



The Director General  
World Intellectual Property Organization  
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April 13, 2005

Our reference: 1.4241.944.00330.05  
nede/dapi

**Interim audit of the new administrative building and conference room construction project**  
**Follow-up on the 2003 audit**

Dear Director General,

Further to my latest conversations with your staff, I have pleasure in sending you herewith two copies of the report on the interim audit of the new administrative building and conference room construction project, dated October 28, 2004.

Your comments of March 30, 2005, have duly been incorporated in the report.

Yours sincerely,

K. Grüter  
Director  
Swiss Federal Audit Office  
(Auditor)

Enclosure: 2 copies of the report



**WORLD INTELLECTUAL  
PROPERTY ORGANIZATION  
GENEVA**

**INTERIM AUDIT**

**of the New Administrative Building and  
Conference Room Construction Project – Follow-up on the 2003 Audit**

**Report by the External Auditor**

**to the General Assembly**

*Reg. No. 1.4241.944.00330.04*

*reda/pfju/zupe/nede*

*Berne, October 28, 2004*

## **GENERAL**

### **Terms of reference**

1. At their thirty-ninth series of meetings, held in Geneva from September 22 to October 1, 2003, the General Assembly of the World Intellectual Property Organization (WIPO) and the Assemblies of the Paris, Berne, Madrid, Hague, Nice, Lisbon, Locarno, IPC, PCT and Vienna Unions renewed the mandate of the Swiss Government as auditor of the accounts of WIPO and the Unions administered by WIPO and of the accounts of technical assistance projects executed by the Organization up to and including 2007 (paragraph 197 of document A/39/15).
2. The Government of the Swiss Confederation mandated me, as Director of the Federal Audit Office, to audit the accounts of WIPO and the Unions mentioned. I entrusted several qualified colleagues from the Federal Audit Office with carrying out, at the headquarters of the International Bureau in Geneva, an interim audit of the new administrative building and conference room construction project. That audit was conducted from June 7 to 10, 2004.
3. My terms of reference are specified in Article 6.2 of the WIPO Financial Regulations and defined by the Terms of Reference Governing Audit annexed to those Regulations.

### **Subject of the audit**

4. On June 20, 2003, I drew up an interim audit<sup>1</sup> of the project for the construction of a new administrative building equipped with a car park, additional storage areas and a conference room. That document included a number of recommendations. The purpose of the present audit is to assess the action taken on the main recommendations in that report, especially those concerning:
  - the internal organization of the project management,
  - the management of the project by an external agency,
  - the updating of the project,
  - the overall cost control management.

### **Information and documents**

5. I wish to express thanks for the obliging manner in which information and documents were supplied by all the WIPO staff approached by us. In the course of the auditing work, my colleagues had regular conversations with Mr. Petit, Deputy Director General and Chairman of the Contracts Review and Constructions Committee, Mr. Estoppey of the Procurement and Contracts Service and Mr. Tagnani, Director of the Buildings Division, and his immediate collaborators, Messrs Favéro, Gacic and Sambuc.

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<sup>1</sup> No. 3023/944.WO.1.22/01

6. In accordance with item 9 of the Additional Terms of Reference Governing External Audit, the Director General made his comments known to me in a letter dated March 30, 2005; those comments have been duly incorporated in this report.

## **AUDIT AND FINDINGS**

### **General**

7. My audit of the building project for the creation of a new administrative building, conference room and additional storage areas, submitted in June 2002,<sup>2</sup> was based on the November 2001 final project and projection of costs, in view of the fact that the overall estimate was not available at the start of the audit. The general estimate was filed by the architect on March 28, 2002, accompanied by two submissions concerning the dossier of the final project. At its meetings from September 23 to October 1, 2002, the Assemblies of the Member States approved the new building project. Subsequently, a project update was conducted up to March 2003, the date of the sending of the specifications to the contractors. The tendering process was started in June 2003, and the contract with a consortium of two companies was signed on October 27, 2003.

8. The general contractor undertook to provide a “performance bond” within 15 days following signature of the contract. Dissension within the consortium made it impossible for this bond to be provided, and as a result WIPO informed the general contractor on December 24, 2003, of the termination of the contract, and confirmed its decision in writing on January 12, 2004.

