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**OFFICE OF INTERNAL OVERSIGHT SERVICES
PROCUREMENT TASK FORCE**

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**INVESTIGATION REPORT
CONCERNING THE SUBJECT**

Report no. PTF-R004/06

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I. INTRODUCTION

1. The Procurement Task Force (PTF) is an ad hoc investigative unit created on 12 January 2006 to address all procurement matters referred to the Office of Internal Oversight Services (OIOS). In particular the initiative was prompted by perceived problems in procurement identified by the Independent Inquiry Committee into the Oil-for-Food-Programme, and the arrest and conviction of United Nations Procurement Officer Alexander Yakovlev on corruption charges.
2. Under its Terms of Reference, the PTF operates as part of OIOS, and reports directly to the Under Secretary-General (USG) of OIOS. The remit of the PTF is to investigate all procurement cases, including all matters involving procurement bidding exercises, and United Nations staff members involved in such exercises and related activity. The mandate of the PTF also includes a review of some procurement matters which have been closed, but it is nevertheless determined that further investigation is warranted.
3. PTF investigations have focused upon a myriad of individuals and vendors doing business with the United Nations (hereinafter “UN” or “Organization”). Some of these matters are particularly complex and span significant periods of time. Since its inception, more than 200 matters, involving numerous procurement cases in UN Headquarters and various UN Peacekeeping Missions have been referred to the PTF. The PTF will report on matters individually. The PTF has given priority to the matters involving eight UN staff members placed on special leave with pay, including the Subject.
4. On 20 January 2006, the Internal Audit Division (IAD) of OIOS issued an Audit Review AP2005/600/20 (Audit) addressing particular concerns in recommendations 17 and 31-32. These matters relate to the short-term contract for the provision of fuel for the United Nations Mission in Sudan (UNMIS).
5. This report addresses the abovementioned allegations as well as the Subject’s involvement in the award and execution of a food rations contract with a value in excess of US\$201 million to Eurest Support Services Cyprus Intl (ESS) in UNMIS.

II. ALLEGATIONS

6. Based on recommendations 17 and 31-32 of the Audit, and the additional matter which came to the attention of the PTF, this report focuses on two UNMIS-related contracts. Although other staff members are named and involved in these matters, this report concerns the Subject only. The PTF examines:
 - a. Whether or not the Subject was involved in estimating initial short term fuel requirements for the procurement for UNMIS which are alleged to have been poorly planned and excessively inflated;

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- b. Whether or not the Subject was involved in any unjustified inflation of the fuel consumption requirements for UNMIS which rose from 6.5 million to 10 million litres per month after the identity of the only technically qualified bidder—SkyLink Aviation Inc. (SkyLink)—became known; and
- c. Whether or not the Subject was involved in any collusion between staff members of UNMIS, LSD, and PS to award to SkyLink the short-term contract for the provision of fuel to UNMIS.

III. APPLICABLE UN STAFF RULES AND REGULATIONS

7. The matters discussed in this report are examined within the applicable UN regulations and rules, and in particular:
 - a. UN Staff Regulation **1.2(b)** provides staff members shall uphold the highest standards of efficiency, competence and integrity. The concept of integrity includes, but is not limited to, probity, impartiality, fairness, honesty and truthfulness in all matters affecting their work and status.
 - b. UN Staff Regulation **1.2(g)** provides staff members shall not use their office or knowledge gained from their official functions for private gain, financial or otherwise, or for the private gain of any third party, including family, friends and those they favour. Nor shall staff members use their office for personal reasons to prejudice the positions of those they do not favour;

IV. METHODOLOGY

8. PTF investigators have interviewed the Subject on several occasions and have also interviewed a number of UN staff members in the Procurement Service (PS) and the Department of Peacekeeping Operations (DPKO), including its Logistics Support Division (LSD/DPKO). In addition, PTF investigators conducted interviews with officers and employees of vendors involved in the contract bidding exercises addressed in this report. The investigators collected and reviewed relevant documents relating to logistics planning for the mission in Sudan, the short-term fuel contract, and the food rations contract. These records included, but were not limited to: planning documents for UNMIS, procurement documents, requisitions, bids and contracts pertaining to the provision of fuel and food rations for UNMIS, vendor registration files, meeting minutes of the Headquarters Committee on Contracts (HCC), telephone records of UN staff members and employees of vendors, electronic data (emails), data obtained from computer hard drives, and personnel files. PTF investigators also studied available financial records relating to the Subject. Forensic data recovery methods were used to retrieve crucial data, including e-mails and files from computer hard drives.
9. Since the establishment of the PTF, significant effort has been expended by PTF investigators on procurement matters in UNMIS. The PTF currently maintains

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approximately one dozen cases involving procurement and related financial exercises in UNMIS, which include one matter which investigation has demonstrated was tainted by fraud and collusion between a procurement officer, a member of the aviation unit, and a vendor. The PTF is also examining a number of procurement exercises which are alleged to have involved misconduct. PTF investigative teams have visited the mission on two separate occasions, and have spent considerable time gathering documents, electronic evidence, and relevant materials from the mission.

