Ms. Margaret Gichui-Nyiero, Mr. Obin Silungwe and Ms. Cecile Aptel-Williamson. A draft of the report was shared with Mr. A. Barabanov, Director, Division of Administrative Services in September 2005, whose comments, which were received in October 2005, are reflected in the attached final report, in italics.

2. I am pleased to note that all of the audit recommendations contained in this final Audit Report have been accepted and that UNON have agreed to initiate their implementation immediately. The table in paragraph 71 of the report identifies further action required to close the recommendations. I wish to draw your attention to recommendations 1, 2, 3, 5, 7, 8, 9, 10, 11, 13, 14 and 15 which OIOS considers to be of critical importance.

3. I would appreciate if you could provide Mr. C. F. Bagot with an update on the status of implementation of the audit recommendations not later than 31 May 2006. This will facilitate the preparation of the twice-yearly report to the Secretary-General on the implementation of recommendations, required by General Assembly resolution 48/218B.

4. Please note that OIOS is assessing the overall quality of its audit process. I therefore kindly request that you consult with your managers who dealt directly with the auditors, complete the attached client satisfaction survey form and return it to me.

5. I would like to take this opportunity to thank you and your staff for the assistance and cooperation extended to the audit team.

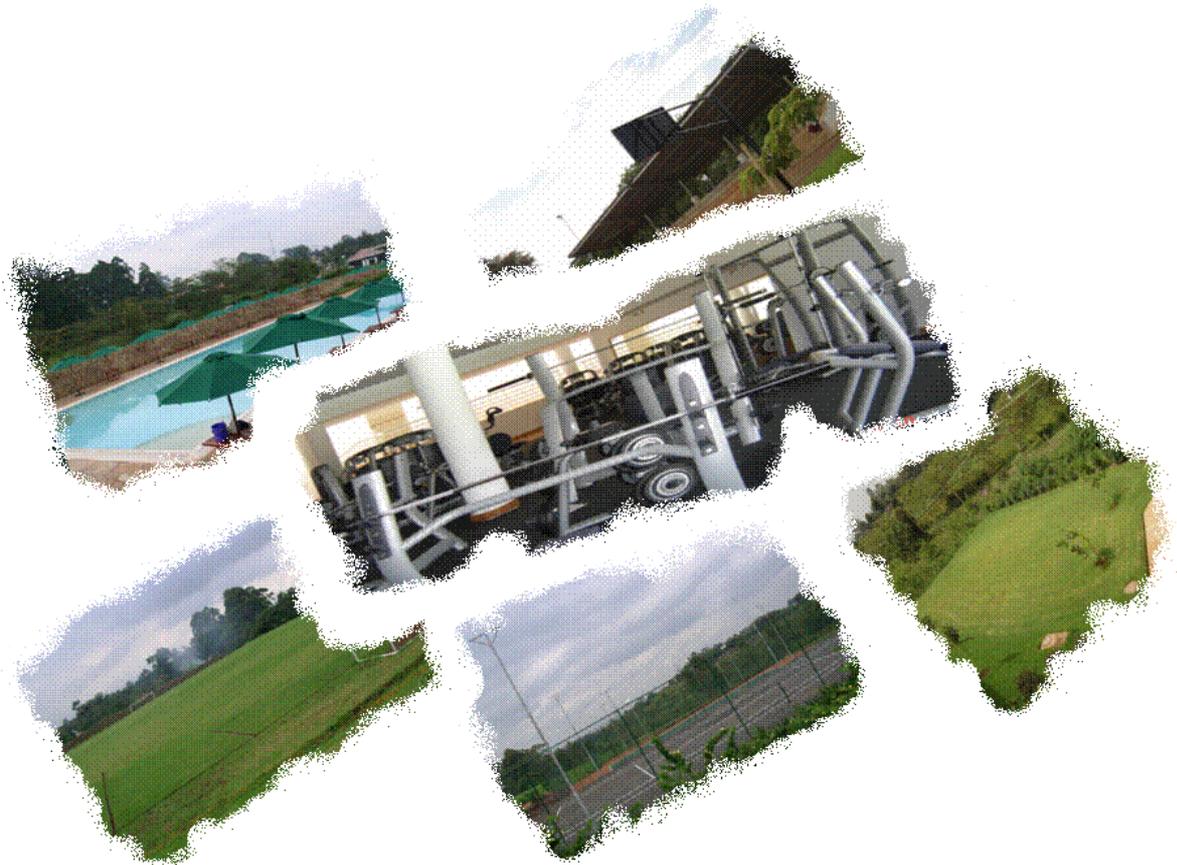
Attachments: final report and client satisfaction survey form.

