



**The Global Fund**  
To Fight AIDS, Tuberculosis and Malaria

*Office of the Inspector General*

## **Investigation Report**

### **Procurement Activities of the Principal Recipients of the Global Fund's National Strategy Application Grant for Malaria to Madagascar**

**GF-OIG-13-052**  
**03 January 2014**

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## B. Executive Summary

1. This reports sets out the findings of an investigation conducted by the Investigations Unit of the Office of the Inspector General (OIG) into the malaria National Strategy Application (NSA) grants to Madagascar. The investigation focused on expenditures financed through the NSA grants (and partially under the Round 7 grant) by their Principal Recipients (PRs), of which two are government agencies – *Unité de Gestion des Projets d'Appui au Secteur de Santé* (UGP) and *Centrale d'Achats de Médicaments et de Matériel Médical* (SALAMA) – and two are non-governmental organizations (NGOs) – *Pact* and *Association Intercoopération Madagascar* (AIM).

2. The grant amounts reviewed by the OIG, and the non-compliant expenditures identified, are summarized in the table below:

**Figure 1: Summary of grant amounts reviewed and non-compliant amounts identified by the OIG**

Principal Recipient	Grants	Grants disbursed, USD (30 April 2012)	Grant amounts reviewed by the OIG, USD	Amounts of non-compliant expenditure identified by the OIG, USD	Amounts of overpricing identified by the OIG, USD
UGP	NSA (MDG-910-G17-M)	8,867,217	6 million	<p><b>USD 843,600</b></p> <p>Out of which:</p> <ul style="list-style-type: none"> <li>• <b>USD 640,146</b> were incurred in 2010 and <b>USD 203,454</b> in 2009</li> <li>• <b>USD 680,431</b> relate to the Round 7 grant and <b>USD 163,169</b> to the NSA grant</li> </ul>	<p><b>USD 382,937</b></p> <p>Out of which:</p> <ul style="list-style-type: none"> <li>• <b>USD 329,609</b> were incurred in 2010 and <b>USD 53,328</b> in 2009</li> <li>• <b>USD 309,302</b> relate to the Round 7 grant and <b>USD 73,635</b> to the NSA grant</li> </ul>
	Round 7 (MDG-708-G09-M)	24,170,652			
Pact	NSA (MDG-910-G19-M)	13,741,533	1.4 million	<p><b>USD 299,672</b></p> <p>Including <b>USD 270,643</b> for the procurement of laboratory equipment and <b>USD 29,029</b> for the procurement of RDTs</p>	<p><b>USD 74,464</b></p> <p>Overpricing of goods by SALAMA, in its role as a procurement agent for Pact.</p> <p>Includes <b>USD 65,893</b> in relation to laboratory equipment and <b>USD 8,571</b> in relation to RDTs.</p>
SALAMA	NSA (MDG-910-G16-M)	16,397,630	2.3 million	<p><b>USD 17,068</b></p> <p>(Delivery of non-conformant medicines by IDA Foundation)</p>	<b>USD 5,269</b>
AIM	NSA (MDG-910-G18-M)	7,652,053	2.5 million	-	-
<b>Total</b>		<b>70,829,085</b>	<b>12.2 million</b>	<b>1,160,340</b>	<b>462,670</b>

### B.1. Irregularities and Overpricing by Vendors in UGP's Procurements in 2009 and 2010

3. With regard to the restricted national tender carried out by UGP in 2010 for the purchase of supplies and equipment for the indoor residual spraying campaign (“Campagnes d’Aspersion Intra Domiciliaire” or “CAID campaign”) and financed under both the NSA and Round 7 grants for malaria, the OIG found that contracts in the value of USD 640,146 were

compromised by irregularities. Out of this amount, USD 329,609 was charged by vendors in excess of market prices. The OIG established by the preponderance of evidence that:

- (a) Two "groups" (of four vendors each) colluded among themselves and submitted bid documentation that had not been prepared independently by each vendor.
- (b) UGP's Procurement Unit Official and Junior Official together preselected three of the four vendors in the first "group" to be invited to bid; one of these three vendors, "Sitraka", played a prominent role in this first "group" and provided the names of the two other vendors to UGP's Procurement Unit.
- (c) UGP's Procurement Unit Official also preselected another vendor (not part of the two "groups") to be invited to bid, which was an entity owned by one of her family relatives (niece), without disclosing this relationship to either her supervisor or the Tender Committee.

4. Similarly, in the case of the restricted national tender for the purchase of supplies and equipment for the CAID campaign carried out by UGP in 2009 and financed under the Round 7 grant, the OIG found that contracts in the total value of USD 203,454 were compromised by irregularities. Out of this amount, USD 53,328 was charged by vendors in excess of market prices. Specifically:

- (a) The OIG established by the preponderance of evidence that four "groups" of vendors (involving a total of 15 vendors) colluded among themselves and submitted bid documentation that had not been prepared independently by each vendor.
- (b) The OIG further concludes that such an extent of *collusive practices* could not have been possible without the full or partial awareness of the UGP's Procurement Unit Official.

## **B.2. SALAMA's Overcharging of Health Products in its Capacity as Procurement Agent for Pact**

5. The NSA grant agreement signed with another PR, Pact, required the latter to engage SALAMA as procurement agent for any purchase of health products financed by the Global Fund. Accordingly, Pact entered into three contracts during 2011-2012 with SALAMA. The OIG found that two of the said contracts totaling USD 299,672, including (i) USD 270,643 for the supply of laboratory equipment and (ii) USD 29,029 for the supply of rapid diagnostic tests (RDTs), were overpriced by USD 74,464 in total (USD 65,893 in relation to laboratory equipment and USD 8,571 in relation to RDTs). Specifically, the OIG established by the preponderance of evidence that:

- (a) Two of the three contracts signed with SALAMA omitted standard clauses relating to competitive and transparent procurement for the lowest possible price.
- (b) SALAMA initially attempted to overcharge Pact by an amount of USD 967,499 out of SALAMA's total bid amount of USD 5,348,585. This would have represented a 22% price increase in comparison to the agreed procurement cost between SALAMA and Pact (being the acquisition cost plus a 10% management fee). The value of the contract that was ultimately established (USD 270,643) still exceeded the said agreed procurement cost by USD 65,893 (or 32%).
- (c) SALAMA also charged Pact for USD 8,571 (or 42%) above the agreed procurement cost for the supply of RDTs, out of a total contract amount of USD 29,029.
- (d) Pact's officials exercised insufficient oversight of the contracting process with SALAMA, which facilitated the above practices by SALAMA. However, Pact undertook corrective measures shortly after the issue was raised, and in particular managed to recover a partial amount of USD 64,038 from SALAMA.

### **B.3. Delivery of Medicines Non-Conforming to the Global Fund Quality Assurance Guidelines**

6. In January 2011, SALAMA, in its role as the PR under the NSA grant, awarded a contract for USD 17,068 to IDA Foundation (IDA) to supply an anti-malarial medicine manufactured by REMEDICA, a World Health Organization (WHO)-approved supplier of such drugs. However, the medicines actually delivered by IDA and distributed by SALAMA were produced by another manufacturer, Guilin Pharmaceuticals, which was not a pre-qualified supplier for this product at that time. The reason for this mismatch was that an IDA employee failed to properly identify the manufacturer entered into IDA's supply management system. As a result, IDA also overcharged SALAMA by USD 5,269 for the drugs. After being alerted on this by the OIG, IDA committed to refund the excess charge.

7. SALAMA discovered the true origin of the drugs only after their delivery in country. Both IDA and the Local Fund Agent (LFA) were alerted by SALAMA on these issues but failed to take corrective action, hence the medicines were distributed by SALAMA to end-users. Furthermore, the data entered into the Global Fund's Price and Quality Reporting (PQR) system was erroneous and represented that the drugs originated from REMEDICA.

### **B.4. Other Issues**

8. In 2012, aside from its investigation, the OIG was advised of the findings of a forensic audit commissioned by Pact and conducted by Cabinet 3A Madagascar on one of Pact's Sub-recipients (SRs) under the NSA grant, Croix Rouge Malagasy (CRM). Those findings include determinations of procurement irregularities and are expected to be followed up directly by the Global Fund's Secretariat.

### **B.5. Recommendations**

9. On the basis of its investigative findings, the OIG makes recommendations to the Global Fund Secretariat as set out in section H below. The recommendations touch on the following topics:

- (i) recover expenditures not incurred in compliance with the relevant grant agreements, and ensure that the parties and individuals concerned are held accountable for their management of grant funds;
- (ii) consider sanctions against suppliers found to have engaged in bid-rigging or other *collusive* or *anti-competitive practices*;
- (iii) consider relevant risk-mitigating measures applicable to high-value procurements in circumstances of urgency;
- (iv) enforce principles for transparency in the remuneration of procurement agents; and
- (v) take appropriate action in relation to LFA performance.

## C. Message from the Executive Director of the Global Fund



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### MESSAGE FROM THE EXECUTIVE DIRECTOR

#### Investigation of procurement activities of Principal Recipients of National Strategy Application grant for malaria in Madagascar

I would like to thank the Office of the Inspector General for its thorough and insightful work on the investigation of the Principal Recipients of the Global Fund's National Strategy Application grant for malaria in Madagascar.

The investigation focused on expenditures financed through National Strategy Application grants by their Principal Recipients, two of which are government agencies – Unité de Gestion des Projets d'Appui au Secteur de Santé (UGP) and Centrale d'Achats de Médicaments et de Matériel Médical (SALAMA) - and two are non-governmental organizations – Pact and Association Intercoopération Madagascar (AIM).

The report reviewed \$US12.2 million in grants and identified over-pricing of goods by UGP, SALAMA and Pact amounting to US\$462,670.

The Office of the Inspector General concluded that, with regard to a restricted national tender carried out by UGP in 2010 for the purchase of supplies and equipment for an indoor residual spraying campaign, contracts worth US\$640,146 were compromised by irregularities. Of this amount, US\$329,609 was charged by vendors in excess of market prices.

Similarly, the investigation also found that in a restricted national tender carried out by UGP for a spraying campaign in 2009, contracts worth US\$203,454 were compromised by irregularities and US\$53,328 was charged by vendors in excess of market prices.

The investigation uncovered evidence that, among other things, groups of vendors colluded among themselves and submitted bid documentation that had not been prepared independently by each vendor. The Office of the Inspector General also concluded that these collusive practices would not have been possible without UGP's Procurement Unit official being aware of it.

Another Principal Recipient, Pact, was required under a National Strategy Agreement grant to engage SALAMA as a procurement agent for any purchase of health products financed by the Global Fund.

The inspection found that two of the contracts Pact entered into with SALAMA totalling US\$299,672 were overpriced by US\$74,464. Pact's officials exercised insufficient oversight of the contracting process with SALAMA; however, Pact undertook corrective action shortly after the issue was raised and managed to recover US\$64,038 from SALAMA.

In January 2011, SALAMA, in its role as Principal Recipient under the National Strategy Application grant, awarded a US\$17,068 contract to IDA Foundation to supply an antimalarial medication made by a WHO-approved supplier of such drugs. However, the

medicines delivered by IDA and distributed by SALAMA were made by another manufacturer which was not a prequalified supplier of the drugs at the time.