10. The PTF's investigation of UNMIS-related cases has faced a number of challenges, including the complexity of the matters addressed, a significant volume of documents required to be examined, the extensive scope of UNMIS-related logistics and deployment planning issues, and the fact that at least two UN staff members with relevant knowledge of the issues discussed herein, Mr. Terry Allen and Mr. Philip Taylorson, have since left the Organization. Further, investigative efforts met with some resistance in the mission.
11. The food rations and short term fuel contracts discussed below also concern activities of Alexander Yakovlev, whose conduct underlies some of the events in the award and execution of these contracts. Mr. Yakovlev was a member of PS from August 1985 until his arrest in June 2005 by US authorities. Shortly after his arrest, Mr. Yakovlev pleaded guilty to conspiracy, wire fraud and money-laundering charges in the United States District Court, Southern District of New York, stemming from investigations into the UN Oil-for-Food Programme.
12. As part of his guilty plea, Mr. Yakovlev entered into a cooperation agreement with the United States Attorney's Office, Southern District of New York. Under this agreement Mr. Yakovlev is compelled to offer all assistance to the US authorities in their ongoing investigations. As a result of his status as a prospective US government witness, prosecutors are, however, unwilling to allow the PTF unsupervised access to Mr. Yakovlev until such time as he has testified in related matters. The Assistant U.S. Attorney has extended an offer to the PTF to pose written questions to Mr. Yakovlev through their office. To the best of PTF's knowledge, Mr. Yakovlev has made no allegations against or concerning the Subject.
13. As demonstrated by the fact of his conviction, as well as evidence found by the PTF, it is clear that Mr. Yakovlev was involved in a number of contracts which were fraudulently and corruptly obtained. The information available to the PTF demonstrates that Mr. Yakovlev operated in a secretive and sophisticated manner, engaging in an elaborate scheme to conceal his activities and to disguise his involvement in steering contracts to favoured vendors, one of which was ESS.
14. The PTF notes that some of the issues related to food rations and fuel contracts for UNMIS remain a matter of concern, and are a subject of further investigation by the PTF. The PTF's examination of UNMIS-related contracts is ongoing.
15. The PTF notes the willing cooperation of the Subject throughout the investigation. The Subject agreed to voluntarily provide his personal financial records and personal mobile phone records. The Subject also produced a large volume of documents relevant to the matters discussed in this report that were reviewed by PTF investigators.

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V. BACKGROUND

A. UNMIS

16. The UN Advance Mission in Sudan (UNAMIS) was established pursuant to UN Security Council Resolution 1547 on 11 June 2004. The purpose of the mission was to provide peacekeeping support during the interim period following the execution of the Comprehensive Peace Agreement (CPA) between the Government of Sudan and the Sudan People's Liberation Movement/Army (SPLM/A). On 24 March 2005, the Security Council adopted Resolution 1590 establishing the United Nations Mission in Sudan (UNMIS) for an initial period of six months, requesting the Secretary-General to transfer all functions of UNAMIS to UNMIS. Resolution 1590 further established that UNMIS would have a contingent of 10,000 military personnel and an appropriate civilian component, including as many as 715 civilian police.
17. As a result of developments relating to Sudan peacekeeping operation, the UN had to build the mission from its inauguration, and assembled teams to address the prospective needs of the mission's commencement. The Subject was part of the planning effort, as discussed more fully below.

