



Internal Oversight Division

Reference: IA 2015-06

Audit Report

Audit of Individual Contractual Services Management

December 23, 2015

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LIST OF ACRONYMS

HRMD	Human Resources Management Department
ICS	Individual Contractual Services
IOD	Internal Oversight Division
IP	Intellectual Property
OI	Office Instruction
PTD	Procurement and Travel Division
WIPO	World Intellectual Property Organization

EXECUTIVE SUMMARY

1. The Internal Oversight Division (IOD) conducted an audit of Individual Contractual Services (ICS) management in accordance with its 2015 Oversight Plan. The objective of this audit was to assess the effectiveness and efficiency and compliance of management of ICS in line with Office Instruction 45/2013.
2. The audit noted good practices followed in the documentation of the ICS processes, arrangements for auto-sourcing of ICS in translations and the general compliance with the policy.
3. Some areas were noted for further improvement in ICS management.
4. Robust procedures for the timely replacement of temporary staff members should be put in place to avoid the practice of using ICS to perform continuing functions. Indicatively IOD noted at least 10 instances where temporary employees were subsequently converted to ICS.
5. As individuals serving an ICS contract are required to be present on-premises in many instances as well as to represent the World Intellectual Property Organization (WIPO) in various fora, it is important that they be held to the same standards of behavior as WIPO staff in the performance of their duties. Formal background checks should be incorporated in the process for selection of individuals.
6. To properly manage the risks of conflicts of interest associated with reduced controls in place for ICS contracts below 20,000 Swiss francs, formal declarations of conflict of interest should be made part of the ICS selection process for all persons involved in the chain of command in each selection process.
7. Further areas identified for improvement include incorporating system based controls for detecting the maximum time limits of individuals serving ICS contracts and more consistent completion of performance evaluations of ICS contractors to enable benefit to the Organization as a whole.

1. INTRODUCTION

(A) BACKGROUND

9. With the objective of strengthening standards of internal self-governance and in line with the organizational goals of improved accountability and improved customer service, WIPO established a policy effective January 1, 2014, for contracting non-staff resources through ICS. The policy on ICS replaced previous WIPO arrangements for contracting non-staff resources including Special Service Agreements.

10. In 2014, WIPO spent about nine million Swiss francs on ICS.

Table 1 – ICS Expenditure by Sector in 2014 and 2015 (in thousands of Swiss francs)

Sector	2014	2015 (Jan-Jun)	Total
Administration and Management	1,890.70	562.83	2,453.53
Brands and Designs	774.62	340.67	1,115.29
Culture and Creative Industries	968.74	397.39	1,366.13
Development	1,064.52	382.26	1,446.78
Director General	902.08	633.48	1,535.56
Global Infrastructure	645.52	200.69	846.21
Global Issues	177.71	99.48	277.19
Patents and Technology	2,673.92	1,295.74	3,969.67
Grand Total	9,097.81	3,912.54	13,010.35

(B) OBJECTIVES

11. The objectives of this audit were to:

- (a) Assess the implementation of Office Instruction (OI) 45/2013 in terms of compliance, effectiveness and efficiency of management of ICS and the cooperation among WIPO units based on WIPO non-staff needs; and
- (b) Review adequacy of internal controls in the ICS management process.

(C) SCOPE AND METHODOLOGY

12. The audit scope covered all ICS contracts entered into by WIPO during the period from January 2014 to June 2015.

13. The audit work included:

- (a) Interviews with key personnel in the Procurement and Travel Division (PTD), Finance and other WIPO units as required to obtain an understanding of the used processes and systems as well as risks facing the management of ICS;
- (b) Performing walkthroughs to effectively map the key ICS processes;

- (c) Examination of a sample of 25 contracts, invoices and payments for ICS to test operational controls around management of ICS;
- (d) Assessment of policies and procedures concerning ICS;
- (e) Review of other oversight results in the UN system concerning contracting with individuals; and
- (f) Follow up on ICS related open recommendations if any.