As a result, IDA also overcharged SALAMA for the drugs. IDA committed to refund the excess charge after it was alerted by the Inspector General.

The Office of the Inspector General has recommended that the Global Fund should seek to recover expenditures not incurred in compliance with the relevant grant agreements and ensure that parties and individuals concerned are held accountable for their management of grant funds. In accordance with the Secretariat's process for pursuing recoveries, an approach to recover the losses incurred will be put in place within four weeks of publication of this report.

The report also calls on the Global Fund to consider relevant risk-mitigating measures that are applicable to high-value procurements and to enforce principles for transparency in the remuneration of procurement agents.

The Secretariat has taken strong measures in response to these findings and recommendations, including limiting the scope of activities to essential malaria activities; suspending the signing of phase 2 of the main (UGP) grant; moving to 100% expenditure verification by the LFA; and requiring Pooled Procurement for the majority of health products. SALAMA is no longer a principal recipient.

The Office of the Inspector General provides an essential form of quality control for the Global Fund. It plays an indispensable role in helping us all achieve our mission of effectively investing the world's money to save lives.

Yours sincerely



## **D. OIG Investigations**

10. The methodology of OIG investigations is set forth in Annex 1 of this report.

### **D.1. Exchange Rate**

11. This report describes amounts in United States Dollars (USD), with Malagasy Ariary (MGA) being noted where appropriate, for ease of reading. For the purposes of currency conversion, the OIG applied foreign exchange rates prevailing on the actual transaction dates. The source for each exchange rate is the daily midpoint rate in Oanda database ([www.oanda.com](http://www.oanda.com)).

### **D.2. Due Process**

12. Prior to this report's finalization and issuance, the relevant substantive sections of this report have been made available, consistent with the Global Fund's procedures, to relevant entities and individuals for comment, including the Country Coordinating Mechanism (CCM), the PRs (UGP, SALAMA and Pact), the IDA Foundation, the LFA, and the Global Fund Secretariat, including the Global Fund's Legal & Compliance Department. These comments have been considered and incorporated where deemed appropriate. The comments that were received from external partners (UGP, SALAMA, Pact, the IDA Foundation and the LFA) as well as the OIG response to these comments are set forth in Annex 2 of this report.

## E. Background: National Strategy Application Grants to Madagascar

13. National Strategy Application (NSA) is a funding approach designed to further facilitate the alignment of Global Fund financing with each nation’s disease strategies.<sup>1</sup> A limited number of countries, including Madagascar, were invited to participate in the initial roll-out of the NSA in 2009.

14. As of 30 April 2012, the Global Fund disbursed USD 46,658,433 to Madagascar under the NSA grants. Signed in the second half of 2010, they were implemented throughout Phase 1 of the grants by four Principal Recipients: two from the government sector, SALAMA<sup>2</sup> and UGP<sup>3</sup>, and two non-governmental organizations (NGOs), AIM<sup>4</sup> and Pact Madagascar<sup>5</sup>.

15. As part of the NSA, the PRs’ roles were delegated as follows: First, UGP was tasked with securing Indoor Residual Spraying (IRS) campaigns in targeted areas and the training of sprayers in intervention zones.<sup>6</sup> These campaigns involve the spraying of dwellings with insecticide for the purpose of killing mosquitoes and are recommended by the WHO as one of the primary means of malaria control.<sup>7</sup> Second, SALAMA primarily concentrated on improving diagnosis, quick and efficient treatment of malaria and diffusing Intermittent Preventive Treatment (IPT) for pregnant women. IPT entails administration of a curative dose of an effective antimalarial drug to all pregnant women irrespective of whether they are infected with the malaria parasite.<sup>8</sup> Third, Pact was to focus on training health agents and supporting Monitoring and Evaluation (M&E) within communities.<sup>9</sup> Fourth, AIM’s main tasks were promoting Behavior Change Communication (BCC) with mothers raising children below 5 years of age and increasing the number of community sites with trained and equipped community agents.<sup>10</sup>

**Figure 2: Global Fund NSA grants to Madagascar**

NSA grant number and title	PR	Phase and status	Total signed amount, USD	Total disbursed amount, USD (30 April 2012)
MDG-910-G17-M <i>From malaria control towards malaria eradication: speed up malaria control activities with a view to eradication in Madagascar</i>	UGP	Phase I - In progress	12,161,286	8,867,217
MDG-910-G19-M <i>From Malaria control towards malaria eradication: speed up malaria control activities with a view to eradication in Madagascar</i>	Pact	Phase I - In progress	24,560,945	13,741,533

<sup>1</sup> The Global Fund strategy document “The NSA Approach and the Second Wave”, October 2011

<sup>2</sup> La Centrale d’Achats de Médicaments et de Matériel Médicaux (SALAMA) is a non-profit association set up by the Malagasy Ministry of Health. A member of the African Association of Central Organizations for Purchases of Essential Drugs (“ACAME”), SALAMA’s mission is to supply state healthcare facilities and private non-profit organizations with high-quality generic essential drugs and medical consumables at affordable prices.

<sup>3</sup> Co-founded by the Malagasy Ministry of Public Health and the World Bank, UGP carries out health related projects in cooperation with other local ministries.

<sup>4</sup> The goal of the non-profit association registered under the Malagasy law, Association Intercoopération Madagascar (AIM), is to contribute to the reduction of poverty and improve the living standard of the population.

<sup>5</sup> Pact Madagascar is part of an international non-profit network whose goal is to provide assistance by building technical skills and capacity of funding recipients: <http://www.pactworld.org>

<sup>6</sup> MDG-910-G17-M grant agreement between UGP and the Global Fund signed on 20 September 2010, Annex A, page 2

<sup>7</sup> According to the same source, the other two methods of fighting malaria are through the use of insecticide treated bed nets and prompt treatment of confirmed cases with artemisinin-based combination therapy: <http://www.who.int/topics/malaria/en/> and [http://www.who.int/malaria/areas/vector\\_control/en/index.html](http://www.who.int/malaria/areas/vector_control/en/index.html)

<sup>8</sup> Intermittent Preventive Treatment of Malaria for Pregnant Women (IPT): [http://www.cdc.gov/malaria/malaria\\_worldwide/reduction/iptp.html](http://www.cdc.gov/malaria/malaria_worldwide/reduction/iptp.html)

<sup>9</sup> MDG-910-G19-M grant agreement between Pact and the Global Fund signed on 28 September 2010

<sup>10</sup> MDG-910-G18-M grant agreement between AIM and the Global Fund signed on 24 September 2010

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NSA grant number and title	PR	Phase and status	Total signed amount, USD	Total disbursed amount, USD (30 April 2012)
MDG-910-G16-M <i>From Malaria control towards malaria eradication: speed up malaria control activities with a view to eradication in Madagascar</i>	SALAMA	Phase I - In progress	20,273,047	16,397,630
MDG-910-G18-M <i>From Malaria control towards malaria eradication: speed up malaria control activities with a view to eradication in Madagascar</i>	AIM	Phase I - In progress	10,798,850	7,652,053

16. Aside from the NSA<sup>11</sup> grants, UGP is also a PR under Round 7<sup>12</sup> and had previously received funding under Rounds 3 and 4. This investigation covered selected transactions funded under the Round 7 grant to UGP.

**Figure 3: Global Fund Round 7 grant to UGP as Principal Recipient**

Grant number and title	Phase and status	Total signed amount, USD	Total disbursed amount, USD (30 April 2012)
MDG-708-G09-M <i>Madagascar: from malaria control to elimination 2007-2012</i>	Phase II - In progress	29,952,321	24,170,652

17. In addition to the work directly undertaken by the OIG, additional assurance work in relation to the NSA grant to Pact was carried out through a forensic audit commissioned by Pact on one of its SRs, Croix Rouge Malagasy (CRM). It was conducted by Cabinet 3A Madagascar in consultation with the Global Fund’s Secretariat and the OIG and found that USD 68,251 of funds from the NSA grant to Pact were subject to “fraudulent, ineligible or unjustified expenditures” incurred by CRM. Similarly, USD 163,329 was reported by Cabinet 3A as insufficiently supported expenditures, or expenditures not processed in accordance with CRM’s internal control procedures. The findings of Cabinet 3A Madagascar are expected to be followed up directly by the Global Fund’s Secretariat and are not further discussed in this report.

<sup>11</sup> MDG-910-G17-M grant agreement between UGP and the Global Fund signed on 20 September 2010

<sup>12</sup> MDG-708-G09-M grant agreement between UGP and the Global Fund signed on 25 August 2008

## F. Investigative Findings

### F.1. Contracts Following a Restricted National Tender in 2010 by UGP Involving Irregularities and Overpricing by Vendors

18. In the case of the restricted national tender carried out in 2010 for the purchase of supplies and equipment for the indoor residual spraying campaign ("Campagnes d'Aspersion Intra Domiciliaire" or "CAID campaign"), financed under both the NSA and Round 7 grants to UGP, the OIG found that:

- (a) two "groups" of vendors, thereafter referred to as Group A-2010 and Group B-2010 (four vendors in Group A-2010 and four vendors in Group B-2010) colluded among themselves and submitted bid documentation that was not prepared independently by each vendor;
- (b) UGP's Procurement Unit Official together with Junior Official of UGP's Procurement Unit preselected three of the four vendors in Group A-2010 to be invited to bid; and the preponderance of evidence shows that one of these three vendors, "Sitraka", played a prominent role in Group A-2010 and provided the names of the two other vendors in Group A-2010 to UGP's Procurement Unit;
- (c) UGP's Procurement Unit Official also preselected another vendor (not part of the two above Groups) to be invited to bid, which was an entity owned by her niece, without disclosing this relationship to either her supervisor or the Tender Committee; and
- (d) as a consequence, the bidding process was not competitive and transparent, and the contracts awarded to six out of the seven winning vendors for the total of USD 640,146<sup>13</sup> financed through the Global Fund grant funding were compromised. Of this amount, and according to the OIG's best possible assessment, USD 329,609 appears to have been charged in excess of the market prices of purchased products.<sup>14</sup>

#### F.1.1. UGP's Procurement Unit Official and Junior Official preselected four vendors to be invited to bid.

19. Due to the urgency of the 2010 CAID campaign, an exception was made in the PSM plan for the first year of the NSA grant, and a restricted national tender procedure was carried out by inviting preselected vendors to bid.<sup>15</sup>

20. UGP's internal procedures<sup>16</sup> provide that a minimum of six vendors need to be invited to participate in a restricted national tender procedure. Vendors are preselected from the internal register maintained by UGP's Procurement Unit which includes names, addresses, phone numbers, emails and activity domain. Vendors who occasionally submit their business cards as well as those who bid in tenders are entered into the register.<sup>17</sup> UGP's Procurement Unit staff verifies registration numbers submitted by vendors as part of their bidding applications with the relevant Malagasy authorities prior to any contract award, however no

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<sup>13</sup> MGA 1,398,558,000, according to exchange rate on the bid submission date of 20 August 2010

<sup>14</sup> Details of the market price calculation are provided in Annex 4.