B. THE SUBJECT

1. Summary of Employment History

18. The Subject is a citizen of New Zealand and served in his country's armed forces for some 20 years as a logistics officer and instructor. Beginning in October 2000, the Subject first served in the UN as Chief of Integrated Support Services (CISS) at the UN Mission in Ethiopia and Eritrea (UNMEE). In September 2002, the Subject joined LSD/DPKO in New York serving as a mission start-up planning officer. In June 2003, the Subject moved to the UN Mission in Côte d'Ivoire (MINUCI) and assumed the position of Chief of Technical Services. From 2 February 2004, the Subject led a headquarters-based planning team for the putative mission in Sudan. Along with several other colleagues the Subject transferred to Khartoum in April 2004 as a senior member of the Technical Preparatory Team, a function which developed into that of CISS after the inception of UNAMIS in June 2004. The Subject returned to LSD/DPKO in New York on 29 September 2004 as Chief of the Supply Section and remained in that capacity until 16 January 2006 when he was placed on special leave following issuance of the Audit Review.

2. Responsibilities in Relation to the Sudan Mission

19. The Subject's involvement in preparatory work for the UN mission in Sudan began in February 2003 when he was appointed LSD/DPKO's principal coordinator of contingency support planning for a potential peacekeeping operation in Sudan.¹ In

¹ Clemens Adams note to Section Chiefs (24 February 2003).

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November and December 2003, the Subject was a member of the three-week Sudan Assessment Mission formed to undertake an initial survey of the logistical challenges of establishing a mission in Sudan. However, the Subject explained that his time was spent mostly in meetings with local political and administrative leaders. He asserted that the task of assessing logistics routes and infrastructure was largely handled by other members of the team.

20. The Subject became fully committed to the planning effort for Sudan in February 2004, when he assumed the leadership role of the Sudan Mission Planning Team at Headquarters. This team was a small group of staff designated to initiate the advance mission in Khartoum in due course. Although the Subject does not appear to have been appointed formally to that leadership role, he acknowledges his position as a manager, a claim with which other senior staff members concur. The Subject reported to Mr. Paul Johnson, the then Chief of Logistics Operations. In April 2004, the Subject transferred to Khartoum as part of the Technical Preparatory Team. Again reporting to Mr. Johnson who had been appointed to lead the preparatory team, the Subject headed logistics planning and became CISS once the advance mission was formally established in June 2004.
21. On 29 September 2004, the Subject assumed his responsibilities as the Chief of Supply Section at the Specialist Support Services (SSS) at DPKO in New York. In that capacity, the Subject reported to Mr. Clemens Adams, Chief of SSS, and supervised several units including the Fuel Unit, which included Mr. Taylorson. In addition, the Subject was responsible for supervising the Food Rations Unit, which was headed by Ms. Ellen Aamodt, who was later replaced by Mr. Philip Adams.

C. SKYLINK

22. SkyLink Aviation Inc. (SkyLink) is a privately-owned firm based in Toronto, Canada, with subsidiaries in several countries including the United States. It is a long-standing vendor to the UN and began supplying air transport services to UN missions in 1989. During the 1990s, SkyLink was suspended twice from the UN vendor list following various allegations that it had manipulated the bidding process and acted improperly in the execution of various contracts. The suspension led ultimately to an arbitration proceeding between the Organization and SkyLink. The arbiter found in SkyLink's favour. In early 2000, SkyLink then returned as a vendor in good standing. In recent years, the company has diversified its offering, answering PS solicitations for a wide variety of products and services. In 2004, SkyLink submitted bid proposals to supply fuel and fuel equipment at several UN missions, and was formally awarded the short-term fuel contract at UNMIS in January 2005. Pending the award of a long-term fuel contract, and at the time of this writing, SkyLink remains the fuel supplier at UNMIS. Notably, Skylink is also a logistics supplier to the United States government, managing five major airports in Iraq.

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D. EUREST SUPPORT SERVICES

23. Eurest Support Services (Cyprus) International Limited (ESS) is a fully owned subsidiary of Compass Group PLC (Compass Group), based in the United Kingdom. ESS was registered as a vendor with the UN in September 2001, when several Compass Group subsidiaries were consolidated under the ESS umbrella. ESS has been awarded food rations contracts in various UN missions, including Liberia, Eritrea, Burundi, Cyprus, East Timor, and Lebanon. The aggregate value of these contracts is in excess of US\$500 million, and the value of the UNMIS food rations contract discussed in this report exceeds US\$201 million.
24. The PTF has identified evidence of fraudulent activity in connection with the achievement of the ESS contracts, both by ESS employees and at least one UN official. The investigation of these matters is ongoing, and will be the subject of subsequent reports. As set forth more fully below, there is no evidence the Subject participated in unlawful or corrupt conduct in connection with the ESS contracts and the corresponding bidding exercises. To reach this conclusion, however, the PTF engaged in a painstaking review of the all relevant documents, materials and evidence. This was a cumbersome process in light of the voluminous materials associated with the ESS contracts, and the difficulties described herein.
25. ESS and its activities with the Organization remains a significant topic for the PTF. ESS was a subject of a previously-issued report concerning Staff Member 1, Chief PS.