2. OBSERVATIONS AND RECOMMENDATIONS

(A) ORGANIZATIONAL FRAMEWORK FOR INDIVIDUAL CONTRACTOR SERVICES

(i) Good Practices Observed

14. IOD observed some good practices in relation to the management of ICS in WIPO. These include:

- (a) There is a dedicated ICS page on the WIPO Intranet maintained by PTD with detailed information and guidance with respect to ICS processes. In addition, key documents templates such as contracts, general conditions, performance evaluation and invoices are also made available.
- (b) The use of auto-sourcing of ICS for translation services has streamlined the process for contracting ICS in this area and is functioning well.
- (c) PTD has a dedicated person assigned for managing ICS contracts. This results in increased efficiency as specialized knowledge concerning the ICS process is available through a single point of focus.
- (d) IOD examined a sample of 25 ICS contracts reviewed the compliance with the process laid down by policy. No significant issues were noted in the compliance with the ICS process.

(ii) WIPO Policy on Individual Contractor Services

15. WIPO's policy on ICS is governed by OI/45/2013 published on December 18, 2013. While the policy explicitly recognizes that contracts for employment of Staff members fall outside the scope of ICS, IOD noticed at least 10 instances in which persons employed under temporary contracts were subsequently also contracted for ICS during the period January 2014-September 2015.

16. While there may be a business justification for the consecutive employment of personnel in different types of contracts, a clear distinction needs to be made between a contract in which a person performs continuing functions and those that require a specialized skill for a short term need which the organization does not have¹. When a person is contracted in an ICS role to perform functions which are similar to those that were performed earlier under an employment contract, this distinction becomes blurred and constitutes improper use of the ICS framework.

¹ OI/45/2016 – Paragraph 2 states: “ICS are to be used by Program Managers for effective and timely delivery of their approved work plans, and are limited to tasks and functions that are not continuous in nature and which do not have evolving profiles and competencies on the part of the service provider.”

17. One of the causal reasons for this situation could be the existing regime for contracting temporary employees. Due to limitations in the period for which a person may be employed under a temporary employment contract, programs may find it difficult to find replacements for an existing temporary employee to perform functions for a longer duration than originally envisaged². This may provide an indication to the programs and to the Human Resources Management Department (HRMD) that the functions being performed by a temporary employee are of a continuing nature.

18. From an organizational perspective, it is inappropriate use of ICS to perform functions that are of continuous nature or require development of competences and knowledge about the Organization.

(iii) Monitoring limit of duration of ICS

19. As per the WIPO policy on ICS, an individual may be contracted as an ICS for a maximum duration of 24 months during a period of 36 months.

20. Presently, this limit on the duration of contracts is monitored by PTD through the use of a spreadsheet. This sheet is reviewed periodically by PTD to identify any potential persons who may be approaching the specified time limit and to alert the programs concerned.

21. As at the time of the writing of this report, the spreadsheet used to monitor ICS contracts contained 722 line items which is subject to increase as additional ICS contracts are entered into. In case, more than one ICS contract has been entered into with an individual, these appear as separate lines in the spreadsheet. To determine the total number of contracted days for an individual, the records must be filtered by name to add up the number of days per individual. Over time, as the number of records increase and due to the manual intervention required, this process may be prone to error.

22. Not only is the use of spreadsheets to manually monitor this limit time-consuming, but also prone to error as cells in the spreadsheet are open to editing and may be inadvertently mis-edited. Consequent to the implementation of the AIMS HR system, information relating to ICS personnel working on-site in WIPO premises is also available in the AIMS Finance and AIMS HR system. It would therefore provide for better accuracy and more efficiency to use the existing data in the AIMS HR system to generate automatic alerts to identify cases where ICS personnel are approaching the contractual time limit defined by WIPO policy.

Recommendations

1. Human Resources Management Department and the Department of Program Planning and Finance should perform an assessment of the staff regulation 4.16 limiting the time of employment of temporary staff members to two years and determine if any changes need to be made in view of the practical experience gained since its implementation as of January 2013.

(Importance: Medium)

2. The Procurement and Travel Division should evaluate the possibility of automating the process of identifying ICS contractors who have exhausted or nearing the limit defined for the maximum duration for which a contractor may be engaged by WIPO.