<sup>15</sup> Annex 1, Section 2 of the PSM Plan. The Global Fund-approved PSM Plan for UGP's expenditures under the NSA grant provides that the protective equipment and maintenance products needed for CAID campaigns are to be acquired through open national tender procedures given that the estimated value of these procurements is more than USD 160,000 for each year. The PSM plan foresaw an exception that in the first year of the grant these products can be purchased through a restricted national tender procedure.

<sup>16</sup> Not all of these procedures are evidenced in writing (except as in the Procurement and Supply Management (PSM) plan for the grant) and were described to the OIG by UGP's Procurement Unit Official, Junior Official of UGP's Procurement Unit and the assistants of UGP's Procurement Unit, on 4 and 7 May 2012. In conducting the restricted national tender for the 2010 CAID campaign, UGP's Procurement Unit was compliant with the internal procedures described to the OIG.

<sup>17</sup> "Repertoire Fournisseurs"

information submitted by vendors is verified by UGP Procurement Unit prior to including the vendor's information on to the internal register.<sup>18</sup>

21. UGP's Procurement Unit Official makes the final preselection of vendors who will be invited to bid.<sup>19</sup> Prior to officially signing off on this list, UGP's Senior Official is unable to verify anything other than whether the procedural requirements for vendor preselection as described above have been met.<sup>20</sup>

22. The documentation for the 2010 CAID campaign tender was prepared by UGP's Procurement Unit and handed over to the vendors in hard copy. It contained the following: an invitation letter, a list of contract conditions, a bill of quantities, technical specifications, and submission templates.

23. In the 2010 CAID campaign tender files maintained by UGP's Procurement Unit, the OIG found a handwritten note listing the names of four vendors (the OIG has replaced full names of all vendors with symbolic first names): Sitraka, Claudine, Jacquie and Carina.<sup>21</sup> Both UGP's Procurement Unit Official and Junior Official of UGP's Procurement Unit told the OIG that this note was drawn to list the first four vendors to be invited to bid. According to their own statements, Junior Official of UGP's Procurement Unit wrote out the names of the first three entities (Sitraka, Claudine and Jacquie) while UGP's Procurement Unit Official wrote the fourth (Carina). According to their statements, seven additional vendors to be invited to bid were preselected by one of the UGP's Procurement Unit's assistants from the internal register maintained by UGP's Procurement Unit.<sup>22</sup> However, neither UGP's Procurement Unit Official, nor Junior Official of UGP's Procurement Unit, nor any of the assistants could recall who exactly drew the list of the seven additional vendors.<sup>23</sup>

24. Both UGP's Procurement Unit Official and Junior Official initially told the OIG that all four listed vendors had prior successful experiences with providing goods to UGP.<sup>24</sup> However, the OIG finds that this was not the case. Although the OIG requested evidence from UGP's Procurement Unit of other contracts successfully completed by these vendors, UGP's staff did not produce any such documentation. In fact, UGP's Procurement Unit Official told the OIG that she added Carina to the vendor list because this entity was owned by her niece and confirmed that Carina had no prior experience working with UGP.<sup>25</sup>

25. The OIG also interviewed the vendors' representatives directly and confirmed that none had previously supplied goods to UGP.<sup>26</sup> In the case of Sitraka, the 2010 CAID campaign was the first contract for this vendor with UGP, although another entity, Nirina, owned by the mother of the owner of Sitraka, had previously been awarded contracts financed through Global Fund grants to UGP, including a contract awarded under the 2009 CAID campaign and financed under the Round 7 grant to UGP (see section F.2 regarding irregularities under this contract).<sup>27</sup>

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<sup>18</sup> Interviews with UGP's Procurement Unit Official, Junior Official of UGP's Procurement Unit and the assistants of UGP's Procurement Unit, on 4 and 7 May 2012

<sup>19</sup> Interviews with UGP's Procurement Unit Official, on 4 May 2012; Junior Official of UGP's Procurement Unit, on 7 May 2012; and with the assistants of UGP's Procurement Unit, on 7 May 2012

<sup>20</sup> Interviews with UGP's Procurement Unit Official, on 4 May 2012; and with UGP's Senior Official, on 5 May 2012

<sup>21</sup> Handwritten note listing the names of four vendors, found in UGP's 2010 CAID campaign tender files

<sup>22</sup> Interviews with UGP's Procurement Unit Official, on 4 May 2012; and with Junior Official of UGP's Procurement Unit on 7 May 2012

<sup>23</sup> Interviews with UGP's Procurement Unit Official, on 4 May 2012; with Junior Official of UGP's Procurement Unit on 7 May 2012; and with the assistants of UGP's Procurement Unit, on 7 May 2012

<sup>24</sup> Interviews with UGP's Procurement Unit Official, on 4 May 2012; and with Junior Official of UGP's Procurement Unit, on 7 May 2012

<sup>25</sup> Interview with UGP's Procurement Unit Official, on 4 May 2012

<sup>26</sup> Information about the OIG's interviews with vendors' representatives is outlined in more detail in the text below.

<sup>27</sup> Nirina's and Sitraka's representative (who is also the owner of Nirina) who was interviewed by the OIG, according to her own statement, supervises the work of her daughter's enterprise (Sitraka) and actively assists with developing her business.

**F.1.2. Vendors Sitraka, Claudine, Jacquie and Andry (Group A-2010) submitted bid documentation that was not prepared independently by each vendor; Sitraka's representative benefited from favoritism by UGP's Procurement Unit Official.**

26. The OIG identified numerous identical elements in the documentation submitted to UGP by three of the winning bidders – namely, Sitraka, Claudine and Jacquie – and one losing bidder, Andry. The three winning vendors all appear in the handwritten note listing the “pre-selected vendors” described in section F 1.1 above.

27. Various documents submitted by the four vendors (Group A-2010) bear elements indicating that they were created by one individual or a group of individuals acting in concert. Bills of quantities (“bordereaux des prix”) and technical specifications included in these vendors' bids show identical typing mistakes, wording and capitalizations. The OIG notes that forms submitted are different from the request for quotation template provided by UGP in hard copy to all vendors who were invited to submit their bids (see Figures 7 to 10 in Annex 3).

28. As a result of *collusive practices*, a total of USD 289,092 out of the USD 462,066<sup>28</sup> paid to Sitraka, Claudine, and Jacquie through Global Fund financed contracts, is charged in excess of the market prices for the purchased items. Detailed information on how the OIG calculated the amounts charged in excess of the market prices is provided in Annex 4.

29. Among the files maintained at UGP, the OIG also found documents addressed to Jacquie but signed and dated for receipt by Sitraka (see Figure 11 in Annex 3).

30. On 4 May 2012, when UGP's Procurement Unit Official was presented with these materials (shown in Figure 11 in Annex 3), she told the OIG that she had not been aware of any irregularities in the documentation submitted and that neither she nor her staff were aware of any connection between the two vendors.<sup>29</sup>

31. On 5 May 2012, the OIG team interviewed Sitraka's representative<sup>30</sup> who is also the owner of Nirina, and showed her the bottom part of one of the letters displaying the signature “Sitraka” presented in Figure 11. Sitraka's representative could not see the name of the addressee – Jacquie – or the body of the letter. Sitraka's representative confirmed that the signature was hers and immediately thereafter said that she signed on behalf of Jacquie as a courtesy to Jacquie's representative when she picked up the letter at UGP's premises.<sup>31</sup> Asked how she could have known that the letter presented to her had been addressed to Jacquie *without* having seen the portion indicating the addressee's name, Sitraka's representative told the OIG that this had been the sole instance when she signed for a document on behalf of someone else and thus remembers it very well.<sup>32</sup>

32. In fact, and as Figure 11 shows, this statement is not true, as two documents signed on behalf of Jacquie on 1 October 2010 and 7 October 2010 bear the “Sitraka” signature.

33. In addition, the OIG found (see Figure 12 in Annex 3) that a request for clarification prepared by UGP on 31 August 2010 for Andry bore the signature “Sitraka”, and the reverse - the same document addressed to Sitraka was signed “Andry”.

34. Although Sitraka's representative told the OIG that she has only been in contact with two of UGP Procurement Unit's assistants and does not know UGP's Procurement Unit Official,<sup>33</sup> evidence identified by the OIG belies this statement. UGP's Procurement Unit Official informed the OIG of a greater relationship than that described by Sitraka's

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<sup>28</sup> MGA 1,009,497,500, according to exchange rate on the bid submission date of 20 August 2010

<sup>29</sup> Interview with UGP's Procurement Unit Official, on 4 May 2012

<sup>30</sup> The interview was conducted at a large compound which serves as both a home and office for the family's enterprises.

<sup>31</sup> Interview with Sitraka's representative, on 5 May 2012

<sup>32</sup> Interview with Sitraka's representative, on 7 May 2012

<sup>33</sup> Interview with Sitraka's representative, on 5 May 2012

representative. For instance, on one occasion UGP's Procurement Unit Official had asked Sitraka's representative if she could suggest vendors who might be willing and able to work with UGP on an urgent non-Global Fund sponsored purchase.<sup>34</sup>

35. Vendors made contradictory statements to the OIG regarding the similarities found in the documents submitted to UGP presented above. Some attributed them to the fact that most vendors prepare their bids at the same few cyber cafes in existence in Antananarivo.<sup>35</sup> The OIG is of the opinion that this could not explain any of the types of similarities found in the documents from different vendors. Some vendors could not recall who picked up the materials required for bid submission materials at UGP's premises, or whether these materials were made available by UGP in electronic or paper format. Some confirmed having collaborated with Sitraka when working on this and/or other projects in the past.<sup>36</sup>

36. Other evidence was obtained by the OIG from confidential sources that at least some of the vendors did not submit any of their credentials (e.g. business cards) to UGP at all and that Sitraka's representative informed at least some of them about UGP's restricted tender, prepared the bids, set the prices for the items offered, and submitted the bids under other vendors' names to UGP. In addition, Sitraka's representative decided on how the profits were to be divided among vendors.<sup>37</sup>

37. Documentation obtained by the OIG (see Figure 13 in Annex 3) shows that on 18 November 2010 and 7 December 2010 Claudine received payments of USD 8,365<sup>38</sup> and USD 18,698<sup>39</sup> from UGP for delivery of a contract financed through the Global Fund's NSA and Round 7 grants, of which all but USD 1,353<sup>40</sup>, or 95 percent of the amount paid into Claudine's account was transferred back to Sitraka's representative. In addition, the OIG found USD 1,807 of this amount to have been charged in excess of the market prices of the products delivered. Detailed information on how the OIG calculated the amounts charged in excess of the market prices is provided in Annex 4.

38. Based on the foregoing, the OIG concluded by the preponderance of evidence that (1) UGP's Procurement Unit Official and/or Junior Official of UGP's Procurement Unit obtained three names included in the list of pre-selected vendors – Sitraka, Jacquie and Claudine – from Sitraka's representative. Despite the fact that none of these companies had prior experience working with UGP and the three companies' bid documentation contained multiple identical elements, contracts were awarded by UGP to these entities; (2) bids submitted by multiple vendors were prepared and submitted to UGP by a representative of Sitraka's; (3) after the OIG presented UGP's Procurement Unit Official with evidence of collusion on 4 May 2012, she informed Sitraka's representative, prior to this vendor representative's meeting with the OIG, about the OIG's findings on irregularities as further evidenced by Sitraka's representative's responses on 5 May 2012 (notwithstanding that UGP's Procurement Unit Official was requested to keep her discussion with the OIG in confidence).