9. This audit was intended to assess the implementation of recommendations formulated in the previous audit report dated June 2003, notably on the subject of project management. In view of the latest developments, including the termination of the contract with the general contractor, it was decided at a meeting in March 2004, in agreement with the WIPO Secretariat, that this audit should be conducted and should concentrate more on project management than on the more conceptual and technical aspects, which are being seriously rescaled.

### **Internal/external project organization**

#### Organization chart

10. In the course of the previous interim audit (June 2003), my colleagues asked the various persons concerned within WIPO to provide a diagram illustrating the organizational structure set in place for the new building project. No such organization chart concerning the operation of the project management existed within the WIPO Secretariat, although there should have been one from the outset of the project planning stage, and it should have been completed at subsequent stages. Such

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<sup>2</sup> Document WO/PBC/5/3

a document forms the basis of any efficient project organization, in relation to which internal processes can be defined. My colleagues therefore produced an outline document so that the persons involved might be identified, the processes be made known and the organization set in place thereby assessed. Organizational processes and the procedures governing collaboration between the various parties involved were also to be described.

11. I therefore recommended that such a document be produced rapidly on the basis of that outline, and that a full description of the processes be attached to it. It was essential, at that stage in the planning, to have a smooth-running internal structure that left no room for any organizational loophole in relations with outside contractors; such a configuration was expected to enhance control of project management.

12. In the course of their work my colleagues found that the outline that they had produced had been regarded as the actual organization chart for the project structure, without any adaptation. In their opinion, the outline should have been completed by the project administration, as the party best placed to draw up such a document, which contributes towards defining and establishing an efficient project management setup.

13. As far as the description of the processes supplied by the party responsible for the project is concerned, in the opinion of my colleagues, it is not sufficient for the management of a project on the scale of this new construction. Procedures should be described very precisely in such a way as to define properly the roles of the various parties involved and also all the tasks to be accomplished.

**Recommendation No. 1:** A description of internal project management processes should be made available at short notice.

#### Program and Budget Committee

14. At their series of meetings in September 2002, the Assemblies of the Member States decided to approve “the entrusting of the Program and Budget Committee with overseeing the construction project, in particular with regard to the finalization of the technical design, receiving regular reports from the International Bureau, and the establishment of a consultation process, within the framework of the Program and Budget Committee, between interested delegations and the Secretariat in order to validate financial projections and underlying assumptions”. In response to that request, the WIPO Controller’s Office drew up a document (WO/PBC/6/2), on the basis of the revised budget of September 2002 (A/37/2) for the attention of the Program and Budget Committee. That document reports on the design, technical and financial status of the project as of the end of 2002. The information that it contains, supplied for the most part by the project’s internal management, has not been validated by the body responsible for the internal supervision of the project, namely the Contracts Review and Constructions Committee. Such a check could have alerted the Committee to the increases in project costs and serve to correct certain errors<sup>3</sup> regarding increases in areas.

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<sup>3</sup> See paragraph 26.

### Contracts Review and Constructions Committee

15. In order to ensure proper management of the project, the WIPO Secretariat set up an internal monitoring mechanism, the Contracts Committee, which was to monitor and assess the evolution of the project (see document WO/PBC/6/2). On that occasion the Contracts Review Committee (CRC) extended its area of responsibility by absorbing the Constructions Committee. The new Committee so formed is known as the Contracts Review and Constructions Committee (CCRC). It has the same membership and operates in the same way as the CRC. At my request, terms of reference were drafted to accommodate the broadening of the CRC's responsibilities. It will therefore be easier now to respond rapidly to the demands of the new building project.

### Project Manager and Internal Management

16. The Director of the Buildings Division was named Project Manager of the new construction following the departure of the incumbent in September 2002; in that capacity he conducted the updating of the project in response to the audit report and the decision of the Member States. In the opinion of the Director General, a staff member of WIPO was better placed to know the Organization's needs. The management of the project is therefore taken care of by the Project Manager; the architects Behnisch, Behnisch & Partner will deal with matters relating to architectural management in the course of the project's implementation phase, while the technical staff appointed by WIPO will collaborate with the general contractor's work management.