cc: Mr. C. Burnham Under-Secretary-General for Management (by e-mail)
Mr. S. Goolsarran, Executive Secretary, UN Board of Auditors (by e-mail)
Mr. A. Barabanov, Director, Division of Administrative Services (UNON) (by e-mail)
Ms. V. Glavind, Chief, Support Services Service, UNON (by e-mail)
Mr. S. Stannah, Chief, Commercial Operations Unit, UNON (by e-mail)
Ms. A. Paauwe, Audit Focal Point, UNON (by e-mail)
Mr. M. Tapio, Programme Officer, OUSG, OIOS (by e-mail)
Mr. C. F. Bagot, Chief, Nairobi Section, IAD II, OIOS (by e-mail)
Ms. M. Gichui-Nyiero, Auditor-in-Charge, IAD II, OIOS (by e-mail)

United Nations
Office of Internal Oversight Services
Internal Audit Division II

Audit Report

Audit of UNON Support Services: Recreation Centre (AA2005/211/03)



Report Date: 1 November 2005

**Auditors: Margaret Gichui-Nyiero
Obin Silungwe
Cecile Aptel-Williamson**



**Office of Internal Oversight Services
Internal Audit Division II**

Audit of UNON Support Services: Recreation Centre

(AA2005/211/03)

EXECUTIVE SUMMARY

Between May and June 2005, OIOS conducted an audit of UNON's Recreation Centre. In 1999, commercial operations had generated surplus funds, which UNON decided to use to provide facilities, which would enhance the morale of staff and hopefully attract more United Nations personnel to Nairobi. Nairobi was then experiencing a recruitment problem following the bombing in 1998, and an increase in security problems coupled with infrastructure problems that resulted in Nairobi being categorized as 'C' duty station. After a series of in-house discussions, a decision was taken to build a recreation centre on what was then viewed as undeveloped land adjacent to the perimeter fence of the Gigiri compound. The construction took place between July 2003 and January 2005 at a cost of approximately US\$2 million. OIOS reviewed the events leading up to, and including, construction of the recreation centre and concluded that there are a number of lessons to be learnt from this to help strengthen the way Commercial Operations Unit (COU), Procurement Section and Building Management and Transportation Unit (BMTU) carry out construction and related works.

UNON is actively addressing all of the issues raised and OIOS would like to thank UNON for the prompt attention being given to the issues discussed below, and for the constructive approach taken throughout the audit process.

Document Management

To ensure that COU maintains the appropriate level and type of documentation to enable it to explain its actions to its own management and other interested parties, OIOS recommended that UNON review document management arrangements for COU.

Decision to construct

Because there was insufficient documentation to explain both the rationale for deciding to build a recreation centre and that the design met the needs of potential clientele, OIOS recommended that COU commission a study on potential usage of existing facilities over the next five to ten years, and possible strategies for meeting demand.

Funding

The initial stages of the project were marked by poor financial planning, which was recognised and subsequently addressed. While UNON was able to demonstrate that there were sufficient funds available to pay for the project, it was unable to demonstrate value for money. Although OIOS recognised that improvements had been made through the recent hiring of professional management, it recommended that further focus should be placed on financial training to both management and accounting staff in COU. Guidelines should be created and issued on the type and nature of financial planning which is required of COU for projects they undertake. In addition, OIOS felt there was scope to consider whether security funds earmarked for relocation of commercial operations could be used for enhancing security of the recreation centre.

Authority to construct

In the absence of documentation to explain whether, and in what circumstances, UNON had the authority for construction works in the Gigiri compound, OIOS recommended UNON to seek clarification from United Nations Headquarters (UNHQ) on the delegated authority of Director-General (DG), UNON with respect to the construction works.

Location of the recreation centre

OIOS established that the recreation centre was built on a wetland in contravention of the Ramsar convention. Whilst UNON had initiated a complete environmental assessment for the entire United Nations Complex in Nairobi it was not clear whether this study would address how to rectify damage to the existing wetland. A recommendation has therefore been raised to ensure that this assessment extends to the wetland.

Project management

In the opinion of OIOS, many of the issues described in the report stem from a failure to establish adequate project management arrangements at the start of the project. This was recognized and addressed but only at a late stage. Although UNON did recruit staff with architectural and project management experience, OIOS is of the opinion that additional training should be considered to enhance the project management capability of BMTU and COU.

Construction

OIOS noted a number of errors and omissions in the construction with a total value of approximately US\$180,000 which UNON intends to recover from the contractor, and OIOS has made recommendations to assist UNON track recoveries. A number of other problems were noted which stem from a failure to ensure value for money was obtained for services obtained. OIOS has requested UNON to look into these issues to determine whether there was any negligence.

Management of the recreation centre

Concerns were raised about the exercise to outsource the management of the centre, which has been looked at separately by OIOS Investigations Division.

UNON was able to demonstrate that it had plans to ensure self-sustainability of the recreation centre and maintenance costs incurred by UNON would be recovered once the recreation centre became operational. Whilst OIOS had no problem with UNON placing a mark up on goods procured from the Commissary to cover operating costs, OIOS is concerned if contractors are allowed to make a profit on goods procured from the Commissary this may violate Article V of the Host Country agreement.

