



Internal Oversight Division

Reference: IOD-INV-2018-28

Management Implication Report

September 19, 2019

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1. FACTS

1. On December 7, 2018, the Internal Oversight Division (IOD) of the World Intellectual Property Organization (WIPO) was informed by the Procurement and Travel Division (PTD) of certain issues involving a specific procurement process, which had general implications to the Organization, and associated remedial actions taken or planned by PTD for future such cases. IOD was also asked to provide advice on any additional measures to take.

2. Upon review of the information, IOD determined that:

(a) A contract was awarded under the Direct Purchase procedure to a company owned by a former WIPO employee of the requisitioning department, soon after he left the Organization. In addition, discussions related to the contract may have taken place internally within the requisitioning department prior to the former employee's departure from WIPO;

(b) The company had been registered as a vendor in the Administrative Integrated Management System (AIMS) immediately before the Purchase Requisition (PR) was raised and the Purchase Order (PO) was issued, without verification of corporate registration/documentation. A search of publicly available corporate databases indicated no registration in the name of the vendor and/or the former WIPO staff; however, invoices submitted by the vendor indicated that it was the property of another company, which subsequent searches revealed was owned by the former WIPO employee;

(c) The PR and PO amounts were adjusted respectively to ensure that the contract fell under the threshold for Direct Purchase rather than through competition; in addition, the PO consisted of vague and ambiguous terms and wording. There were no detailed work specifications or delivery terms, leading to subsequent disagreement and dispute between the vendor and WIPO; and

(d) The requisitioning department informed the company of the closure of the PO verbally rather than by 30 day written notice.

2. RISKS IDENTIFIED

3. Based on its findings, IOD initially identified the following potential risk areas:

(a) Unfair, corrupt and/or collusive procurement activity caused by a lack of provisions or regulations concerning contract awards to companies owned by, or associated with, former WIPO staff;

(b) Vendor registration of unincorporated or unqualified companies; and

(c) Contractual dispute and liabilities arising from insufficient specifications or informal closure of contracts.

3. REMEDIAL ACTIONS

4. The following remedial actions were put forth by PTD during its report to IOD on December 7, 2018 to cover potential future cases of similar nature:

- (a) When creating new vendor profiles in AIMS, vendors will be requested to submit written documentation with evidence of corporate registration number or similar, which would provide security that they were properly incorporated;
- (b) PTD will provide a training to buyers on the requirements for Procurement Officials in respect of POs for Direct Purchase. Also, trainings will continue to be offered relating to supplier evaluation and contract management;
- (c) The Procurement Manual (published October 2018) also provides for greater clarity of the responsibility of the Procurement Official in issuing a PO upon receipt of an approved PR. It further sets out the information to be contained in a PO, including a description of goods/services/works, a reference to the supplier's offer, required quantities, delivery terms, unit price and other costs, and payment terms;
- (d) PTD will issue a reminder to requisitioners of the need to keep it informed, as early as possible, of any concerns about management of a contract or the delivery by the supplier; and
- (e) Procurement buyers will be reminded that closure of a PO is to be considered not only an administrative step but also a contractual one. The new Procurement Manual provides a reminder that a PO is a legally binding contract between WIPO and the supplier.

5. On July 25, 2019, PTD notified IOD that these remedial actions had been implemented. PTD also indicated that it was in the process of implementing Recommendation 1 of MIR IOD-INV-2017-35 to address the issue of avoiding competition through the splitting of requisitions.

4. RECOMMENDATIONS

6. Despite the remedial actions taken by PTD, IOD notes that some risks remain unaddressed, particularly in relation to business dealings with former employees and transparency and fairness in competition. Accordingly, IOD recommends the following:

Recommendations

- 1. The Human Resources Management Department (HRMD), in consultation with the Procurement and Travel Division (PTD) and any other relevant stakeholders, should discuss possible measures to prevent issues, such as conflict of interest situations, arising from the award of contracts to companies owned or associated with former WIPO staff, or to former WIPO staff directly through non-staff contracts.
(Importance: Medium)
- 2. The Procurement and Travel Division (PTD) should require requisitioning departments to indicate in their vendor registration form whether they are aware of any former WIPO staff employed or holding ownership interest in the vendor(s). If such interest or employment is identified, PTD should perform a due diligence review on the vendor(s) to determine possible conflict of interest.
(Importance: Medium)

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TABLE OF RECOMMENDATIONS

| No. | Recommendation | Responsible unit/manager | Deadline for implementation | Management comment and action plan |
|------------|--|---|--|---|
| 1 | The Human Resources Management Department (HRMD), in consultation with the Procurement and Travel Division (PTD) and any other relevant stakeholders, should discuss possible measures to prevent issues, such as conflict of interest situations, arising from the award of contracts to companies owned or associated with former WIPO staff, or to former WIPO staff directly through non-staff contracts. (Importance: Medium) | HRMD in consultation with PTD and other relevant stakeholders | Within six months of the issuance of this Report | Recommendation accepted. |
| 2 | The Procurement and Travel Division (PTD) should require requisitioning departments to indicate in their vendor registration form whether they are aware of any former WIPO staff employed or holding ownership interest in the vendor(s). If such interest or employment is identified, PTD should perform a due diligence review on the vendor(s) for possible conflict of interest. (Importance: Medium) | PTD | Within six months of the issuance of this Report | Recommendation accepted. |