39. UGP's Procurement Unit Official in her comments on the OIG's draft investigation report disagreed with the above findings "(1)" and "(3)". She stated that the three vendors – Sitraka, Jacquie and Claudine – were preselected from UGP's Procurement Unit's internal vendor register. Nevertheless, the OIG finds her statement conflicting with other evidence obtained by the OIG from confidential sources.<sup>41</sup> She stated that she did not inform Sitraka's

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<sup>34</sup> Interview with UGP's Procurement Unit Official, on 4 May 2012

<sup>35</sup> Interviews with vendor representatives, in May and June 2012

<sup>36</sup> Interviews with vendor representatives, in May and June 2012

<sup>37</sup> This evidence is consistent with other facts established by the OIG and meets the required evidentiary standard.

<sup>38</sup> MGA 18,275,000 according to exchange rate on the bid submission date, 20 August 2010

<sup>39</sup> MGA 40,850,000 according to exchange rate on the bid submission date, 20 August 2010

<sup>40</sup> MGA 2,956,250 according to exchange rate on the bid submission date, 20 August 2010

<sup>41</sup> As already mentioned before, this evidence is consistent with other facts established by the OIG and meets the required evidentiary standard.

representative prior to the latter's meeting with the OIG. However, the OIG finds by preponderance of evidence (discussed in paragraph 31 above) that this cannot be true.

### **F.1.3. Failure to Disclose Family Relationship with a Vendor**

40. As mentioned in Section F.1.1 of this report, according to UGP Procurement Unit Official's statement to the OIG, she added Carina to the list of vendors invited to bid under the 2010 CAID campaign because the owner of the company is her niece.<sup>42</sup>

41. Carina was awarded a contract under the tender for the 2010 CAID campaign for the purchase of soaps, plastic buckets and bowls<sup>43</sup> in the amount of USD 29,831.<sup>44</sup> The OIG found that the items delivered were charged by USD 6,614 more than the market price of these items. Detailed information on how the OIG calculated the amounts charged in excess of the market prices is provided in Annex 4.

42. On 9 May 2012, Carina's representative, who identified himself as the husband of Carina's listed owner<sup>45</sup> and the owner of a vendor named Vatosoa, contacted the OIG from a previously unknown telephone number after the OIG asked UGP's Procurement Unit Official to facilitate communication with Carina's representatives. Carina's and Vatosoa's representative who spoke to the OIG pointed out, contrary to UGP Procurement Unit Official's statements, that Carina is only the first name of his wife and not a name of a vendor,<sup>46</sup> and that the only entity he and his wife could have bid under is Vatosoa, of which his wife is the listed owner.<sup>47</sup>

43. Vatosoa bid for and was awarded on 25 March 2011 two contracts for warehouse construction services<sup>48</sup> totaling USD 35,605.<sup>49</sup> UGP's Procurement Unit Official was a member of the Tender Committee that recommended the award of contracts for the construction of warehouse facilities financed through the NSA grant to Vatosoa.<sup>50</sup>

44. Despite the fact that upon request, UGP's Procurement Unit Official put Carina's representative in touch with the OIG, Carina's and Vatosoa's representative firmly stressed that he does not even know a name of anyone working at UGP's Procurement Unit.<sup>51</sup>

45. UGP's Procurement Unit Official did not disclose her family relationship with Carina and Vatosoa to UGP's Procurement Unit Official's supervisor or the Tender Committee, prior to the procurement decisions made. The OIG is of the opinion that, through this omission, UGP's Procurement Unit Official failed to comply with the terms of her consultancy contract with UGP. The contract provides the following in relation to conflict of interest:

*The Consultant agrees that, for the duration of the present contract and after its expiration, neither the Consultant nor any affiliated entity shall be authorized to supply the goods, work or services (other than Services (as defined by contract) and any extension of*

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<sup>42</sup> Interview with UGP's Procurement Unit Official, on 4 May 2012

<sup>43</sup> For more information please see UGP Tender Committee meeting minutes, dated 15 September 2010

<sup>44</sup> MGA 65,173,000 according to exchange rate on the bid submission date, 20 August 2010

<sup>45</sup> UGP's Procurement Unit Official informed the OIG team that "[her] niece's husband takes care of all business at Carina," on 7 May 2012. The name of UGP Procurement Unit Official's niece is listed as Carina's owner on the documents available within UGP's 2010 CAID campaign tender files.

<sup>46</sup> Interview with the representative of Carina and Vatosoa on 9 May 2012

<sup>47</sup> Interview with the representative of Carina and Vatosoa on 9 May 2012. The OIG finds that the same company registration and tax identification numbers were submitted by both Carina and Vatosoa in their 2010 (CAID campaign) and 2011 (warehouse construction) bids, respectively, while the same company registration and a different tax identification number were provided by Carina in the bid submission documents for the 2011 CAID campaign open tender.

<sup>48</sup> UGP's Tender Committee recommendation of contract award meeting minutes issued on 31 January and 3 February 2011; contract between UGP and Vatosoa

<sup>49</sup> MGA 73,169,072 according to exchange rate on the bid submission date, 31 January 2011

<sup>50</sup> Tender Committee recommendation of contract award meeting minutes issued on 31 January and 3 February 2011

<sup>51</sup> Interview with Carina's and Vatosoa's representative on 9 May 2012

*Services) for any project that results from said Services or that the Consultant is closely linked to.*<sup>52</sup>

46. When questioned regarding this clause by the OIG, UGP's Procurement Unit Official stated that, in her view, the conflict of interest clause of the contract refers to immediate family, such as husband and children. Therefore, she contended that she did not do anything that is not in accordance with her employment contract.<sup>53</sup> The OIG finds that, nevertheless, UGP's Procurement Unit Official, in her position, should have disclosed her family relationship with the vendor to UGP's Procurement Unit Official's supervisor or the Tender Committee.

**F.1.4. Vendors Mamy, Haingoarivao, Fitiavana and Maria (Group B-2010) submitted bid documentation that was not prepared independently by each vendor.**

47. The OIG found that bid documents submitted on behalf of the winning bidders Mamy and Haingoarivao, as well as losing vendors Fitiavana and Maria (altogether referred to as Group B-2010), were not prepared independently. Winning vendors' contracts, worth in total USD 148,249<sup>54</sup> were charged to the Global Fund sponsored grants by USD 33,903 in excess of the market prices of the purchased products. Detailed information on how the OIG calculated the amounts charged in excess is provided in Annex 4.

48. As demonstrated in the Figure 14 in Annex 3, identical mistakes in cover letters and the same wording changes were made to UGP's template in documents submitted by winning vendors Mamy, Haingoarivao and Fitiavana. The OIG notes that forms submitted are different from the request for quotation template provided by UGP in hard copy to all vendors who were invited to submit their bids.

49. Bills of quantities submitted by Mamy, Haingoarivao and Fitiavana use the same table template and closely similar headings (see Figure 15 in Annex 3).

50. Identical oval and round shaped stamps were used on bid documents submitted by Fitiavana and Maria (see Figure 16 in Annex 3).

**F.1.4.1 Fitiavana**

51. Fitiavana's representative told the OIG that she "never used an elliptical-shaped stamp, but a round shaped and a triangle shaped stamp with the name Fitiavana on it", and that it was "impossible someone else could have used her stamp".<sup>55</sup> Despite several attempts by the OIG to obtain copies of documents on which Fitiavana's stamp had been used (for comparison purposes), these were not provided by Fitiavana's representative.

52. Fitiavana's credibility is undermined by the fact that she was inconsistent in her statements to the OIG. For example, she first told the OIG team that she learned about the tender for the 2010 CAID campaign through "an announcement in the newspaper".<sup>56</sup> However, the 2010 CAID campaign tender was organized through a restricted consultation of vendors whom UGP's Procurement Unit invited by telephone to submit bids. No evidence that advertisements were placed on announcement boards or in newspapers has been identified. Subsequently, Fitiavana's representative told the OIG that it was the UGP's Procurement Unit Official that called and invited her to submit a bid.<sup>57</sup>

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<sup>52</sup> The original text of Article 8 of the consultancy contract template provides: *Activités interdites au Consultant : Le Consultant convient que, pendant la durée du présent Contrat et après son expiration, ni lui-même ni toute entité qui lui est affiliée ne seront autorisés à fournir des biens, travaux, ou services (autres que les Services ou toute prolongation desdits Services) pour tout projet qui résulterait desdits Services ou lui serait étroitement lié.*

<sup>53</sup> Interview with UGP's Procurement Unit Official, on 11 May 2012

<sup>54</sup> MGA 323,887,500 according to exchange rate on the bid submission date, 20 August 2010

<sup>55</sup> Interview with Fitiavana's representative, on 10 July 2012

<sup>56</sup> Interview with Fitiavana's representative, on 10 July 2012

<sup>57</sup> Interview with Fitiavana's representative, on 10 July 2012

53. In addition, during the course of review of additional documentation related to the restricted tender for the 2010 CAID campaign, the OIG found (see Figure 17 in Annex 3) that the request for clarifications prepared by UGP on 31 August 2010 for Fitiavana bore the signature of Maria's representative.

#### **F.1.4.2 Maria**

54. Maria's representative said in her interview with the OIG that she only "signed the documents submitted to UGP, without even reading them". According to her, it was another supplier, a company owned by her aunt, who prepared the bidding documents. It was explained that this was done because her aunt had more experience with tender submissions.<sup>58</sup>

55. Maria's representative's aunt (sic) confirmed to the OIG that she had in fact prepared the paperwork submitted on behalf of the enterprise owned by her niece, Maria's representative. However, she reportedly made no suggestions about the prices submitted in Maria's bid nor had she stamped the paperwork sent to UGP.<sup>59</sup>

56. This vendor's representative's aunt also told the OIG that she found out about the tender organized by UGP through "an announcement board at the Malagasy Ministry of Public Health".<sup>60</sup> However, as noted above, UGP contacted prospective vendors by telephone, and no advertisements were made at any time for the 2010 CAID campaign tender.<sup>61</sup>

#### **F.1.4.3 Mamy**

57. Despite numerous efforts, the OIG team was unable to reach any representative of Mamy until on 30 July 2012 an OIG representative visited the premises listed as the vendor's location on UGP's records. When the OIG representative gave the name of Mamy's owner to the building concierge, a woman came down to the lobby. When the OIG representative introduced himself, this woman declined to speak any further.