November 2005

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I. INTRODUCTION

1. In May and June 2005, OIOS conducted an audit of UNON Support Services: Recreation Centre, in accordance with the International Standards for the Professional Practice of Internal Auditing.
2. UNON constructed a recreation centre between July 2003 and January 2005 at a cost of approximately US\$2 million. The recreation centre is located next to the perimeter fence of the United Nations Complex and includes the following:
 - a) **An upper floor** containing the main lobby and reception area, administration offices, restaurant and bar, kitchen, terrace, plant rooms, game rooms and crèche.
 - b) **A ground floor** containing a fitness centre and spa (including a gymnasium, plunge pool, aerobics exercise room, ladies and men's locker rooms, sauna and steam rooms, a massage room) and two squash courts.
 - c) **A basement** housing the mechanical rooms.
 - d) **Ground facilities** including a solar heated Olympic size swimming pool, children's pool, three tennis courts, a competition size basketball court, volleyball court and football pitch, all with floodlight, adventure grounds and nature trail.
3. Management of the recreation centre was initially tendered based on the recommendations of a consultancy company to outsource the day-to-day running of the centre to a management company. UNON has since decided to proceed with management of the recreation centre using its own resources for the sporting facilities and outsourcing the catering facilities.
4. The findings and recommendations contained in this draft report were discussed with the staff responsible for the audited activities and the Director, Division of Administrative Services during exit meetings and discussions held in August and September 2005. Their comments have been reflected in this draft report.

II. AUDIT OBJECTIVES

5. The overall objective of the audit was to provide the Director-General (DG), UNON with an assessment of the adequacy of the arrangements for building and running the recreation centre. This included:
 - (a) Evaluating the adequacy, effectiveness and efficiency of internal controls;
 - (b) Evaluating whether adequate guidance and procedures were in place;
 - (c) Determining the reliability and integrity of the financial data;
 - (d) Reviewing compliance with United Nations Regulations and Rules, and Administrative Instructions.
 - (e) Assessing effectiveness and efficiency of arrangements for operations.

III. AUDIT SCOPE AND METHODOLOGY

6. The audit covered activities for the period January 1999 to June 2005, in Nairobi and involved review and assessment of internal control systems, interviews with staff, analysis of applicable data, review of the available documents and other relevant records.

7. Very little documentation was available covering the period 2000 to 2002, thereby limiting OIOS scope for review and assessment of activities during this period, as further discussed below.

IV. AUDIT FINDINGS AND RECOMMENDATIONS

A. Document Management

8. The audit was delayed because of the absence of documentation pertinent to the audit issues raised. These problems were mostly the result of an absence of policies and procedures dealing with the level and type of documentation that COU needed to keep on the work it performed. OIOS views this as a very serious weakness that limits COU's ability to explain its actions to its own management and other interested parties. Poor documentation also increases the risk of fraud through lack of transparency of actions carried out.

Recommendation:

To ensure proper accountability for the work of the Commercial Operations Unit (COU), UNON should review COU information needs and the arrangements for the classification, storage, archiving and retention of their documents and records and ensure that all COU information is adequately documented, and centralized. Written guidelines should also be issued to the staff to ensure a uniform approach to information classification and retention (Rec. 01).

9. *UNON accepted the recommendation and commented that it will initiate action to address it immediately.* OIOS thanks UNON and will close the recommendation upon notification of the outcome of the review exercise and subsequent action taken on COU information needs and upon receipt and review of the written guidelines issued to the staff.

B. Feasibility

10. UNON tasked the Commercial Operations Advisory Board (COAB) in 1999 to advise it on how it might best use surplus commercial funds to the benefit of all staff. Whilst there was documentary evidence to support that some analysis work was carried out as to how best to use the funds, the documentation was insufficient to enable OIOS to draw any conclusions about whether an adequate analysis had been performed, and the recreation centre constructed was the best use of surplus funds. It was also unclear how the capacity of 600 people had been determined. COU informed OIOS that the size of facilities was determined by the available budget for construction and an analysis of potential usage and capacity of facilities was conducted as part of a consultant review in September 2004, which suggested that a membership capacity of 600 should be planned for and would meet expected demand. This analysis focussed on self-sustainability of the recreation centre and did not consider minimum and maximum

potential users of each facility offered. For example, the impact of new office buildings was not considered.

Recommendation:

To assist UNON in planning for, and managing demand for, recreation centre facilities, the Commercial Operations Unit (COU), should conduct a study on potential usage of existing facilities over the next five to ten years, and possible strategies for meeting demand (Rec. 02).

11. *UNON accepted the recommendation and commented that it will initiate action to address it immediately.* OIOS thanks UNON and will close the recommendation upon receipt and review of the outcome of the study, and possible strategies for meeting demand.

C. Funding

(a) Financial planning

12. Whilst there was little evidence of formal financial planning, OIOS was pleased to note that COU had ensured that there were available funds to cover expenditure of approximately US\$1.7 million incurred at the time of the audit:

(a) Financial surplus at the start of the project was not accurately known: In an audit carried out in September 2000 OIOS had established that the surplus figure was not accurate and needed to be revised (Commercial Operations Unit AA2000/210/03/04). This recommendation was not closed until July 2005 and there was little evidence to explain on what basis UNON decided that there were sufficient surplus funds to allow the project to start.