17. An assistant recruited in September 2002 provides full-time support for the Project Manager in operational tasks. The team has been enlarged to include an architect responsible for the administrative work and a financial expert who will oversee the financial development of the project; the same expert carries out assignments for the Buildings Division in parallel. A part-time lawyer also works on the project. Finally, the assistant of the Director of the Buildings Division, himself a WIPO staff member, acts as deputy to the Project Manager and consequently has to be informed of all action taken in connection with the new construction.

18. At the time of the interim audit of June 2003, my colleagues noted that the Project Manager and his close collaborators did not have any terms of reference, and that the allocation of tasks and responsibilities in the internal project management was not clearly specified and documented; terms of reference were produced at the end of this audit. According to my colleagues, they are not always adequate, apart from which the description of project management processes is still missing, so the elements with which one could set up and run an efficient project organization were not present at the time of our inspections. Such elements should have been put in place a year ago already, at the same time as the project was updated and the terms of reference of the external project management established.

**Recommendation No. 2:** The terms of reference of the Project Manager and of the staff constituting the internal project management should be defined without delay, and a description of processes and responsibilities should be drawn up.

### External management

19. On December 19, 2002, I wrote to the Director General to inform him that the invitation to tender for the installation of an external project management did not correspond to the recommendation in paragraph 286 of my evaluation report.<sup>4</sup> The division of responsibilities between WIPO and the external management seemed essential to me if WIPO was to be able to specify requirements. That was not evident, however, as the supervision of the various specialists was entrusted to WIPO's internal project management team. Apart from that, efficient and effective project management can only be ensured by monitoring as from the updating of the final project and by management and supervision of the work throughout all the phases of its implementation. Random interventions by specialists are not the best means of having overall control, either financial or technical, over the project.

20. The Assemblies of the Member States decided on the participation of an external project management in view of the fact that the resources of the Buildings Division were insufficient (document A/37/14, paragraph 262(c)).

21. The configuration of the project and works implementation management chosen by WIPO means that certain tasks normally the responsibility of the works management are entrusted to the project management, in other words the Project Manager and his team. Those tasks include keeping site accounts up to date, drawing up periodical financial status reports and coordinating implementation processes (contractors – architect).

22. Other tasks have more to do with project monitoring, namely:

- verification of project conformity to the specification;
- risk assessment in each phase;
- monitoring of negotiations and award of contracts;
- management of contracts, modifications, riders, costs and time limits.

Depending on the contract entered into with the external management, assignments will be determined by the Project Manager as the needs arise and as the project progresses. They will serve to apportion tasks between the Project Manager's team and external management.

23. Annex B to document WO/PBC/6/2 mentions in paragraph 399 that the external management should periodically submit project progress reports to WIPO and to its Contracts Review and Constructions Committee. The document should provide information on the conformity of the project implementation with the approved plans and on any potential risk in project implementation that might result in a cost increase and, should the risk become reality, in delays in the project timetable. The

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<sup>4</sup> Document WO/PBC/5/3

terms of reference of the external management mention that it must work independently but with the permanent support of the Project Director and in cooperation with him and his staff. The external project management put in place is to be regarded more as a backup to supplement the resources, or as the case may be the skills, of the internal management. That body continues to be very dependent on the Project Manager in the form of the advisory and assistance assignments that it is given. It should however be provided with all the independence necessary for it to have a critical eye on the project, so that among other things it may do a reliable job of risk assessment. The recommendation in my previous report placed more emphasis on the latter aspect. My colleagues are of the opinion that the procedures written into the contract with the external management do not permit an effective response to the requirement specified in Annex B, mentioned above.

24. At the time of the audit, four assignments had been given to the external project management, amounting to a total of 190,380 francs. Of the four only the first, relating to the assessment of tenders made by general contractors, was the subject of a written request; the others were passed on by word of mouth, without any details of the terms of reference. This procedure is not consistent with that provided for in the contract, according to which the mandatee shall have his mandate determined by the requirements of the Project Director, who shall specify in each case the mandatee's assignment in a document called a work order. In future it would be wise if the Project Manager were to abide by the procedures of the contract entered into with the external management.