#### **F.1.4.4 Haingoarivao**

58. Repeated efforts by the OIG to reach a representative of Haingoarivao failed.<sup>62</sup>

### **F.1.5. Prices submitted by bidders were inflated**

59. UGP received ten bids for the 2010 CAID contract awards<sup>63</sup> and reviewed them through the Tender and Technical Committees.<sup>64</sup> Contracts for different lots totaling USD 646,598<sup>65</sup> were awarded to seven suppliers on 11 October 2010, out of which contracts totaling USD 640,146<sup>66</sup> and awarded to six suppliers (Sitraka, Claudine, Jacquie, Carina, Mamy and Haingoarivao) were compromised by the abovementioned procurement irregularities.<sup>67</sup>

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<sup>58</sup> Interview with Maria's representative, on 11 July 2012

<sup>59</sup> Interview with Maria's representative's aunt (sic), on 13 July 2012

<sup>60</sup> Interview with Maria's representative's aunt (sic), on 13 July 2012

<sup>61</sup> Interviews with the UGP's Procurement Unit Official, Junior Official of UGP's Procurement Unit and the assistants of UGP's Procurement Unit, on 4 and 7 May 2012

<sup>62</sup> There are no indications of this vendor residing or having business at the address provided to UGP in bid documentation. The phone number for this vendor available at UGP was answered by a person who denied any relation to the vendor. This person told the OIG that it had been in possession of this number for over three years.

<sup>63</sup> All invited vendors but one, Valisoa, submitted their bids.

<sup>64</sup> Tender Committee opened the envelopes containing bids received on 20 August 2010. In accordance with UGP's procedures, Technical Committee evaluated the bids prior to handing the evaluation report to the Tender Committee for endorsement. Tender Committee issued its recommendations for contract awards on 15 September 2010.

<sup>65</sup> MGA 1,412,655,000 according to exchange rate on the bid submission date, 20 August 2010

<sup>66</sup> MGA 1,398,558,000 according to exchange rate on the bid submission date, 20 August 2010

<sup>67</sup> The OIG finds that the seventh vendor, Voahanginirina, had not been involved in any of the identified collusive groups of vendors.

60. In 2011 an open national tender was conducted for the procurement of essentially the same materials as for the 2010 CAID campaign. Only one of the eleven vendors who were invited to bid for the 2010 tender, Carina, submitted a bid for the 2011 tender.<sup>68</sup>

61. A comparison of bids received in 2010 and 2011 for the CAID tenders revealed a significant discrepancy in prices of certain items (see Figure 4). This pattern is evidenced in the prices of 15 items submitted under the 2010 tender. For example, the price paid by UGP for rain boots was USD 22.29 per unit in 2010 compared to USD 7.09 for similar boots in 2011. Similarly, UGP paid USD 11.44 for a rain coat in 2010, as compared to USD 2.98 in 2011.

Figure 4: Price discrepancy between the items procured in 2010 and 2011<sup>69</sup>

Description of goods (in French and English)	Price paid per item in October 2010, USD <sup>70</sup>	Price paid per item in September 2011, USD <sup>71</sup>
Overall ( <i>combinaison</i> )	16.48	10.67
Dust mask or cover ( <i>masque ou cache poussière</i> )	0.41 – 0.43	0.04
Cotton socks ( <i>chaussettes en coton</i> )	3.62	2.98
Rain boots ( <i>bottes de pluie</i> )	22.29	7.09
Helmet with eyeshade ( <i>casque avec visière</i> )	9.84	4.96
Raincoat ( <i>imperméable</i> )	11.44	2.98
Laundry soap, 150 g ( <i>savon de ménage, 150 g</i> )	0.55	0.32
Plastic bucket, 15 l ( <i>seau en plastique, 15 l</i> )	2.11	1.61
Plastic bucket, 8 l ( <i>seau en plastique, 8 l</i> )	1.37	-
Plastic bowl ( <i>cuvette en plastique</i> )	2.75	-
Towel ( <i>serviette de toilette</i> )	2.98	1.98
Funnel ( <i>entonnoir</i> )	2.75	-
Colander ( <i>passoire</i> )	1.37	-
Backpack ( <i>sac au dos en bandoulière</i> )	1.6	1.14
Work gloves, elastomer coated (nitrile/textile backed) ( <i>gants de travail, revêtement élastomère (nitrile sur support textile)</i> )	23.8	18.85

62. The sharply higher prices charged for goods in the 2010 CAID tender as compared to those purchased in 2011 are particularly notable given that between August 2010 (when the vendors bid for the 2010 tender) and July 2011 (when the vendors bid for the 2011 tender) there was a cumulative inflation of 8.64% in Madagascar.<sup>72</sup> Taking into account the local political situation at the time the 2010 CAID campaign tender took place, the OIG also inquired with market participants such as vendors interviewed and the LFA<sup>73</sup> about the fluctuation of prices between 2010 and 2012 and found out from them that the prices have been on a steady increase during this period. The OIG thus finds that because the vendors in 2010 CAID tender did not bid independently, the prices bid by them were inflated.

63. In addition to comparing the 2010 and 2011 CAID tender prices, the OIG assessed the prices paid by UGP by comparing them to the prices charged<sup>74</sup> by seven retail merchants in Antananarivo<sup>75</sup> and the prices paid by three development agencies in Antananarivo for similar items.<sup>76</sup> Details of this analysis are set out in Annex 4.

<sup>68</sup> Carina's bid submission documentation found on UGP's files. Carina had not been awarded a contract under the 2011 CAID campaign tender.

<sup>69</sup> The 2010 prices of comparable items for the winning as well as the losing bids were higher than the prices received under the 2011 CAID campaign. The OIG's analysis of overpricing found that the items awarded to Voahanginirina enterprise, yellow clothes and cutters, were not overpriced as compared to the average market prices. The OIG also finds that this vendor, Voahanginirina, had not been involved in any of the identified collusive groups of vendors.

<sup>70</sup> According to exchange rate on the bid submission date, 20 August 2010

<sup>71</sup> According to exchange rate on the contract signature date with most suppliers, 15 September 2011

<sup>72</sup> According to the consumer price indices published by the Central Bank of Madagascar: [www.banque-centrale.mg](http://www.banque-centrale.mg)

<sup>73</sup> Interview with the LFA Official and the LFA Senior Official, on 11 May 2012

<sup>74</sup> Relevant products used for price comparison purposes are the ones with the same technical specifications as those products purchased under the 2010 CAID campaign.

<sup>75</sup> These vendors are: Mr. Bricolage, Batimax, Sanifer, Batpro, Score, Shoprite, and other. These are the types of outlets where vendors who took part in the 2010 CAID campaign were likely to have purchased the products themselves, given that there was no time to import any items from abroad.

<sup>76</sup> In the aftermath of the political crisis which began in 2009, donor funding was significantly cut and these items were among the few purchased in Madagascar by development agencies other than on behalf of the Global Fund in 2010.

64. While the UGP's Procurement Unit Official told the OIG that she thought during the bid evaluation that the prices charged were higher than market prices, the OIG notes that at the time of bid evaluation she did not question the reasonableness of these prices.<sup>77</sup>

65. After vendors submitted their bids, UGP's Tender Committee also failed to note that the prices submitted exceeded market prices.<sup>78</sup>

66. UGP's Senior Official, who has no access to any other information but the Tender Committee's recommendation, verified that the procedural requirements had been adequately noted on the corresponding documents and signed off on the contract awards.<sup>79</sup>

#### **F.1.6. Role of the LFA**

67. The LFA Official told the OIG that she is in charge of verifying that the prices of non-medical products purchased through Global Fund funding are reasonable. The LFA Official remembers having seen the 2010 CAID campaign tender documentation, but does not recall noticing any pricing or other discrepancy.<sup>80</sup> The LFA was satisfied with UGP's observance of relevant procedures and signed off on the tender documentation submitted by UGP.<sup>81</sup> The LFA provided its comments on the OIG's draft investigation report, which are set forth in Annex 2.

#### **F.1.7. Non-compliant Expenditure**

##### **F.1.7.1. The Global Fund's Right to Reimbursements**

68. Article 27 (b) of the Global Fund's Standard Terms and Conditions (STC) of the grant agreement establishes that the PR is liable to refund to the Global Fund any disbursement of the grant funds if there has been a breach by the PR of any provision of this grant agreement.<sup>82</sup>

69. On the basis of the totality of evidence presented herein, it is the OIG's view that, in connection with the 2010 tender for CAID equipment, UGP's Procurement Unit Official did not comply with the STC of the grant agreement between the Global Fund and UGP for grant MGA-910-G17-M, specifically Articles 9 and 18 (a) i, v, vi.<sup>83</sup>

70. It is the OIG's view that by failing to prevent the inappropriate *collusive practices* between bidders as well as by failing to disclose family relationship with vendors Carina and Vatosoa, UGP's Procurement Unit Official also did not comply with the STC of the above grant agreement, specifically Articles 21 (b) iv, v, vi; 21 (c) i, ii; and 21 (d).<sup>84</sup>

##### **F.1.7.2. Vendors' actions in contravention of the Code of Conduct for Suppliers**

71. The Code of Conduct for Suppliers requires all bidders, suppliers, agents, intermediaries, consultants and contractors ("Suppliers"), including all affiliates, officers, employees, subcontractors, agents and intermediaries of Suppliers (each a "Supplier Representative"), to observe the highest standard of ethics in Global Fund-funded activities regarding supply of goods and/or services to the Global Fund or any recipient of Global Fund

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<sup>77</sup> Interview with UGP's Procurement Unit Official, on 4 May 2012

<sup>78</sup> Tender Committee minutes, dated 15 September 2010

<sup>79</sup> Interview with UGP's Senior Official, on 4 May 2012. For more information and a description of UGP's procurement procedures, see section F.1.1 of this report.

<sup>80</sup> Interview with the LFA Official, on 14 August 2012

<sup>81</sup> Interview with the LFA Official and the LFA Senior Official, on 30 August 2012

<sup>82</sup> STC to the MGA-910-G17-M grant agreement between UGP and the Global Fund

<sup>83</sup> STC to the MGA-910-G17-M grant agreement between UGP and the Global Fund

<sup>84</sup> STC to the MGA-910-G17-M grant agreement between UGP and the Global Fund

financing, including PRs, SRs, other recipients, CCMs, procurement agents and first-line buyers.<sup>85</sup>

72. Breaches of this Code may result in a decision by the Global Fund to sanction the Supplier and/or Supplier Representative involved, suspend disbursements to grant recipients or cancel funding.<sup>86</sup>

73. The OIG found that various entities who bid under the tender for the 2010 CAID campaign did not comply with one or more of the provisions of the Code of Conduct for Suppliers, specifically Articles 7, 8, 9, 10, 11, 13, 17 and 24.<sup>87</sup>

### **F.1.7.3. Calculation of Non-compliant Expenditures**

74. Based on the foregoing, the OIG identified that, out of the total contract value of USD 646,598<sup>88</sup> in 2010 CAID campaign tender funded through the NSA and Round 7 grants to UGP, the non-compliant expenditures due to award of contracts to six out of the seven winning vendors, which were compromised by procurement irregularities, totaled USD 640,146.<sup>89</sup> Of this amount and according to the OIG's best possible assessment, UGP overpaid for goods delivered approximately USD 329,609 or 104% in excess of the market prices. Detailed information on how the OIG calculated the amounts charged in excess is provided in Annexes 4 and 5.