(b) Funding strategy: A strategy to explain how the surplus would be used, including consideration of how any additional surplus generated would be used to assist in funding the project did not materialise until 2002 and the strategy developed was never implemented.

(c) Tracking expenditure against budget: This was not considered until March 2002, when UNON requested COAB to prepare a plan, indicating funds available, projected income, balance, projected running costs and how they were expected to be covered. There was no evidence that the plan was ever produced and there was no documentation demonstrating that available funds would pay for the project.

(d) Running costs. There was no evidence to show that due consideration had been given to the cost of operating the recreation centre once it was constructed, and whether the project would be self-sustainable or not.

13. OIOS attributes these problems to lack of appropriate financial expertise for this type of planning within COU and UNON. UNON management during 2003 identified this failing and a recruitment process was initiated to identify a more commercially focused management. A new COU manager was recruited in October 2004. The lack of project financial management at the time means that UNON cannot demonstrate that the recreation centre as constructed represents best value for money.

Recommendation:

To ensure proper project financial planning is carried out UNON should arrange for appropriate financial training to be given to management and accounting staff in the Commercial Operations Unit (COU), and guidelines should be created and issued on the type and nature of financial planning which is required of COU for projects they undertake (Rec. 03).

14. *UNON accepted the recommendation and commented that it will initiate action to address it immediately.* OIOS thanks UNON and will close the recommendation upon notification of appropriate financial training given, and upon receipt and review of guidelines issued on financial planning.

(b) Security considerations

15. At the request of the General Assembly in December 2003, UNON undertook a review of its compliance with the Headquarters Minimum Operating Security Standards (H-MOSS), which included the location of commercial operations. The review indicated the need for relocating all commercial operations outside the compound perimeter. By its resolution 59/276, section XI, of 23 December 2004, the General Assembly approved funds for UNON for the construction of a new off-site building to accommodate UNON commercial operations. COU informed OIOS that shatter proof film and an electric fence had been installed at the recreation centre as per the H-MOSS requirements. Whilst appreciating the work undertaken, OIOS is of the opinion that further consideration of the security aspects of the recreation centre should be made to determine whether any additional security funds earmarked for relocation of commercial operations could be used for the recreation centre.

Recommendation:

UNON should determine whether any funds earmarked for relocation of commercial operations under GA resolution 59/276, section XI, of 23 December 2004 can be made available for paying for security measures implemented to ensure the recreation centre is a secure and safe place for staff to use (Rec. 04).

16. *UNON accepted the recommendation and commented that it will initiate action to address it immediately.* OIOS thanks UNON and will close the recommendation upon notification of the availability of funds, from the earmarked allocation to pay for security measures implemented at the recreation centre.

D. Design/ facilities to be provided by a recreation centre

17. COAB set up a committee in September 2000, comprising a two-man team “to look into the recreational facilities in more detail, and gather information on technical requirements, staffing, membership, and the overall position of the Centre in general”.

18. The minutes of the COAB refer to a report of this committee issued in January 2001, suggesting that “.....the sports and nature trail should be an integrated set up. This would involve moving the gym, tennis and volleyball courts, and any other sports developments in the same area as the nature trail. The set up should be environmentally friendly with minimal interference to the existing and surrounding nature, and that a consultative meeting with the

United Nations - Habitat architects was set for 22 January 2001 to prepare the terms of reference for the future development of the Sports Centre and the Nature trail....” COU informed OIOS that it is unable to find a copy of this report, but that all aspects of this report have been complied with, that the facilities offered were discussed as part of numerous COAB meetings, and that UNON management approved the facilities currently implemented. COU and the Procurement, Travel and Shipping Section (PTSS) further explained that the lack of documentation explaining the basis for the facilities currently offered by the recreation centre is attributed to undocumented deliberations of the COAB, which were however included in the final Terms of Reference for the recreation centre. The information provided by COU indicates that the decision to construct on the current site, and the facilities constructed, was based on the work of this committee.

19. Due to absence of this documentation, OIOS is not able to confirm that the constructed facilities meet the needs of potential clientele, and that the information provided enabled UNON Management to make an informed decision. This issue is addressed by recommendation 2 and no further action is proposed.

E. Authority to construct

20. DG UNON approved the construction of the recreation centre in October 2002. COU was unable to provide any documentation explaining on what basis DG UNON made this decision, and on whose advice. The available documentation refers to the following questions raised by DG UNON in March 2002:

(a) The legal authority to construct the project: ST/SGB/2000/13 delegates the responsibility to DG, UNON for management of the United Nations facilities in Nairobi. UNON was unable to provide any supporting documentation clarifying his delegated authority for construction of new facilities, and whether he could proceed with building new facilities without prior authorisation by the United Nations Headquarters (UNHQ). COU informed OIOS that UNON does seek authorisation for major works, but were unable to provide any documentation showing that authorisation had been sought for the recreation centre. Based on past practice OIOS can see no reason why UNON did not seek authority from UNHQ in this case.