**Recommendation No. 3:** Contractual procedures should be observed when entrusting an assignment to the external management. It is essential, in my opinion, that the external consultant be provided with a precise mandate, over and above the responsibility for providing the Project Manager with assistance and advice in isolated cases, in such a way that he can, through regular monitoring of the project, carry out all the supervisory tasks specified in paragraph 22, and do so single-handedly and independently.

## **Final Project**

25. Annex B to the report handed to the Program and Budget Committee in May 2003 (document WO/PBC/6/2) mentions an increase in the gross floor areas of the administrative building and conference room amounting to 18,252 m<sup>2</sup>, namely an increase from 42,400 m<sup>2</sup> in the November 2001 project to 60,604 m<sup>2</sup> in the December 2002 revised project. This increase was justified among other things by a supposed under estimation of the dimensions of the project in the earlier stages. Even though this information was given by the WIPO internal project management, the Project Manager did not seem to have been informed of the increase. As the figure was a considerable departure from earlier area calculations, a more precise analysis should have been undertaken before the information was passed on to the Controller. Consequently I asked the Project Manager's assistant to look at the November 2001, March 2002 and April 2003 projects in parallel in order to check carefully the variations in area. The table below summarizes the findings of that examination.



## Changes in volume and area

	Final project November 2001	Final Project March 2002	Updated Project April 2003
Administrative Building (m2)	41,510	41,927	40,275
Existing building (m2)	430	830	955
Conference room (m2)	3,900	4,364	7,967
<i>Areas (m2)</i> <i>Subtotal</i>	45,841	47,122	<b>49,197</b>
Volume Total (m3)	208,508	206,689	213,525
Storage (m2)	9,003	8,918	5,191
<i>Areas</i> <i>Total (m2)</i>	54,845	56,041	<b>54,388</b>
Volume Total (m3)	236,488	232,053	228,060

26. The area calculations of the 2001 final project had omitted level 4 of the administrative building, in other words about 3,000 m2. In addition, the figures given in document WO/PBC/6/2 compare the gross floor areas of the November 2001 project with those of the April 2003 updated project, in which empty spaces (halls, galleries, overhangs, basements) were counted in the area calculations. The addition of these two errors accounts for the scale of the area increase; in fact the total surface areas of the November 2001 and April 2003 projects were essentially the same.

27. The areas of the conference room stayed the same, even though the totals show substantial differences, which are due to a different apportionment of areas: part of the additional storage areas of the 2001 project was moved to the conference room in the 2003 project. The overall 8,400 m3 reduction in the project volume is attributable half to the reduction in office areas and half to the reduction in basement areas in the administrative building.

#### Updating of the project

28. I mentioned in my previous report that there was no documentary record of the project updates (November 2001 final project, March 2002 final project, general estimate, April 2003 project).

29. At the request of the WIPO Controller, the Project Manager produced a document on December 23, 2002, on the progress of the project in relation to the recommendations in the audit. This concise document summarized the main changes between the November 2001 project, covered by my audit, and the status of the project at the end of 2002. The Controller thus incorporated that information in the progress report intended for the Program and Budget Committee in May 2003 (document WO/PBC/6/4). At the time of the last audit, I asked the Project Manager to validate this information, which contains a number of errors (areas, reduction in the per-place area in the

conference room, Minergie concept, cost), and to complete it with the project status as of April 2003 in such a way to make it correspond to the project status on the date on which the specifications were sent to the contractors. The documents provided in the course of this audit, in other words a year later, still do not afford a full documentary record of the modifications to the projects, inasmuch as they relate only to technical installations for sanitation and plumbing and electrical installations.

**Recommendation No 4:** The quality of the information and data passed on to the Program and Budget Committee should be ensured.