(Importance: Medium)

² As per the Staff Regulations and Rules (Regulation 4.16) - Temporary appointments shall be appointments which are granted from a period of one month up to 12 months. Any such appointment may, at the discretion of the Director General, be extended one or more times provided that the cumulative length of the temporary appointment does not exceed a period of two years. Persons having reached the maximum cumulative length of two years for a temporary appointment shall not be re-employed on a temporary appointment by the Organization for a period of at least one year.

(B) OPERATIONAL EFFECTIVENESS OF ICS POLICY

(i) Background checks as part of ICS contracting

23. Under the present process for contracting of ICS, there are pre-defined threshold values, which determine the nature of the acquisition process. Generally for a contract value not exceeding 20,000 Swiss francs over a 12 months period, direct acquisition is possible.

24. However, the present process for ICS contracting does not require any specific background checks to be performed on ICS personnel before they are contracted by WIPO. IOD examined 25 samples of ICS contracts and noted at least one instance in which an ICS contractor was found to have been involved in a wrongdoing while on-site at WIPO premises leading to the termination of the ICS contract.

25. Individuals working with WIPO on an ICS contract although not considered staff members should be expected to uphold the same standards of behavior as WIPO staff when working on premises or in a capacity representing WIPO at any forum. The lack of behavioral standards consistent with WIPO's values would create inter-personal issues in the work place and could also harm WIPO's reputation.

26. A proper vetting process prior to the contracting of new ICS contractors would enhance the working environment in which contractors are deployed.

(ii) Performance evaluation of ICS contractors

27. Any effective procurement process for good and services should involve periodic evaluation of vendor performance. This helps the Organization in determining whether to contract with a vendor in future and if so, whether there are any additional precautions to be taken.

28. This is particularly true in the case of ICS in WIPO as many programs could potentially use the same ICS contractors over different periods. IOD noted that 47 ICS contractors were used by more than one program between January 2014 and June 2015. Having organizational knowledge on the performance of individual contractors would build up institutional knowledge and help in decision making, specifically as regards the selection of specific individuals.

29. However, based on a sample of 25 contracts examined by IOD, it was noted that the performance evaluations were completed for ICS contractors in less than 10% for all ICS. This is due to the lack of completion of performance feedback forms by individual programs on the conclusion of an ICS engagement.

30. Lack of institutional knowledge on the prior performance of contractors hampers the decision making process in the selection of ICS. Specifically, poor or good prior performance of contractors may not be adequately taken into account during the selection process for awarding ICS contracts.

(iii) Conflict of interest

31. Intellectual Property (IP) being a highly specialized field, there could be areas in which only a limited number of individual practitioners are available to consider for certain ICS. WIPO being an organization in which also a large number of staff are from the IP field it is possible that individual contractors are known personally to contracting managers.

32. It is important in procurement in general and ICS in particular, to manage the risks of real or perceived conflicts of interest when procuring services. The risks related to conflict of interest in ICS contracts have to be managed by the organization regardless of the monetary value of

the contract. The occurrence of conflict of interest risks may be higher in smaller contracts as these occur more often and there are typically less stringent controls applied to these contracts.

33. Presently, the ICS procurement process does not require staff members involved in the ICS process to declare existence of any conflicts of interest. At the same time, the WIPO policy on ICS allows for direct acquisition without formal offer processes for contracts below 20,000 Swiss francs. The contracts within this threshold constituted more than 60% (3.9 million Swiss francs in value which was 14% of the total value) of all ICS contracts awarded during the audit period.

34. There is a need to better manage the risks related to conflict of interest particularly with regard to low value ICS contracts where the absence of formal procedures could lead to control weakness and expose the organization to risks.

35. Having a declaration of conflict of interest as part of the procurement process, particularly in low value procurements would help the Organization in identifying and managing the associated risks.

(iv) ICS Reporting

36. Presently limited reporting on ICS is performed by PTD to senior management on statistics related to ICS such as the average duration of contracts, the average value of contracts and ICS usage by sector.

37. As there is a constant and periodic use of ICS by WIPO programs, it would be beneficial to expand the nature of reporting performed for ICS.

38. The areas for reporting could include the countries/ regions in which ICS are used by WIPO and also the countries from which the contractor are sourced from.