(b) Ownership of the building and structures and civil and financial liabilities: The United Nations Environment Programme (UNEP) Division of Environmental Policy Development and Law (DEPDL) advised DG UNON that authorization of the project would result in the project becoming the legal property and responsibility of the United Nations. The United Nations would assume responsibility for debts of the project and be liable for any difficulties created in its construction and operation. OIOS was not provided with any documentation to explain if and how this issue was resolved, but UNON stated that it was the owner and understands and recognises the financial and civil liability. In addition, a financial plan has been produced to demonstrate self-sustainability.

Recommendation:

To clarify the delegated authority of Director-General (DG), UNON with respect to the construction works on the Gigiri compound, Office of DG UNON should seek clarification from the United Nations Headquarters (UNHQ) on the scope of authority of DG UNON for such matters (Rec. 05).

21. *UNON accepted the recommendation and commented that it will initiate action to address it immediately.* OIOS thanks UNON and will close the recommendation upon receipt and review of clarification from the United Nations Headquarters (UNHQ) on the scope of authority of DG UNON for construction works on the Gigiri compound.

F. Location of the recreation centre

22. Article 1(1) of the Ramsar Convention on conservation and wise use of wetlands provides that: "For the purpose of this Convention wetlands are areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres. The Ramsar Convention has adopted a classification of wetland type which includes 42 types, grouped into three categories: Marine and Coastal Wetlands, Inland Wetlands, and Human-made Wetlands". The recreation centre appears to have been built on a wetland of the type covered by the Ramsar Convention and an incomplete analysis has been carried out as to the effect of this action and what steps should be taken to mitigate the effects.

23. At the time the decision was made to build on the wetland, UNON did not have any guidelines or procedures that required an environmental assessment prior to any building taking place on underdeveloped land within the complex. Consequently, no environmental impact assessment was conducted or even considered and there was no documentation supporting whether this issue was raised by the United Nations-Habitat architects consulted in 2001.

24. In March 2004, the local residents brought the issue to the attention of UNON and prompt action was taken to request UNEP's Division of Global Environment Facility (DGEF) to undertake an environmental impact assessment which concluded that the construction was on a wetland and half the wetland had already been destroyed and the construction had affected the functioning of the remaining wetland. In compensation for the damage already done, UNON created a lagoon in the wetland to ensure constant supply of water. However, the environmental impact assessment focused on hydrogeology of the wetland and did not look at the impact on biodiversity. It is therefore not known how the construction has impacted on the biological species for which the wetland serves as a unique habitat. In addition, considering the extent of development as of April 2004, DGEF made recommendations on possible mitigation measures impacting the remaining wetlands. Some of these recommendations were implemented, including the omission of security patrol roads initially designed to be constructed on the wetland, and development of an underground drainage system to direct surface water from the facilities and neighbouring facilities to the wetlands. However, some recommendations were not implemented because of the advanced stage of construction.

25. UNON management has recognised the lack of adequate environmental assessment conducted for prior projects, and in consultation with UNEP has decided to conduct a complete environmental assessment for the entire United Nations Complex in Nairobi. UNON had in August 2005 identified a consulting firm to undertake this study.

Recommendation:

To ensure adequate conservation of the remaining wetlands, UNON should ensure that the environmental assessment of the United Nations Complex in Nairobi includes an impact assessment of the existing wetland (Rec. 06).

26. *UNON accepted the recommendation and commented that it will initiate action to address it immediately.* OIOS thanks UNON and will close the recommendation upon receipt and review of the environmental assessment including impact assessment of the existing wetland, and mitigation measures taken.

G. Management of the project

27. In the opinion of OIOS, many of the issues described in this report stem from a failure to establish adequate project management arrangements at the start of the project. COAB was assigned responsibility for oversight, which it carried out in consultation with the Buildings Management and Transportation Unit (BMTU) in their official capacity as UNON's buildings managers. However, UNON did not have in-house technical expertise to advise on the construction of such a project until the appointment of an in-house architect in October 2003. No one seems to have recognised at the outset the dangers of not having a technically qualified project manager accountable for delivery, and responsible for ensuring the efficient management and planning of resources. Following the recruitment of an in-house commercial management expert in October 2004 UNON did appoint COU as the project manager, but this was at the point of finalising construction, and approving and formalising a management approach for the facility.

28. Although UNON has taken steps to identify and recruit management resources with architectural and project management experience, additional training should be considered for other staff members within the units who are involved in similar projects.

Recommendation:

To enhance the project management capability of UNON Buildings Management and Transportation Unit (BMTU) and Commercial Operations Unit (COU), UNON should arrange for project management training to be given to BMTU and COU staff members involved in projects, and guidelines should be created and issued on the type and nature of project management planning which is required of BMTU and COU for all projects they undertake (Rec. 07).