VI. SUDAN MISSION SHORT-TERM FUEL CONTRACT

26. Sections A-C below address concerns raised in the Audit's recommendations 17, 31, and 32, which discuss, *inter alia*, a concern that the initial requirements for the procurement of the short-term fuel contract for UNMIS were improperly inflated and were the result of poor planning, and a concern that there was unjustified inflation of the fuel consumption requirements for UNMIS rose from 6.5 million to 10 million litres per month after the name of the only technically qualified bidder, SkyLink, became known.
27. Section D below addresses whether or not the Subject was involved in any collusive effort between UNMIS, LSD, and PS to award SkyLink the short-term contract for the provision of fuel to UNMIS. Such an allegation was raised in connection with the Audit's recommendations 31 and 32. This report addresses this issue as it applies to the Subject only.

A. INITIAL ESTIMATE OF FUEL REQUIREMENTS

28. In the autumn of 2003, subsequent to promising developments in negotiations between the Government of Sudan and the Sudan People's Liberation Movement/Army, PS and DPKO began preparations for a peacekeeping mission in Sudan. The fundamental planning step was to decide the precise nature of the military units to be deployed (e.g. infantry, engineering units, aviation units, and hospitals) and the locations in which these

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units would be placed in Sudan. A series of increasing detailed plans was produced from October 2003 onwards. One of the principal reasons for such planning was to identify the requirement for fuel for trucks, aircraft and generators, both for military operations and for the civilian administration in all of these locations. In November and December 2003, members of the Sudan Assessment Mission visited Sudan. As a result Mr. Taylorson, a fuel officer in DPKO/LSD/SSS, prepared the Sudan Fuel Survey, which formed the basis of the solicitation documents for the short-term fuel contract.²

29. On 19 January 2004, PS issued a request for proposal for the short-term fuel contract in Sudan (RFPS 600). The RFP was sent to 39 companies in 15 countries. This solicitation consisted of two parts: (a) the Statement of Requirement (SOR) for the short-term provision of petroleum, oils, lubricants, and associated miscellaneous products, and (b) the Scope of Work (SOW) for the provision of short-term surge capacity relating to fuel receipt, storage, and handling. The SOR and SOW projected that a fully-deployed mission in seven locations in Sudan would consume 6,495,445 litres of fuel (diesel and jet fuel combined) monthly.³ This estimate was calculated by Mr. Taylorson based on the logistics planning assumptions of October 2003, even though in December 2003 updated assumptions had been produced.⁴ Mr. Taylorson, who reported to Ms. Aamodt, Chief Supply Services Unit within SSS, used the DPKO Fuel Calculator then recently developed by SSS as a planning tool to arrive at an estimate of fuel requirements for all missions.
30. Interviews of staff members in PS, LSD/DPKO, and UNMIS as well as the careful review of relevant documents and materials reflect that the Subject was not involved in the effort to establish initial assessments of fuel requirements. Similarly, the PTF has determined that the Subject was not involved in drafting the SOW/SOR for RFPS 600, and did not participate in the technical and financial evaluations.⁵

B. FUEL ASSESSMENT CHANGES DURING 2004

31. Throughout 2004, there was considerable uncertainty within LSD/DPKO regarding the deployment plans and fuel consumption needs of the mission in Sudan. Increases in fuel requirements were projected by the technical preparatory team as early as 17 March 2004 just after the deadline for the submission of proposals. Throughout 2004, LSD/DPKO considered various deployment plans and fuel assessment figures, particularly following the adoption of Security Council Resolution 1556 dated 30 July 2004 in which the Security Council requested the Secretary-General to make contingency planning for

² Minutes of HCC meeting no. HCC/04/83, p. 21.

³ RFPS 600, SOR, pp. 1-3.

⁴ Sudan Survey – Fuel, p. 2.

⁵ Despite significant effort, the PTF has yet to locate records relating to the performance of the financial evaluation of proposals submitted under RFPS 600. Lack of documentation regarding the financial evaluation remains of concern to the PTF, and is the subject of further investigation by the PTF.