Recommendations

3. The Procurement and Travel Division in collaboration with WIPO Programs should incorporate appropriate reference checks on individuals prior to contracting them for Individual Contractor Services.

(Importance: Medium)

4. The Procurement and Travel Division should evaluate the possibility of automating the performance evaluations of individual contractors after the conclusion of each Individual Contractor Service engagement. Such a system could also incorporate withholding of the final payments to individual contractors until the performance evaluation has been completed by the contracting program.

(Importance: Medium)

5. The Procurement and Travel Division should incorporate as part of the Individual Contractor Service procurement process, the requirement for a declaration of the existence or not of conflict of interest, based on defined criteria, requesting and approving managers involved in the chain of command in the contracting of individual services. Additional measures to manage the risks conflict of interest should be considered where identified.

(Importance: High)

ACKNOWLEDGMENT

IOD wishes to thank all relevant members of staff for their assistance, cooperation and interest during this assignment.

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Reviewed and approved by: Tuncay Efendioglu

TABLE OF RECOMMENDATIONS

No	Recommendations	Priority	Person(s) Responsible	Management Comments and Action Plan	Deadline
1.	Human Resources Management Department and the Department of Program Planning and Finance should perform an assessment of the staff regulation 4.16 limiting the time of employment of temporary staff members to two years and determine if any changes need to be made in view of the practical experience gained since its implementation as of January 2013.	Medium		Comments to be provided in early 2016	
2.	The Procurement and Travel Division should evaluate the possibility of automating the process of identifying ICS contractors who have exhausted or nearing the limit defined for the maximum duration for which a contractor may be engaged by WIPO.	Medium	B. Bessière	PTD will undertake an analysis to determine how best to automate such a query.	June 2016
3.	The Procurement and Travel Division in collaboration with WIPO Programs should incorporate appropriate reference checks on individuals prior to contracting them for Individual Contractor Services.	Medium	B. Bessière	This is already implemented as per article 3 and 4 of the annex of OI 45/2013, i.e. for any missions above 50K. It is to be noted that for any mission below 50K candidates are mostly taken from an available pool of experts that have in general already worked for WIPO.	December 2015

4.	The Procurement and Travel Division should evaluate the possibility of automating the performance evaluations of individual contractors after the conclusion of each Individual Contractor Service engagement. Such a system could also incorporate withholding of the final payments to individual contractors until the performance evaluation has been completed by the contracting program.	Medium	B. Bessière	PTD will undertake an analysis to determine how best to automate such a process.	June 2016
5.	The Procurement and Travel Division should incorporate as part of the Individual Contractor Service procurement process, the requirement for a declaration of the existence or not of conflict of interest, based on defined criteria, requesting and approving managers involved in the chain of command in the contracting of individual services. Additional measures to manage the risks conflict of interest should be considered where identified.	High	B. Bessière	PTD supports and accepts this recommendation. However, for the sake of administrative efficiency, PTD would like to place a threshold value of 5,000 Swiss Francs, above which a declaration of conflict of interest would be required.	June 2016

[Annex 1 follows]

ANNEX 1: PRIORITY OF RECOMMENDATIONS

The recommendations are categorized according to priority, as a further guide to WIPO management in addressing the issues. The following categories are used:

Priority of Audit Recommendations	Nature
Very High	Requires Immediate Management Attention. This is a serious internal control or risk management issue that if not mitigated, may, with a high degree of certainty, lead to: <ul style="list-style-type: none"> • Substantial losses; • Serious violation of corporate strategies, policies, or values; • Serious reputation damage, such as negative publicity in national or international media; and • Significant adverse regulatory impact, such as loss of operating licenses or material fines.
High	Requires Urgent Management Attention. This is an internal control or risk management issue that could lead to: <ul style="list-style-type: none"> • Financial losses; • Loss of controls within the organizational entity or process being reviewed; • Reputation damage, such as negative publicity in local or regional media; and • Adverse regulatory impact, such as public sanctions or immaterial fines.
Medium	Requires Management Attention. This is an internal control or risk management issue, the solution to which may lead to improvement in the quality and/or efficiency of the organizational entity or process being audited. Risks are limited. Improvements that will enhance the existing control framework and/or represent best practice

[End of Annex 1 and of document]