29. *UNON accepted the recommendation and commented that it will initiate action to address it immediately.* OIOS thanks UNON and will close the recommendation upon notification of project management training given, and upon receipt and review of guidelines issued on project management planning.

H. Construction phase

(a) Liquidated damages clause

30. The contract for the construction works provided for a penalty clauses of Ksh.480,000 (approximately US\$6,000) per week or part thereof. The construction works were delayed by approximately 28 weeks but only 13 of these weeks were approved, and there was no evidence of the application of the penalty clause for the remaining 15 weeks, estimated by OIOS at approximately US\$94,000. PTSS informed OIOS that the liquidated damages would be charged for the unapproved delay.

Recommendation:

UNON should apply the liquidated damages clause stipulated in the contract document for construction works and reduce payments to the contractor by US\$94,000 in view of the unauthorized 15-week delay (Rec. 08).

31. *UNON accepted the recommendation and commented that it will initiate action to address it immediately.* OIOS thanks UNON and will close the recommendation upon confirmation that payments to the contractor have been reduced by US\$94,000.

(b) Architectural consultancy

(i) Outsourcing work

32. During the bid evaluation phase, works related to tendering for construction works amounting to US\$17,500 were outsourced to the contractor hired to provide architectural services. UNON confirmed that these tasks were included in the six phases of work contracted out to external architects on all major construction projects in line with the procedure followed by both UNON and UNHQ Facilities Management Services (FMS). UNON was however at the time of the audit unable to provide documentation to support that these tasks could not be performed by in-house resources. At the time of issuing the report UNON had acquired formal guidelines from UNHQ, which define the responsibilities of procurement, FMS and the architect, and which demonstrated that UNON had been carrying out its responsibility and OIOS is therefore not proposing any further action.

(ii) Payment for architectural services not provided

33. The architect was required to provide recommendations on maintenance and operational costs for the facilities and in-built structures for which he was paid approximately US\$500. COU was unable to provide evidence that this was delivered.

(c) Construction contract

(i) Disputed amounts

34. In contravention of article 5/5.4 of the contract for construction works, the contractor used the contingency amount of approximately US\$33,000, and made adjustments to the project design amounting to approximately US\$16,000, without UNON's authorization or knowledge. COU informed OIOS that it would charge this amount against withheld payments to the contractor.

Recommendation:

UNON should apply article 5/5.4 of the contract document for construction works and reduce payments to the contractor by approximately US\$48,000 in view of unauthorized use of the contingency amount and adjustments to the project design (Rec. 09).

35. *UNON accepted the recommendation and commented that it will initiate action to address it immediately.* OIOS thanks UNON and will close the recommendation upon confirmation that payments to the contractor have been reduced by approximately US\$48,000.

(ii) Facilities not provided as designed

36. Article 10 of contracts with the architect and the contractor provide, “.....obligations under Article 7 of the United Nations General Conditions of Contract shall also extend to suits, claims, demands and liability of any nature or kind, arising out of or resulting from any errors, omissions, acts.....in the performance of this Contract, or any breach of this Contract...”. OIOS noted the following two facilities, which were not completed as designed and Article 10 had not been applied:

(a) The contractor replaced the glass walls of the squash court with concrete ones without prior approval from UNON. COU informed OIOS that it would charge this unauthorized change against the withheld payments to the contractor.

(b) The adventure grounds, which were part of the original design, were not constructed and there was no documentary evidence explaining whether the omission was done at the request of the UNON or was an omission. There was no evidence whether there was any reduction in price as a consequence of the facilities not being constructed.

Recommendation:

UNON should apply Article 10 of the contracts for the recreation centre dealing with failure to provide works as specified, and reduce payments to the contractor in view of facilities that were designed, but not constructed (Rec. 10).

37. *UNON accepted the recommendation and commented that it will initiate action to address it immediately.* OIOS thanks UNON and will close the recommendation upon notification of the amount of payments reduced to the contractor.

(iii) Revision to design

38. OIOS noted that the quantity surveyor had submitted a disputed claim of approximately US\$100,500 for project adjustments. COU are currently withholding this payment. OIOS reviewed the claimed adjustments to the project design during the construction phase, and identified the following responsibilities, and confirmed with UNON that it would charge approximately US\$38,000 against withheld payments:

(a) Approximately US\$22,300 chargeable to the architect for providing UNON with incorrect information for decision-making regarding installation of a tensile roof.

(b) Approximately US\$16,000 chargeable to the main contractor for failing to adequately survey and assess the site and the nature of its soil.

(c) Approximately US\$66,700 chargeable to UNON for lack of in-house expertise to check the accuracy and completeness of designs.

Recommendation:

UNON should apply Article 10 of the contracts for architectural and construction works dealing with failure to provide works as specified and reduce payments to the contractors by approximately US\$38,000 in view of additional charges resulting from negligence by respective parties (Rec. 11).