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Darfur in the west of Sudan, and engage in preparations to support the implementation of a future peace agreement there.⁶

32. Until August 2004, the advance mission had no fuel expert and hence no in-house capacity to calculate fuel requirements. As a result, the Subject relied upon DPKO/LSD/SSS, specifically Mr. Taylorson, to re-calculate the fuel requirements in response to the constant proposed changes in logistics planning. In August 2004, Mr. Ashley Lynn arrived in Khartoum and assumed the position as the fuel officer with the responsibility for calculating the fuel requirements.
33. Preparations for the short-term fuel contract continued throughout the summer and autumn of 2004 when a preliminary agreement was reached to consider a date for the proposed peace support operation in Sudan.⁷ Following a meeting between SkyLink, PS, and DPKO on 4 November 2004 in which new fuel estimates were discussed, PS requested SkyLink to submit its Best and Final Offer (BAFO). SkyLink did so on 15 November 2004, citing monthly fuel consumption of 10,735,179 litres.⁸
34. DPKO assessed the BAFO not-to-exceed (NTE) amount at US\$85,907,554. The calculations for BAFO were made by Mr. Taylorson in consultation with the mission and were discussed within DPKO, including Mr. Johnson, who was by then the Chief Administrative Officer of UNAMIS, and the Subject, who at the time had returned to New York to serve as the Chief of the Supply Section. The Subject told the PTF that he relied on the calculations prepared by Mr. Taylorson although he did not know whether they were verified by Mr. Taylorson's supervisor, Ms. Aamodt, or by anyone else. The Subject informed the PTF that there was a clear consensus by SSS, PS and the mission to accept these figures.
35. Subsequent to these discussions, on 13 December 2004, the Subject submitted a memorandum to Staff Member 1, Chief PS, stating that "we have now, following thorough consultation with PS and UNAMIS, been able to accurately articulate the fuel support that is required." The Subject further requested that PS "urgently submit a case to the HCC," arguing that "[w]e have now arrived at the stage where a cohesive and comprehensive 'surge support' fuel plan has evolved, which is fully supported by the mission."⁹ The presentation to the HCC which included an NTE amount of US\$85,907,554, was prepared by Mr. Yakovlev, and according to the Subject, was endorsed by his section in DPKO.
36. The effect in the increase in fuel requirements is reflected in the increase in fuel costs. In this regard, SkyLink's initial bid was US\$72,357,220 for the first nine months of the mission's operations. This amount included costs for equipment in the amount of US\$17,313,000, costs for fuel reserves in the amount of US\$4,326,250, and costs for fuel

⁶ See, e.g., Philip Taylorson e-mail to Clemens Adams (1 June 2004) (copied to the Subject and Paul Johnson); Clemens Adams memo to Christian Saunders (20 June 2004).

⁷ Paul Johnson letter to Luiz da Costa (26 November 2004) (stating that UNHQ and the advance mission have agreed that 15 January 2004 will be denoted M-day).

⁸ SkyLink BAFO (15 November 2004), pp. 1, 16.

⁹ The Subject memo to Staff Member 1 (13 December 2004).

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in the amount of US\$50,717,970.¹⁰ Estimates provided in SkyLink's BAFO amounted to NTE of US\$85,907,554, which included, *inter alia*, US\$57,439,240 for fuel.¹¹ According to the minutes of the HCC meeting on 14 December 2004, PS, LSD, and UNAMIS agreed that SkyLink's BAFO "fully met [the] technical requirements of the mission" and that "taking into account the commencement date of UNAMIS deployment (15 January 2005), there is no viable alternative to SkyLink's proposal."¹²

37. On 14 December 2004, HCC unanimously recommended for approval the proposed contract award to SkyLink for the provision of supply, delivery, distribution and storage of diesel and aviation fuel in support of UNAMIS in the NTE amount of US\$85,907,554.¹³ On 10 January 2005, a Letter of Award was delivered to SkyLink.¹⁴ Three months later, on 25 April 2005, the UN and SkyLink signed contract no. PD/C0329/04 for provision of fuel support services to UNMIS for US\$85,907,554.¹⁵
38. The PTF continues to investigate whether there were unjustifiable increases in fuel assessments. Interviews of relevant staff members at PS, DPKO and UNMIS as well as the review of relevant records, have demonstrated that even if the estimates were calculated improperly or achieved through intentional malfeasance the Subject was not involved in any such effort.
39. In sum, the PTF has not identified that the Subject engaged in any improper conduct or otherwise exerted any improper influence in the increase of the overall fuel requirements for the mission which were elevated from 6.5 million to 10 million litres per month.