## **F.2. Contracts Following a Restricted National Tender in 2009 by UGP Involving Irregularities and Overpricing by Vendors**

75. In the case of the restricted national tender for the purchase of supplies and equipment for the 2009 CAID campaign (undertaken through three simultaneous tender procedures and financed under the Round 7 grant to UGP<sup>90</sup>), the OIG found that:

- (a) four "groups" of vendors (involving altogether 15 vendors and referred to thereafter as Groups A-2009, B-2009, C-2009 and D-2009) agreed among themselves and submitted bid documentation prepared in coordination with each other;
- (b) the extent of this collusion could not have happened without the full or partial awareness of UGP's Procurement Unit Official;
- (c) as a result, the bidding process was not competitive, resulting in contracts awarded for the total of USD 203,454<sup>91</sup> financed through the Global Fund grant funding and compromised by the above irregularities. Of this amount and according to the OIG's best possible assessment, USD 53,328 appear to have been charged in excess of the market prices of purchased products.<sup>92</sup>

76. The OIG concluded on the above findings by the preponderance of evidence, which included: the participation in this tender of some of the vendors who were also involved with irregularities found in connection with the 2010 CAID campaign; identical mistakes and other identical elements made in bids submitted by all of the 15 vendors who bid in the tender; and the information provided to the OIG by a losing vendor.

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<sup>85</sup> Article 5 of the Code of Conduct for Suppliers, approved 15 December 2009 at the Executive Management Team Meeting of the Global Fund to Fight AIDS, Tuberculosis and Malaria.

The Code of Conduct for Suppliers applies to the NSA grant (MGA-910-G17-M) to UGP, from which contracts that were compromised by procurement irregularities and awarded to six vendors (Sitraka, Claudine, Jacquie, Carina, Mamy and Haingoarivao) were partially financed.

<sup>86</sup> Article 6 of the Code of Conduct for Suppliers

<sup>87</sup> Code of Conduct for Suppliers

<sup>88</sup> MGA 1,412,655,000, according to exchange rate on the bid submission date of 20 August 2010

<sup>89</sup> MGA 1,398,558,000, according to exchange rate on the bid submission date of 20 August 2010

<sup>90</sup> Grant MDG-708-G09-M

<sup>91</sup> MGA 393,164,450 according to average exchange rate for the bid submission dates, 17-18 June 2009

<sup>92</sup> Details of the market price calculation are provided in Annex 4.

### **F.2.1. Background**

77. UGP's Senior Official alerted the OIG to the restricted tender organized in 2009 and financed through the Round 7 grant to UGP, after the OIG presented him with the irregularities identified in connection with the tender for the 2010 CAID campaign. He stated that based on the OIG's findings it seemed as if there were serious issues in connection with the 2010 tender procedures.<sup>93</sup>

78. In June 2009, UGP undertook three separate procurements worth USD 203,454<sup>94</sup> in total for the purchase of materials necessary for the 2009 CAID campaign (2009 CAID tenders).<sup>95</sup> Restricted national tender procedures were applied.<sup>96</sup>

79. Vendors submitted bids on 17 and 18 June 2009, respectively.<sup>97</sup> Based on the Technical Committee's evaluation, the Tender Committee recommended the award of five contracts as follows:

(a) Under the first tender procedure:

- contract for delivery of overalls in the amount of USD 89,694<sup>98</sup> to Andriamampierika;

(b) Under the second tender procedure:

- contract for delivery of raincoats and helmets with eye protection in the amount of USD 43,015<sup>99</sup> awarded to Nirina;
- contract for delivery of socks in the amount of USD 18,163<sup>100</sup> awarded to Tahina; and
- contract for delivery of rain boots in the amount of USD 8,694<sup>101</sup> awarded to Landy Vola;

(c) Under the third tender procedure:

- contract for delivery of soaps, buckets, bowls, towels, cloths, backpacks, cutters, funnels and colanders in the amount of USD 43,888<sup>102</sup> awarded to Rasoarimanga.

### **F.2.2. Collusion among vendors**

80. The OIG identified identical elements in documents between all bidders for each of the 2009 CAID tenders and concluded, based upon this and other evidence, that these bids had not been prepared independently one from another.

#### **F.2.2.1. Irregularities found in connection with the first and the third of 2009 CAID tenders**

81. All six vendors (José, Andriamampierika, Herman, Haingoarivao, Miharisoa, and Andrianarisoa) or Group A-2009 who bid under the first of 2009 CAID tenders for the procurement of overalls had identical mistakes in their bids.<sup>103</sup> Haingoarivao was the vendor who was also part of Group B-2010 of vendors in the 2010 CAID campaign tender. Its representatives remained unreachable despite the OIG's numerous efforts (see section F.1.4.4).

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<sup>93</sup> Interview with UGP's Senior Official, on 4 May 2012

<sup>94</sup> MGA 393,164,450 according to average exchange rate for the bid submission dates, 17-18 June 2009

<sup>95</sup> UGP's Procurement Unit invited six vendors for the first tender (José, Andriamampierika, Herman, Haingoarivao, Miharisoa, and Andrianarisoa); six for the second five of whom responded (Nirina, Sahondra Nirina, Jeanne, Tahina, and Landy Vola); and five vendors for the third tender, with four submitting their bids (Rasoarimanga, Marie Marthe, Sambatra, and Alain).

<sup>96</sup> UGP's PSM Plan for the Round 7 grant (Phase 1) provides that procurements for the CAID campaign are to be undertaken following a restricted national tender ("consultation de fournisseurs nationaux") procedure.

<sup>97</sup> Tender Committee meeting minutes

<sup>98</sup> MGA 173,328,750 according to average exchange rate for the bid submission dates, 17-18 June 2009

<sup>99</sup> MGA 81,801,600 according to average exchange rate for the bid submission dates, 17-18 June 2009

<sup>100</sup> MGA 35,100,000 according to average exchange rate for the bid submission dates, 17-18 June 2009

<sup>101</sup> MGA 16,800,000 according to average exchange rate for the bid submission dates, 17-18 June 2009

<sup>102</sup> MGA 84,810,700 according to average exchange rate for the bid submission dates, 17-18 June 2009

<sup>103</sup> Bids of José, Andriamampierika, Herman, Haingoarivao, Miharisoa, and Andrianarisoa

82. Also all four vendors (Rasoarimanga, Marie Marthe, Sambatra, and Alain) or Group B-2009 which bid under the third of 2009 CAID tenders had identical elements in the bid materials submitted.<sup>104</sup>

83. Representative of Mamy, the vendor who was part of group B-2010 of vendors in the 2010 CAID campaign tender, represented other vendors in the first of 2009 CAID tenders. Representative of Mamy signed for the receipt of the tender documentation on behalf of Miharisoa<sup>105</sup> and was listed as José's representative in the bid opening session.<sup>106</sup> Thus, although Mamy did not bid under its own name in any of the 2009 CAID tenders, the owner of Mamy submitted bids for two different vendors (who were part of Group A-2009).

84. False bid submissions were prepared on behalf of entities which did not participate in the tender. Andrianarisoa (part of Group A-2009) was one of the enterprises that was not selected during the first tender procedure for the delivery of overalls. The OIG contacted its representative who stated that her company only provides construction related services and never bid to supply overalls to UGP.<sup>107</sup> This is confirmed in her email set forth in Figure 18 in Annex 3. Andrianarisoa's representative further expressed her belief that the representative of Andriamampierika (also part of Group A-2009) used her name without informing her.<sup>108</sup>

85. Based upon the foregoing, the OIG concluded by the preponderance of evidence that the bids submitted under the names of the bidders in the first and the third of 2009 CAID tender procedures were not prepared independently from one another.

#### **F.2.2.2. Irregularities found in connection with the second of 2009 CAID tenders**

86. Two "groups" of vendors (Group C-2009: Nirina, Sahondra Nirina, and Jeanne; and group D-2009: Tahina and Landy Vola) under the second of 2009 CAID tenders contained identical elements in the bid materials submitted, between the bids in each "group" (see Figures 19 and 20 in Annex 3).<sup>109</sup>

87. Under the second tender, the vendor Nirina (part of Group C-2009) was awarded a USD 43,015<sup>110</sup> contract for the delivery of raincoats and helmets with eye protection. As mentioned in section F.1 of this report, Nirina is owned by the mother of the owner of Sitraka<sup>111</sup> (part of Group A-2010), which the OIG found to have colluded with other vendors (Group A-2010) in 2010 and benefited from favoritism by UGP's Procurement Unit Official. According to the OIG's best possible assessment, items delivered by Sitraka under the 2010 CAID campaign tender were charged by USD 243,607 in excess of market prices. Similarly, Nirina charged USD 4,036 above market prices for the items delivered under the 2009 CAID tender. Detailed information on how the OIG calculated the amounts charged in excess of the market prices is provided in Annex 4.

88. Nirina's bid included identical mistakes as those submitted under two other vendors' (Sahondra Nirina and Jeanne, both part of Group C-2009) names. These mistakes did not originate from the bid template provided by UGP to vendors (see Figure 19 in Annex 3).

89. Based upon the foregoing, the OIG concluded by the preponderance of evidence that the bids submitted under the names of the bidders in the second of 2009 CAID tender procedures were not prepared independently from one another.

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<sup>104</sup> Bids of Rasoarimanga, Marie Marthe, Sambatra, and Alain

<sup>105</sup> UGP's record of distribution of the tender documentation under the first of 2009 CAID tenders

<sup>106</sup> Tender Committee minutes of 17 June 2009

<sup>107</sup> Interview with Andrianarisoa's representative, on 25 October 2012

<sup>108</sup> Interview with Andrianarisoa's representative, on 25 October 2012

<sup>109</sup> Bids of Nirina, Sahondra Nirina, Jeanne, Tahina, and Landy Vola

<sup>110</sup> MGA 84,810,700 according to average exchange rate for the bid submission dates, 17-18 June 2009

<sup>111</sup> Nirina's and Sitraka's representative (who is also the owner of Nirina) who was interviewed by the OIG, according to her own statement, supervises the work of her daughter's enterprise (Sitraka) and actively assists with developing her business.

### F.2.3. Non-compliant Expenditures

90. Based on the foregoing and pursuant to Article 27 (b) of the grant agreement,<sup>112</sup> the OIG finds that the non-compliant expenditures, due to award of contracts to 15 winning vendors in 2009 CAID campaign tender funded through the Round 7 grant to UGP and compromised by procurement irregularities, totaled USD 203,454.<sup>113</sup> Of this amount and according to the OIG's best possible assessment, UGP overpaid for goods delivered approximately USD 53,328 or 36% in excess of the market prices. Detailed information on how the OIG calculated the amounts charged in excess of the market prices is provided in Annexes 4 and 6.

## F.3. SALAMA, in its Capacity as a Procurement Agent, Charged in Excess of the Agreed Amount from the NSA Grant to Pact.