39. *UNON accepted the recommendation and commented that it will initiate action to address it immediately.* OIOS thanks UNON and will close the recommendation upon confirmation that payments to the contractors have been reduced by approximately US\$38,000.

(iv) Quality assurance

40. Contrary to Art. 5/5.1 of the contract for construction works, no quality assurance person under the supervision of the contractor was on site from commencement of the construction in August 2003 to February 2004. The structural engineer's recommendations to the contractor on quality of works were not fully addressed and partial implementation of the recommendations was accepted by the engineer. This accounts for various quality defects that OIOS confirmed UNON had identified and was following-up with the contractor. There was however no evidence of how design faults such as the lack of a toilet facility in the social area would be rectified.

Recommendation:

To ensure that UNON recreation centre faults are properly followed up and rectified, the Buildings Management and Transportation Unit (BMTU) should produce a report for Director, Division of Administrative Services outlining faults noted and action arising, which can then be monitored for completion (Rec. 12).

41. *UNON accepted the recommendation and commented that it will initiate action to address it immediately.* OIOS thanks UNON and will close the recommendation upon receipt and review of the report submitted to the Director, DAS outlining faults noted and action arising.

I. Additional projects

42. Art. 13.10 (1) of the United Nations Procurement Manual provides, "Competitive bidding must be followed in connection with outsourcing of non-core activities..." Annex D-3 "Delegation of Procurement Authority and Assignment of Duties" of the United Nations Procurement Manual requires the Chief Procurement Officer to fulfil the authority by, "Directing, managing and/or conducting the planning for as well as solicitation and negotiation of, all procurement actions, including contracts".

(a) **Drilling of borehole**

43. UNON hired a consultant for provision of professional services for borehole design, tender documentation, administration, contract negotiation and supervision of the works. The consultant was the architect's engineer. UNON did not solicit for other quotations but rather accepted the engineer's proposal of approximately US\$6,500, contrary to Article 9.3.4 of the United Nations Procurement Manual which requires that a minimum of five prospective vendors be invited to compete for acquisitions of between US\$2,500 and US\$30,000. A bidding exercise was then conducted by the engineer to identify a contractor to dig the borehole based on the engineer's specifications, and a contract was awarded at approximately US\$39,000.

Additionally, another contractor was also engaged by UNON on the recommendation of the engineer, to install the pump at approximately US\$8,000. The construction contractor also charged a cost of approximately US\$1,500 for attendance, bringing the total of digging the borehole to approximately US\$55,000. UNON could not explain why it did not acquire the services of drilling a borehole as a package as compared to the split awards and why these split awards were not managed in their entirety by UNON. OIOS is of the opinion that splitting the contract raised the price and UNON Procurement Service cannot demonstrate that it followed established procurement procedures.

(b) Landscaping

44. UNON decided to remove the landscaping contract of US\$45,730 from the main contractor, and to award these services to a different vendor in order to save money. However, UNON awarded the services at approximately US\$42,500 without evidence of any competitive bidding or negotiation. The vendor was awarded the contract as a sub-contractor under the construction contract, which was to the benefit of the main contractor by a charge of profit and attendance. Although there was a saving versus the original contracted amount, in the opinion of OIOS, UNON Procurement Service failed to follow established procurement procedures referenced above.

Recommendation:

UNON should establish whether additional costs have been paid as a result of failure to carry out proper competitive bidding for the borehole drilling and landscaping and consider what action should be taken in accordance with ST/AI/2004/3 “Financial responsibility of staff members for gross negligence” (Rec. 13).

45. *UNON accepted the recommendation and commented that it will initiate action to address it immediately.* OIOS thanks UNON and will close the recommendation upon notification of outcome of UNON’s exercise to determine if additional costs have been paid and action taken by UNON in accordance with ST/AI/2004/3.

(c) Gym equipment

46. In January 2005, UNON purchased gym equipment for the new recreation centre at a cost of Euro 143,206 (approximately US\$194,000). There was no documentation explaining why the old gym equipment, purchased in 2000 at a cost of approximately US\$23,000 could not be used. COU informed OIOS that a study undertaken found the five year old equipment not suitable for a facility planning to accommodate up to 600 members due to the various needs of clientele and also due to high maintenance costs. COU plans to dispose of the equipment through the Local Property Survey Board.

Recommendation:

UNON should determine the usability of the old gym equipment and dispose unusable items through the UNON Local Property Survey Board and in accordance with the United Nations Procurement Manual (Rec. 14).

47. *UNON accepted the recommendation and commented that it will initiate action to address it immediately.* OIOS thanks UNON and will close the recommendation upon

notification of action taken by UNON on use or disposal of old gym equipment and amounts recovered for disposal.

J. Management of the recreation centre

(a) Consultancy on how to run the centre

48. UNON hired a consultancy company in September 2004 to advise it on the best way to run the recreation centre, and directed it to focus only on outsourcing options. OIOS review of the procurement process raised doubts about the transparency and fairness of the exercise and is looking into this issue separately.