C. ALLEGED COLLUSION TO AWARD THE CONTRACT TO SKYLINK

40. The Audit expressed a concern that collusion existed to favour SkyLink in the contract selection process. After a broad investigation, the PTF did not find evidence that the Subject participated in any alleged effort to purposefully favour Skylink in this process. It should be noted that this allegation rests in the first instance on the suspicion that an increase in fuel consumption estimates followed shortly after an internal meeting on 20 July 2004 where it was discussed between officials in PS and LSD/DPKO that SkyLink had been determined to be the only technically compliant bidder. However, the Subject did not attend this meeting, and after a thorough review of all of the circumstances that concern him, the PTF maintains the view that the Subject did not participate in any collusive effort. The PTF continues to investigate the accuracy of this allegation in the context of the larger question whether any such collusion in fact existed.

¹⁰ The Subject memo to Staff Member 1 (13 December 2004) (Attachment 1).

¹¹ The Subject memo to Staff Member 1 (13 December 2004), p. 6 (also referring to Attachment 3).

¹² Minutes of HCC meeting no. HCC/04/83 (14 December 2004).

¹³ Minutes of HCC meeting no. HCC/04/83 (14 December 2004), p. 25.

¹⁴ Yakovlev letter to SkyLink (10 January 2005).

¹⁵ United Nations – SkyLink contract (25 April 2005).

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D. THE SUBJECT'S RELATIONSHIP WITH SKYLINK

41. The PTF has not found evidence of improper contact between the Subject and SkyLink during the procurement process. Telephone records reviewed by the PTF do not show anything of significance during the relevant time periods. Furthermore, the PTF found no evidence that the Subject received tangible or intangible benefits from any vendor, including SkyLink, in the matters it has examined to date.

VII. SUDAN FOOD RATIONS CONTRACT***A. RFPS 592***

42. On 26 December 2003, PS issued a Request for Proposal for the provision of rations and associated services for UN troops in Sudan (RFPS 592).¹⁶ Five companies, including ESS, submitted proposals.¹⁷ Following a technical evaluation by the requisitioner, LSD/DPKO, ESS was determined to be non-compliant, falling short of the passing score by a margin of just 3.4 points.¹⁸ Officials in PS, including Mr. Yakovlev who initiated the effort, requested LSD/DPKO to review their assessment as ESS had offered the lowest cost proposal. Following the exchange of correspondence between LSD/DPKO and PS (including Mr. Yakovlev), which occurred over several months, LSD/DPKO reaffirmed its evaluation scores. LSD/DPKO argued that they believed that accepting the Sudan ESS proposal, even if it fell just below the passing grade, was not in the best interest of the Organization in light of the potential logistical difficulties of the Sudan mission, which included complications from a lack of infrastructure throughout the relevant areas of Sudan. Subsequently, at the end of September 2004, PS and LSD/DPKO agreed to re-bid the food rations contract.¹⁹ Mr. Yakovlev initiated the request to re-assess the scores in furtherance of his effort to steer the contract to ESS. Officials in the Food Rations Unit were not in favour of this decision based on the review of certain “operational requirements” and the imminent need to have a contract in place to meet the proposed deployment of troops.²⁰ Despite the concerns expressed by officials in the Food Rations Unit, the contract was nevertheless re-bid by PS.
43. The Subject, although not part of the initial discussions on the cancellation of the first bid, informed PTF investigators that he supported the mission's view that there were options other than the cancellation of the bid that should have been considered, as there was a need for a food rations contract to be in place as soon as possible as a result of the impending troop deployment in January 2005. The Subject stated that the decision to re-bid the contract was made at the level of Chief of SSS and Chief of PS. The investigation

¹⁶ RFPS 592 (26 December 2003).

¹⁷ Request for Proposal – List of Invitees (26 December 2003).

¹⁸ Evaluation Matrix – Sudan (March 2004) (transmitted to PS on 21 April 2004).

¹⁹ Per Verwohlt e-mail to Stephen Kriken (1 October 2004).

²⁰ Paul Johnson facsimile to Luiz Carlos da Costa (23 October 2004).

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has confirmed that this assertion is accurate. The Subject offered that his view at the time was that they should have considered other options.