### F.3.1. Background

91. In the effort to further build the capacity of the medical supply chain in Madagascar, the Global Fund required to some of its funding recipients the use of SALAMA, a non-profit association set up by the Malagasy Ministry of Public Health as a central medical store,<sup>114</sup> as their procurement agent for purchases of health products.<sup>115</sup>

92. The NSA grant agreement entered into between Pact and the Global Fund stipulated that Pact engage SALAMA as the procurement agent for its purchases of health products.<sup>116</sup> As of April 2012,<sup>117</sup> Pact had entered into three separate contracts with SALAMA for the purchase of goods financed through the Global Fund's grant to Pact:

- (i) 23 November 2011 contract (amended on 23 February 2012) for the purchase, storage and delivery of laboratory materials in the total amount of USD 270,643;<sup>118</sup>
- (ii) 27 March 2012 contract for the purchase and delivery of 91,125 doses of ACTs, including delivery, in the amount of USD 18,055;<sup>119</sup> and
- (iii) 10 April 2012 contract for the purchase and delivery of 27,900 rapid diagnostic tests (RDTs), in the amount of USD 29,029.<sup>120</sup>

93. Despite the fact that the OIG found no red flags in procurements undertaken by SALAMA under its own grant (except the issue reported in section F.4),<sup>121</sup> the OIG found that the aforementioned purchases of laboratory materials and RDTs by SALAMA on behalf of Pact financed through the Global Fund grant<sup>122</sup> show significant anomalies including price inflation and preferential contractual terms. Specifically, the OIG found that:

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<sup>112</sup> STC to the M-708-G09-M grant agreement between UGP and the Global Fund

<sup>113</sup> MGA 393,164,450 according to average exchange rate for the bid submission dates, 17-18 June 2009

<sup>114</sup> For more information, please see: [www.salama.mg](http://www.salama.mg)

<sup>115</sup> For more information, please see Section C.8. of the Annex A to the grant agreement MGA-910-G19-M between the Global Fund and Pact

<sup>116</sup> Section C. 8. of the Annex A to the grant agreement MGA- 910-G19-M signed on 28 September 2010 provides: "The Principal Recipient agrees to conduct the procurement of health products through SALAMA or alternatively through another procurement agent selected in accordance with the terms and conditions of this Agreement. In case the Principal Recipient wishes to engage a procurement agent different from SALAMA, the Principal Recipient shall provide to the Global Fund evidence in form and substance acceptable to the Global Fund upon review by the Local Fund Agent, that the selection process for the procurement agent was conducted in accordance with the terms and conditions of this Agreement."

<sup>117</sup> At the time when OIG reviewed SALAMA's procurement files

<sup>118</sup> MGA 589,584,528 according to the exchange rate on 23 February 2012

<sup>119</sup> MGA 38,496,160 according to the exchange rate on 27 March 2012

<sup>120</sup> MGA 61,457,467 according to the exchange rate on 10 April 2012

<sup>121</sup> The OIG reviewed SALAMA's electronic account records and identified a total of over USD 1.7 million in expenditures resulting from procurement tenders. Those expenditures related predominantly to the purchase of laboratory equipment, office equipment, vehicles and the elaboration and printing of documents. Of this amount, over USD 1 million was purchase for the benefit of SALAMA's four SRs. The OIG reviewed the tender files related to these purchases, as well as in addition for one new procurement of USD 0.6 million, for which no expenditure was incurred at the time of review, and overall, found that the files themselves and the related tender processes undertaken were adequate.

<sup>122</sup> Financed through the MGA-910-G19-M grant agreement

- (a) In two of the three contracts with Pact, SALAMA enjoyed preferential contractual terms, as these contracts omitted standard clauses relating to competitive and transparent procurement for the lowest possible price;<sup>123</sup>
- (b) SALAMA in its capacity as a procurement agent for Pact initially attempted to charge USD 967,499,<sup>124</sup> or 22% in excess of its anticipated procurement costs (planned acquisition costs and 10% management fee<sup>125</sup>) for the purchase of laboratory equipment and supporting materials;<sup>126</sup>
- (c) SALAMA in its capacity as a procurement agent ultimately established a contract with Pact which included an excess charge of USD 65,893,<sup>127</sup> or 32% in excess of its actual procurement costs (acquisition costs and 10% management fee) out of a total contract price of USD 270,643 for the purchase of laboratory equipment and supporting materials;
- (d) SALAMA in its capacity as a procurement agent for Pact charged the latter by USD 8,571<sup>128</sup> or 42% in excess of the actual procurement costs (acquisition costs and the management and transportation fee, estimated to be approximately 1/6 of Pact's budget for this procurement<sup>129</sup>) out of a total contract price of USD 29,029<sup>130</sup> for the purchase and delivery of RDTs; and
- (e) Pact's officials exercised insufficient oversight of the contracting process with SALAMA that facilitated the excess charges by SALAMA. Pact undertook corrective measures as soon as it became aware of the irregularities. See section F.3.2.7.

### **F.3.2. Procurement of laboratory materials**

#### **F.3.2.1. Background**

94. In May 2011, Pact's former official contacted SALAMA's Senior Official to ask for SALAMA's assistance with an urgent procurement of laboratory materials and equipment as requested by one of Pact's SRs, *Programme National de Lutte contre le Paludisme* or the National Program to Fight Malaria (PNLP).<sup>131</sup> On 9 August 2011, Pact submitted the technical specifications and quantities for the purchase of 134 different types of laboratory materials and asked SALAMA to provide Pact with "its best offer."<sup>132</sup> SALAMA proceeded by requesting bids from various suppliers of laboratory materials, and subsequently evaluated bids received. Neither Pact nor PNLN were informed about the content of SALAMA's communications with suppliers, and there is no evidence that either was present at any of SALAMA's bid evaluation meetings.<sup>133</sup>

#### **F.3.2.2. SALAMA's original price proposal to Pact**

95. On 20 September 2011, SALAMA submitted to Pact its first offer for the purchase of the laboratory equipment with a total estimated value of USD 5,348,585.<sup>134</sup> The OIG performed a detailed analysis comparing the various unit prices of the bids received by SALAMA to the

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<sup>123</sup> 27 March and 10 April 2012 Pact's contracts with SALAMA

<sup>124</sup> MGA 1,942,167,532 according to the exchange rate on 20 September 2011, the date of SALAMA's first offer to Pact

<sup>125</sup> SALAMA and the LFA provided the OIG with SALAMA's internal presentation outlining the "understanding" between SALAMA and Pact which specifies that SALAMA is entitled to a 10% management fee as a procurement agent to Pact when delivering products in Antananarivo. SALAMA's presentation listing the management fees agreed upon was the only document where this was specified in writing.

<sup>126</sup> Financed through the MGA-910-G19-M grant agreement

<sup>127</sup> MGA 143,546,485 according to the exchange rate on 23 February 2012

<sup>128</sup> MGA 18,120,269 according to the exchange rate on 10 April 2012

<sup>129</sup> The management and transportation fee for this procurement was consistently communicated in exchanges between Pact and SALAMA (emails of 21 and 28 March 2012) and was calculated as 1/6 of Pact's budget for this procurement.

<sup>130</sup> MGA 61,457,467 according to the exchange rate on 10 April 2012

<sup>131</sup> Email exchange between Pact's former official and SALAMA's Senior Official, on 27 May 2011

<sup>132</sup> Letter from Pact's former official to SALAMA's Senior Official, on 9 August 2011

<sup>133</sup> Suppliers' bids to SALAMA retrieved in SALAMA's files. Once bids were received, these were opened at SALAMA on 7 September 2011 in a closed meeting without participation of either the suppliers, or Pact or PNLN.

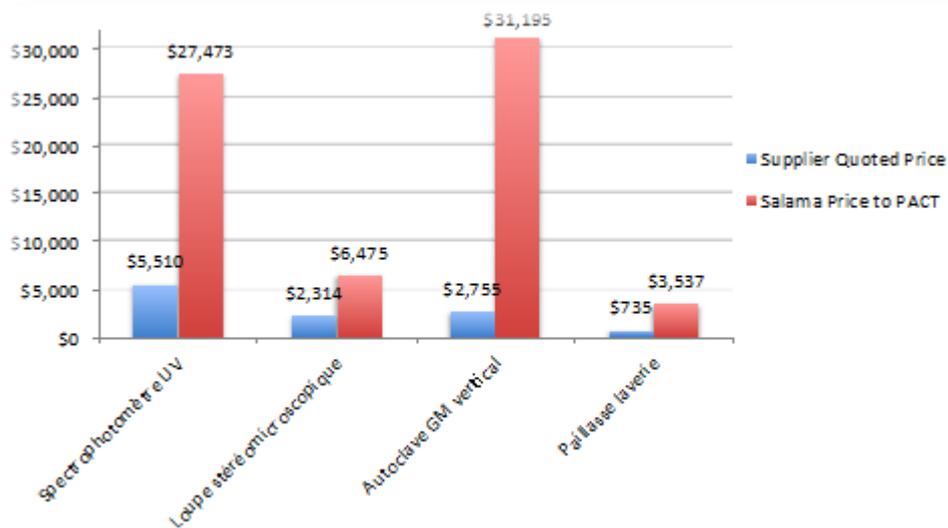
<sup>134</sup> MGA 10,736,802,434 according to the exchange rate on 20 September 2011

unit prices proposed to Pact. The OIG found that SALAMA’s proposed prices to Pact were based on the *highest* bid prices received plus a margin of 10%.<sup>135</sup>

96. As detailed in Figure 21 in Annex 3, for example, SALAMA received four bids for the purchase of a UV Spectrophotometer, the lowest from MTLAB for MGA 8,675,509, second lowest from Fimed for MGA 12,000,000 (the vendor from whom it was ultimately bought), and the highest from Medical International for MGA 54,396,000. SALAMA’s proposed price to Pact was MGA 59,835,600, which represents the highest bidder’s quote, plus 10% of this amount. Similarly, the lowest quote for electric multimeters was MGA 180,000, while the highest was MGA 2,132,000. SALAMA’s price quote to Pact was MGA 2,345,200, representing the highest bid price plus 10% of this amount.

97. By basing its price estimates to Pact on the highest bids received, as opposed to the lowest, SALAMA’s overall price quote to Pact of USD 5,348,585 was by USD 967,499 or 22% higher than it should have been. Figure 5 below details a sample of items included in SALAMA’s price quote and the difference between the prices offered by suppliers to SALAMA and those offered by SALAMA to Pact.

**Figure 5: Examples of discrepancies between the prices quoted by suppliers and the prices quoted by SALAMA to Pact in SALAMA’s first bid proposal (USD)**



### F.3.2.3. SALAMA’s second price proposal to Pact

98. Pact rejected SALAMA’s original price proposal, detailed above, as it was in excess of the budget at Pact’s disposal for the purchase of laboratory equipment. Subsequent to this rejection, SALAMA amended its proposal and adjusted the quantities of certain items and eliminated certain items altogether. SALAMA’s second offer prepared on 10 November 2011 was for the amount of USD 872,631<sup>136</sup>.