**WIPO comment:**

*As mentioned in item 26 of the report, “the total surface areas of the November 2001 and April 2003 projects were essentially the same”.*

*The differences noted in the report are due simply to the moving of the areas corresponding to certain elements of the projects from one heading to another, depending on the progress of the project. In the March 2002 project, for instance, the figure for storage (8,918 m<sup>2</sup>) includes the basement areas under the conference room (4,364 m<sup>2</sup>), whereas in April 2003 those areas have been moved to the conference room (7,967 m<sup>2</sup>), thereby lessening the area set aside for storage (5,191 m<sup>2</sup>) in line with the development of the project.*

*There have been no changes in area or volume attributable to changes in the program or in building capacity.*

*As the project was constantly evolving, WIPO did not systematically produce a consolidated document, but rather documented each stage.*

*The documentation submitted to the Office of the Controller on December 23, 2002, which served as the basis for the May 2003 Program and Budget Committee, included the changes to the project, and only minor changes were made after that date.*

30. As a result of the difficulties with the general contractor and in view of the adverse financial forecasts, it was decided that the architect should be given an additional mandate for the rescaling of the project, and above all for a reduction in its cost. The budget was to be reduced from 190.5 million to 130 million francs. That exercise was in the process of being completed at the time of this audit.

**Overall cost control management**

31. The revised budget in the progress report submitted to the Program and Budget Committee in May 2003 (document WO/PBC/6/2) is based on the March 2002 overall estimate. The project update,

however, was not accompanied by an adaptation of the overall estimate. As a result, the Project Manager did not have a statement of the cost position in relation to the modified project; the revised costs related to the position in March 2002, whereas the description of the project modifications related to the December 2002 project status. The clarified version of the general estimate was handed over in July 2003, in other words after the invitations to tender for the general contract.

32. Adaptation of the general estimate to the substantial changes in the project is essential if there is to be efficient cost management. The Project Manager should have been able to communicate to the Controller a financial position that corresponded to the status of the project as updated in December 2002. Apart from that, the tenders from the prospective general contractors were related to a general estimate that no longer corresponded to the project. My colleagues noted that the project had been brought up to date without any knowledge of the cost implications, in other words without it being possible to check whether the changes made were still within the framework of the approved budget.

**Recommendation No. 5:** All changes to the project should be systematically documented and the general estimate should be updated accordingly.

33. Document WO/PBC/6/2 mentions a gap of about 10.5 million francs between the approved and the revised estimates. Those additional costs are justified by a certain number of cost factors which have been adjusted upwards, and provisions for unforeseen expenses which have been reduced accordingly in the light of the current level of implementation of the project. Quite apart from the fact that the Project Manager was not informed of the cost increase, there is no mention of a precise justification for the overspend. At the request of my colleagues, the financial expert of the internal management, at the time of the June 2003 interim audit, drew up a document that compared the financial position of the November 2001 projects with the March 2002 general estimate. That document, drawn up by one-figure CFC (code of construction costs), revealed that costs had increased by four million francs for the administrative building and 1.1 million francs for the conference room, making a total of 5.1 million, not the 10.5 million announced to the Member States. The same document as revised in June 2004 reduces that gap by a further four million francs. The Project Manager's assistant justified the cost increase by the stage of planning progress as of November 2001, which might generate additional risks amounting to six million francs, as pointed out in paragraph 67 of my evaluation report.<sup>5</sup> The state of the documentation provided does not afford any other justification.

**WIPO comment:**

*The changes in cost per item are no more than a different apportionment within the overall budget envelope in line with the progress of the project. The changes mentioned in the report had no effect on the evolution of the costs, which have always been kept within the budget envelope. The overall budget of 190.5 million francs has always been adhered to.*

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<sup>5</sup> Document WO/PBC/5/3.

34. The system put in place for the management of the cost of renovating, converting and enlarging the former WMO building was also used for the new administrative building project. While the contract with the general contractor was signed on October 27, 2003, and its termination announced on December 22, 2003, there was no adaptation of the cost control in relation to the revised estimate that resulted from the award of the work to the general contractor.

35. As of December 31, 2003, the cost of the project, in the light of the work done by the technical engineers and the auditor, was 15,762,940 francs, to which amount should be added the purchase of the plot for 13,554,123 francs, competition costs, the cost of travel and representation and salaries amounting to 1,111,635 francs, making a total of 30,428,698 francs. The costs relating to the clearance and demolition work, amounting to 1,560,953 francs, are not included in the above total, as the invoice and the record of acceptance of the work had not been ratified by the Buildings Division at the time of this audit.