B. RFPS 724

44. On 10 November 2004, a new Request for Proposals (RFPS-724) was issued with the initial closing date of 13 December 2004. This deadline was later extended to 17 December 2004 on the request of the vendors.²¹ One day later, on 18 December 2004, the LSD/DPKO technical evaluation team established by the Subject completed the technical evaluation of the proposals of three proposed vendors. The technical evaluation team consisted of Mr. Sebastien Billon, a LSD/DPKO food rations officer who acted as the official in charge of the evaluation team, Mr. Terence Allen,²² and Ms. Elena Ricaggi-Hay, seconded to LSD/DPKO under a national professional programme supported by the Organization. The Subject acknowledged, however, that Mr. Allen's "expertise was not in rations."²³ Two vendors were found technically compliant, with ESS achieving the highest score. The technical evaluation, which the relevant documents reflect was completed in just one day, was forwarded under cover memo of the Subject to PS.²⁴ Mr. Yakovlev conducted the financial evaluation and found ESS financially compliant.
45. Commenting on the fact that the technical evaluation was performed this quickly, the Subject nevertheless informed PTF investigators that he had perfect confidence in the abilities of the evaluators and was satisfied with the technical evaluation process. The Subject stated that he reviewed the technical evaluation report, assumed the role of "devil's advocate," and satisfied himself of the advantages and the risks involved in the evaluation process which he implemented. The Subject added that although Mr. Allen had no background in food rations, he was the only person available in the mission to perform the task. Also, based on the fact that Mr. Allen was slated to be responsible for handling food rations at the mission, assumption of this role was one the best way in which he, Mr. Allen, could familiarize himself with both the contract, and the contractor.

C. HCC

46. On 30 December 2004, the food rations contract was presented to the Headquarters Committee on Contracts (HCC) which recommended an award of a contract to ESS for the supply of food rations to the Sudan mission in the overall 5-year NTE amount of US\$201,560,104.80, based upon the fact that ESS presented the most responsive proposal under Financial Rule 105.15(b). Mr. Andrew Toh, Assistant Secretary-General for the Office of Central Support Services, granted expedited approval for the award on 31 December 2003. A Letter of Award dated 31 December 2004 was issued to the ESS, authorizing immediate mobilization.²⁵

²¹ RFPS 724 (10 November 2004).

²² The Subject e-mail to Paul Johnson (5 October 2004).

²³ The Subject e-mail to Paul Johnson (6 October 2004).

²⁴ The Subject memorandum to Christian Saunders (21 December 2004).

²⁵ Alexander Yakovlev e-mail to Andy Seiwert (ESS) (31 December 2004).

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47. Nonetheless, on 21 January 2005, on review of the HCC Minutes, Mr. Toh withheld his approval of the award to ESS and requested an explanation for the claim that prices would be reduced as soon as alternative transport means were available.²⁶ On 23 March 2005, the Subject provided the requested explanation to PS. Mr. Toh accepted the explanation and agreed to the award of the contract to ESS on 31 March 2005.²⁷
48. The Subject told PTF investigators that he was not informed about any queries raised with regard to the HCC presentation, and that he only became aware of Mr. Toh's request for an explanation on 16 February 2005. The Subject further stated that based upon the expedited approval and the Letter of Award, LSD/DPKO understood that they had a contractor with which the mission could liaise.²⁸

D. SUDAN FOOD RATIONS PROCUREMENT**1. The Sudan Food Rations Contract**

49. The HCC recommended that the food rations contract should be reviewed by the Office of Legal Affairs (OLA) before its execution. Due to a number of intervening events, including time-consuming reviews of the draft contract by LSD/DPKO, the mission, ESS and PS, the constant change in requirements at the mission, and Mr. Yakovlev's guilty plea on charges of conspiracy, wire fraud and money-laundering, no signed contract had been executed by the UN and ESS at any time before the suspension of ESS in October 2005.²⁹ In the interim, ESS proceeded with mobilization based upon the Letter of Award, and correspondingly food rations orders were placed with ESS by the mission as early January 2005.
50. The Subject informed PTF investigators that there were "gaps" in the RFPS which LSD/DPKO wanted to be addressed in the contract based on previous experience, (e.g. LSD/DPKO desired fixed prices for delivery costs to be part of the contract), and did not wish to rely solely upon the pricing mechanism provided by ESS.

2. Payments to ESS

51. As of the date of this Report, ESS has been paid US\$4,662,223, which constituted costs from the date of mobilization through and until 15 January 2006. The first payment was made on 15 January 2005. In the absence of a contract, the mission used the prices set forth in ESS' proposal as a framework to do business with ESS. ESS has claimed payment from the UN for more than US\$270,000 for "endangered stock" (food stuffs with imminent expiration dates). The basis of ESS's claim was that the mission agreed to accept and pay for such stock despite it being past its expiry date.