(b) Operation of the recreation centre

(i) Self-sustainability

49. UNON followed the advice of the consultancy company to outsource to a management company. Subsequently, UNON abandoned this approach in the light of an investigation into the procurement process. At the time of the audit, UNON was proceeding with hiring in-house staff to run the recreation centre, based on the advice of the consultancy company. The decision by UNON to in-source raised the need for review of self-sustainability under the new management option. OIOS was pleased to note that COU had conducted an income and expenditure analysis, which suggested that the facility would be self-sustaining, and could generate profits of up to US\$10,000 per month. While OIOS felt that the analysis was optimistic UNON had considered options should the projected figure not be realised and no recommendation is therefore being raised.

(ii) Host Country Agreement

50. UNON planned to charge a 25 percent mark-up on drinks sold at the bar and procured from the United Nations Commissary at duty free prices; a mark-up, which would cover the cost of running the bar. At the time of the audit, it was not clear whether the caterer would be allowed to add a percentage for profit at point of sale to drinks bought from the commissary. In the opinion of OIOS this may contravene Article V of the Agreement between the United Nations and the Republic of Kenya regarding the Headquarters of UNEP in March 1975 which provides, "If UNEP/UNCHS (Habitat) establish restaurant and/or cafeteria facilities for personnel and guests, such facilities shall be entitled to draw from the Commissary any quantities of articles necessary for the operation. It being understood that any concessionaire who may be allowed to run these services will not be entitled to obtain profits or benefits from goods delivered from the Commissary."

Recommendation:

To ensure compliance with Article V of the Host Country Agreement with Kenya, UNON should ensure that any contractor using goods procured from the Commissary does not derive a profit or benefit from these goods (Rec. 15).

51. *UNON accepted the recommendation and commented that it will initiate action to address it immediately.* OIOS thanks UNON and will close the recommendation upon notification of action taken by UNON to ensure that contractors do not derive profit or benefit from goods procured from the Commissary.

(iii) Maintenance charges

52. The recreation centre was designed to be self-sustainable, which included payment of maintenance costs from income generated. At the time of the audit OIOS estimated that UNON would spend approximately US\$36,000 on maintenance costs prior to opening of the facilities in September 2005 and there was no evidence of how these costs would be recovered. COU informed OIOS that recovery would be made once the recreation centre becomes operational and hence OIOS is not making any recommendation.

K. Management of the existing gym facilities

53. Contrary to ST/AI/1999/7, "Consultants and individual contractors", UNON engaged a gym trainer for five years without a signed contract document. Prior to March 2001, the trainer was not required to share any of his income with UNON or to reimburse UNON for the use of United Nations owned equipment and facilities. No documentation exists to explain how the trainer was identified and what was the basis for his engagement by UNON. OIOS is pleased to note that UNON has made arrangements for the proper engagement of trainers/instructors for the new recreation centre. OIOS therefore takes no further action on this.

V. FURTHER ACTIONS REQUIRED ON RECOMMENDATIONS

54. OIOS monitors the implementation of its audit recommendations for reporting to the Secretary-General and to the General Assembly. The responses received on the audit recommendations contained in the draft report have been recorded in our recommendations database. In order to record full implementation, the actions described in the following table are required:

Recommendation No.	Action Required
Rec. 01	Notification of the outcome of the review exercise and subsequent action taken and receipt and review of the written guidelines issued to the staff.
Rec. 02	Receipt and review of the outcome of the study on potential usage of existing facilities and possible strategies for meeting demand.
Rec. 03	Notification of financial training given, and receipt and review of guidelines on financial planning required of COU.
Rec. 04	Notification of availability of funds to pay for security measures implemented at the recreation centre.
Rec. 05	Clarification from the United Nations Headquarters (UNHQ) on the scope of authority of DG UNON for construction works on the Gigiri compound.
Rec. 06	Receipt and review of the environmental assessment including impact assessment of the existing wetland, and mitigation measures taken.
Rec. 07	Notification of project management training given and receipt and review of guidelines on project management planning.
Rec. 08	Confirmation that payments to the contractor have been reduced by US\$94,000.
Rec. 09	Confirmation that payments to the contractor have been reduced by approximately US\$48,000.
Rec. 10	Notification of the amount of payments reduced to the contractor.

Rec. 11	Confirmation that payments to the contractors have been reduced by approximately US\$38,000.
Rec. 12	Receipt and review of the report outlining faults noted and action arising.
Rec. 13	Notification of outcome of exercise to determine if additional costs have been paid and action taken.
Rec. 14	Notification of action taken on use or disposal of old gym equipment and amounts recovered for disposal.
Rec. 15	Notification of action taken to ensure that contractors do not derive profit or benefit from goods procured from the Commissary.

VI. ACKNOWLEDGEMENT

55. I wish to express my appreciation for the assistance and cooperation extended to the audit team by management and staff of UNON.

Egbert C. Kaltenbach, Director
Internal Audit Division II
Office of Internal Oversight Services