**Recommendation No. 6:** As part of the rescaling of the project, the general estimate should be rapidly brought up to date according to the cost reductions made to the project. Payment of the invoice for the demolition work should be made subject to a release from any claims that might be made by the general contractor, in order that the contract may be finally terminated.

36. After the return of the tenders from the various prospective contractors, but before signature of the contract, the internal project management further requested the selected general contractor to make an offer for additional work estimated at about four million francs. This unusual procedure certainly does not help WIPO to negotiate on the best terms. Because WIPO added certain items to the basic offer, the "economic balance"<sup>6</sup> of the tender has been altered. In a lump-sum tender, the margins calculated by the contractors on items in the invitation to tender are variable, and so it could be imagined, in view of the alterations requested, that a competing tender might prove more advantageous for WIPO. According to Swiss case law, such a course of action would presuppose the agreement of all the contractors concerned or would require each contractor to have the possibility of amending his offer. The "non-discrimination principle" should be observed. The admissibility of additional tenders could in that specific case be questioned inasmuch as the contractors had not had the possibility of adapting to the new situation.<sup>7</sup> In any event, this course of action does not conform to current practice in award procedures.

**Recommendation No. 7:** Customs and practices in force should be respected lest the interests of WIPO be compromised.

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<sup>6</sup> Daniel Esseiva, Attorney, "Les grandes tendances en jurisprudence" Institute for Swiss and International Building Law, seminar in Fribourg, May 12, 2004

<sup>7</sup> Ruling of the Administrative Tribunal of Vaud Canton of July 4, 2003, GE 2003/0038

**WIPO Comment:**

*The terms of the invitations to tender accepted by the contractors reserve WIPO's right to negotiate a modification without having recourse to the other contractors (invitation to tender PCS/02/046, paragraph 8, subparagraph e).*

*WIPO considers that it has not departed from customary practice in the profession and that it has acted in its best interests.*

**CONCLUSIONS**

37. The success of a project depends not only on good planning, but also on the ability of the management body to set in place the necessary structures for a project on such a scale to be conducted efficiently. That said, I consider that not all the conditions are fulfilled at present within WIPO: essential elements such as the description of the processes and terms of reference for those involved, which determine the allocation of tasks and responsibilities, were lacking at the end of this audit. If one combines the gaps in the documentary record of project modifications and the failure to adapt the general estimate, one is bound to conclude that the present project management does not conform to what one might expect in such a case. As organizational tasks are within the remit of the Project Manager, the shortcomings noted lead me to confirm that "a body external to WIPO" and independent would be in a better position to respond effectively to the demands of the project" (see paragraph 74 of my audit report of June 24, 2002).<sup>8</sup> A clear and precise mandate, one that allows effective risk assessments (of costs and time limits) to be made, should be drawn up in the same way as a check should be made on the quality of the project and its consistency with WIPO's terms of reference. An apportionment of the other tasks between the internal and external managements, in this instance the coordination of implementation processes, should be assessed according to the skills and resources available to the Buildings Division. The drawing up of terms of reference for each party involved would make it possible to clarify the latter point.

38. Several of the recommendations made in this report were already made in my report on the accounting for the construction costs for the renovation, conversion and enlargement of the former World Meteorological Organization (WMO) building.<sup>9</sup> I am also of the opinion that it is essential to remedy the issues and shortcomings mentioned without any delay, in order to avoid compromising the management of the project under review.

**WIPO Comment:**

*The terms of reference of the project changed with the 2002 audit, but have not undergone any major modification since then, until, following the difficulties of the general contractor and in view of the financial forecasts of WIPO, the architect was entrusted with the mandate of rescaling the project and reducing its cost.*

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<sup>8</sup> Document WO/PBC/5/3

<sup>9</sup> See audit report No. 1.4242.944.00330.01 of November 1, 2004

(signed)

K. Grüter

Director

SWISS FEDERAL AUDIT OFFICE

(Auditor)