²⁶ Minutes of HCC Special Meeting no. HCC/04/87 (30 December 2004).

²⁷ Andrew Toh e-mail (31 March 2005).

²⁸ E-mail exchange between Sebastien Billon, Dmitri Dovgopoly and Alexander Yakovlev (16 February 2005) (copied to the Subject and Vevine Stamp).

²⁹ ESS's suspension followed allegations of being involved in corrupt practices, which will be reported on in a subsequent report.

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52. The Subject stated that it was the responsibility of PS to ensure that a contract was in place, and it was not LSD/DPKO's responsibility to issue direction which involved financial implications. Furthermore, the Subject stated that he became aware of ESS' claim for payment of expired stock after the fact and could not establish who agreed to the arrangement. Nevertheless, the Subject did not consider the arrangement inappropriate under the circumstances.

3. The Subject's Relationship with ESS

53. The Subject informed PTF investigators that except for contact with ESS at pre-arranged meetings attended by PS, ESS, and LSD/DPKO, he had no contact with ESS employees. However, the Subject added that he was copied on emails from ESS to PS.
54. The evidence gathered by the PTF demonstrates that no improper contact existed between the Subject and ESS. Telephone records reviewed by the PTF reflect just one incoming call from ESS to the Subject on 29 August 2005, a date unrelated to any relevant bidding process. Furthermore, the PTF found no evidence that the Subject received tangible or intangible benefits from any vendor, including ESS, in the matters it has examined.

VIII. FINDINGS

A. SUDAN MISSION SHORT-TERM FUEL CONTRACT

55. PTF has conducted a broad review of the full circumstances surrounding the Subject' role in planning fuel arrangements for UNMIS. The PTF finds that it was reasonable for the Subject to rely on subordinates and other divisions of the Organization to produce accurate fuel calculations, and that he did so in good faith.
56. The PTF finds that the Subject was not involved in initial fuel assessments and calculations, or the technical evaluation of the proposals submitted by the vendors. Further, the PTF has not identified any evidence that the Subject exerted any improper influence or otherwise acted wrongfully in the mission's decision to increase the overall fuel requirements. The PTF reserves judgment on the question whether the decision to elevate these estimates involved nefarious behaviour of others.
57. The PTF has not identified evidence that the Subject colluded with other staff members at UNMIS, DPKO, or PS to award the contract for the provision of fuel in UNMIS to SkyLink. The PTF does not address in this report the question whether in fact such collusion existed. This allegation continues to be a matter under investigation by the PTF.
58. The PTF has not identified any evidence of improper contacts between the Subject and any representatives of SkyLink. Furthermore, the PTF has not identified evidence that the Subject received tangible or intangible benefits from any vendor in the fuel procurement process, including SkyLink, in connection with the matters it has examined.

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B. SUDAN FOOD RATIONS CONTRACT

59. The PTF has not identified that the Subject engaged in any improper contact with any ESS official during the bidding process. Similarly, the PTF has not identified that the Subject exercised improper influence in the bidding process in favour of ESS. Furthermore, the PTF did not identify any evidence that the Subject used his office or knowledge gained from his official functions for his or a third party's private gain, financial or otherwise. The PTF will subsequently address in a following report the question whether the contract selection process was otherwise tainted.
60. The PTF has serious concerns whether a proper technical evaluation was undertaken when it was completed in merely one day. The PTF's investigation has found that the Subject was not involved in the evaluation, but nevertheless reviewed and approved it. It was clear that the mission was under pressure to have a contract in place to supply critical items to the mission.
61. The PTF is mindful of the difficult circumstances which the Subject faced as Chief of Supply Section and in the performance of his duties supplying food rations to Sudan. His role was further complicated by a number of factors, including, but not limited to, having to interact with a corrupt procurement officer, confronting the constant changes in circumstances in Sudan together with related changes in the various requirements of the mission. In addition, no binding contract was in place which provided a mechanism to address the constant changes in the mission's requirements, a circumstance which placed the Organization at risk.

IX. CONCLUSIONS

62. Based on the foregoing, the PTF concludes that the Subject, acting in his role as the logistics officer, and later as LSD/DPKO's Chief of Supply, did not violate any UN Regulations and Rules in connection with his participation in the short-term fuel and food rations contracts executed on behalf of the UN mission in Sudan (UNMIS).

X. RECOMMENDATIONS

63. The PTF recommends that the Subject be cleared of any claim of wrongdoing in the matters identified and examined by the PTF which are the subject of this report.