99. In its amended, lower offer to Pact, SALAMA decreased the number of units to be provided, rather than lowering any of the unit prices. In particular, the number of units was reduced from 140 to 7 boxes for two particular items: “*Microtubes en barrettes (4xP/960)*” and “*Capuchon pour tubes en barrettes (4\*p/960)*” (see Figure 22 in Annex 3). These two items accounted for over USD 3.7 million<sup>137</sup> in the original SALAMA’s offer and drove the majority of the price drop of the original USD 5.3 million offer to the amended offer of USD

<sup>135</sup> Internal communication between SALAMA’s Senior Official and SALAMA’s Finance Official 2 found within SALAMA’s files by the OIG

<sup>136</sup> MGA 1,841,644,265 according to the exchange rate on 10 November 2011 (“*Offre Matériels et Equipments de Laboratoire Pact – Nouvelle Offre*”, provided on 10 November 2011)

<sup>137</sup> MGA 7,959,223,272 according to the exchange rate on 20 September 2011

872,631. These items are strings of 8 connected plastic micro-tubes (or vials) with caps (see Figure 23 in Annex 3). SALAMA's original offer provided for 140 boxes of the micro-tubes, each containing 250 strings or 8 vials, and 140 boxes of caps for those tubes. The unit price of one box of 250 tubes was quoted at USD 15,765,<sup>138</sup> and the unit price of one box of caps at USD 11,178<sup>139</sup>. As an illustration for how much these items in SALAMA's original offer were overpriced, the OIG researched their current price and found numerous international suppliers offering the combination of this product for approximately USD 100 for 125 strips (135 times lower than SALAMA's offer). These two items were completely removed by Pact from the final contract between Pact and SALAMA.

#### **F.3.2.4. SALAMA's final price proposals to Pact**

100. The bid price offered by SALAMA changed several more times from USD 872,631<sup>140</sup> on 10 November 2011, to USD 334,649<sup>141</sup> on 11 November 2011, and to USD 324,618<sup>142</sup> in the contract signed between Pact and SALAMA on 23 November 2011. The contract scope was reduced and the contract amount amended to USD 270,643 on 23 February 2012.<sup>143</sup> These several bid iterations were done through a combination of quantity adjustments and unit price adjustments.

101. The OIG performed a further item-by-item comparison between the prices ultimately charged by SALAMA to Pact in the contract amended on 23 February 2012 and those charged by SALAMA's suppliers. As previously noted, SALAMA's original bid of USD 5,348,585 was based on the highest prices provided by bidding vendors, plus a 10% management fee. In its final price estimate to Pact, SALAMA lowered some of its unit prices but did so on the basis of the *second highest* bid price received plus 10%, rather than on the lower priced bids. Notably, SALAMA itself ultimately procured goods from the lowest bidders, in most cases.

102. For example (see Figure 24 in Annex 3), SALAMA received three bids for item "1.5 – Pill Resistance Tester". The bid amounts received were MGA 21,235,000, MGA 10,600,000 and MGA 7,800,000. In SALAMA's original bid to Pact, it proposed an amount of MGA 23,358,500, which represents the highest bid price plus 10%. In SALAMA's final bid, it proposed an amount of MGA 11,660,000, which represents the next highest bid price (MGA 10,600,000 from Maexi Trading) plus 10%. Although SALAMA offered the second highest bid price plus 10% in its contract with Pact, in fact, SALAMA actually purchased the tester from the lowest bidder, Fimed, for the amount of MGA 7,800,000. As a result, SALAMA charged Pact by 39% more than the price paid by SALAMA for this particular item plus the 10% management fee.

#### **F.3.2.5. Estimate of Charges in Excess of the Acquisition Costs and Management Fee**

103. The OIG notes that the contract between Pact and SALAMA is silent when it comes to the compensation to be paid to SALAMA for its procurement services. The OIG reviewed internal documents at SALAMA that indicate an informal agreement between the two entities that SALAMA would be paid a 10% fee for its services.<sup>144</sup> Despite this agreement, the OIG found that SALAMA's contract with Pact ultimately foresaw to charge Pact USD 65,893 in

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<sup>138</sup> MGA 33,264,231 according to the exchange rate on 20 September 2011

<sup>139</sup> MGA 23,587,363 according to the exchange rate on 20 September 2011

<sup>140</sup> MGA 1,841,644,265 according to the exchange rate on 10 November 2011 ("*Offre Matériels et Equipments de Laboratoire Pact – Nouvelle Offre*", provided on 10 November 2011)

<sup>141</sup> MGA 708,017,682 according to the exchange rate on 11 November 2011 (letter from SALAMA's Senior Official to Pact's former official, on 11 November 2011)

<sup>142</sup> MGA 685,505,907 according to the exchange rate on 23 November 2011 (contract between Pact and SALAMA, signed on 23 November 2011)

<sup>143</sup> MGA 589,584,528 according to the exchange rate on 23 February 2012

<sup>144</sup> SALAMA and the LFA provided the OIG with SALAMA's internal presentation outlining the "understanding" between SALAMA and Pact which specifies that SALAMA is entitled to a 10% management fee as a procurement agent to Pact when delivering products in Antananarivo. SALAMA's presentation listing the management fees agreed upon was the only document where this was specified in writing.

excess or 32% above SALAMA's acquisition costs plus the agreed 10% management fee. Annex 7 includes a detailed table of pricing of each item in the contract.

104. Further, an internal SALAMA document (see Figure 25 in Annex 3) identified by the OIG includes a calculation of the amount charged suggesting that SALAMA was fully cognizant of its intention to charge a 36% instead of a 10% fee to Pact.

105. When asked as to why SALAMA charged Pact a fee significantly higher than the agreed 10% of the contract value for the purchase and delivery of laboratory equipment, SALAMA's Senior Official responded that finding suppliers in Madagascar is difficult and predicting prices of products at the time of delivery to clients is even harder. According to him, if an erroneous estimate is made, SALAMA "could end up with a loss".<sup>145</sup> The Senior Official stated that SALAMA initially forecasted charging much higher prices<sup>146</sup> for the items delivered to Pact. As stated by him, because of a large discrepancy between market prices of these items and the prices proposed by SALAMA, the Senior Official asked for the prices to be reviewed. Asked by the OIG as to why he had failed to inform Pact of the lower prices SALAMA ultimately paid to suppliers for the items delivered, as well as his failure to refund the amount charged to Pact which exceeded the 10% fee, the Senior Official admitted to wrongdoing.<sup>147</sup> Further, he assumed responsibility<sup>148</sup> on behalf of SALAMA for refunding the amounts overcharged.<sup>149</sup>

**F.3.2.6. SALAMA failed to comply with the provisions of its contract with Pact, the grant agreement with the Global Fund and the Code of Conduct for Suppliers.**

***SALAMA and its Senior Official failed to comply with the requirements of SALAMA's contract with Pact, and with the Code of Conduct for Suppliers***

106. The OIG finds that SALAMA was not compliant with Article 8 of the contract between Pact and SALAMA. Article 8 stipulates: "*SALAMA shall, among other things, conform to the Global Fund's principles and rules on procurement including: (a) conformity with quality control measures, (b) the purchase of goods at the lowest possible price and (c) the use of open and transparent tender procedures [...].*"<sup>150</sup>

107. Further, the OIG finds that SALAMA, acting in its role as a procurement agent for Pact, was not compliant with the provisions of the Code of Conduct for Suppliers, specifically Article 8.<sup>151</sup>

***SALAMA's Program Official failed to comply with the Code of Conduct for Suppliers***

108. SALAMA's Program Official told the OIG that SALAMA's Procurement Unit is in charge of acquisitions and that he "does not interfere" with their work.<sup>152</sup> He was of the opinion that the prices initially proposed by SALAMA for the purchase of laboratory materials were exorbitantly high.<sup>153</sup> However, SALAMA's Program Official chose not to follow up on this issue, as this in his view is an area under SALAMA's Senior Official's purview. According to his own statement, SALAMA's Program Official was aware of SALAMA's intent to overcharge Pact, yet chose not to act based on this knowledge. The OIG finds that SALAMA's Program

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<sup>145</sup> Interview with SALAMA's Senior Official, on 10 May 2012

<sup>146</sup> As mentioned in the emails described earlier in the text of the report

<sup>147</sup> Interview with SALAMA's Senior Official, on 10 May 2012

<sup>148</sup> SALAMA's Senior Official assumed this responsibility to the OIG in writing, in the course of the 10 May 2012 interview.

<sup>149</sup> Interview with SALAMA's Senior Official, on 10 May 2012

<sup>150</sup> Pact's contract with SALAMA for the purchase, storage and delivery of laboratory materials (signed on 23 November 2011 and amended on 23 February 2012)

<sup>151</sup> Code of Conduct for Suppliers

<sup>152</sup> Interview with SALAMA's Program Official, on 10 May 2012

<sup>153</sup> Interview with SALAMA's Program Official, on 10 May 2012

Official failed to comply with the provisions of the Code of Conduct for Suppliers, specifically Article 19.<sup>154</sup>

### **F.3.2.7. Insufficient oversight and further remedial actions by Pact**

109. In the OIG's view, Pact's officials did not exercise sufficient oversight of Pact's initial contracting process with SALAMA that facilitated the excess charges by SALAMA. Pact did not scrutinize how SALAMA's price offers were actually calculated and did not request from SALAMA the underlying prices offered by vendors for the items to be actually procured. The OIG finds that Pact failed to comply with the STC of the grant agreement between the Global Fund and Pact for grant MGA-910-G19-M, specifically Articles 9; 18 (a) vi; and 19 (f), in this respect.<sup>155</sup>

110. Pact undertook corrective measures as soon as it became aware of the irregularities. In May 2012, after having received a letter from the Malagasy customs which disclosed the underlying prices of items purchased through SALAMA, Pact noticed a significant discrepancy between these and the prices it contracted for.<sup>156</sup>

111. On 5 June 2012, Pact's Senior Official wrote to SALAMA's Senior Official asking for clarification regarding price discrepancies.<sup>157</sup> As a result, on 27 June 2012 the contract between Pact and SALAMA for the purchase of laboratory materials<sup>158</sup> was further amended by decreasing its value by USD 64,038.<sup>159</sup> Consequently, the excess charges by SALAMA were partially reduced by this amount.

### **F.3.3. Pact's Procurement of RDTs through SALAMA**

#### **F.3.3.1. Background**

112. In a letter dated 7 March 2012, Pact on behalf of PNLN contacted SALAMA to inquire regarding the procurement of 24,080 rapid diagnostic tests ("RDTs") as part of the NSA program.<sup>160</sup> This letter specified Pact's request that SALAMA provide the former with its "best offer" for the procurement of these RDTs.

113. The contract files provided by SALAMA include a draft contract between Pact and SALAMA dated 22 March 2012, one day after Pact disclosed its overall budget amount for this purchase, for delivery of 24,080 RDTs.<sup>161</sup> This draft contract includes a stated price equal to the budget amount disclosed, MGA 60,681,626 or USD 28,320.<sup>162</sup>

114. On 10 April 2012, Pact and SALAMA signed a contract for delivery of 27,900 RDTs for USD 29,029.<sup>163</sup>

115. Documentation included in the procurement files provided by SALAMA indicates that SALAMA had previously purchased 472,000 RDTs in late 2011 from a U.S.-based company, Access Bio for a unit price of USD 0.56. Another internal document dated 30 March 2012 indicates that this price was the reference to calculate the RDTs' sale price to Pact. The handwritten note on the document below states: "For "DDP" sales price calculation for SALAMA-PACT contract" (see Figure 26 in Annex 3).<sup>164</sup>

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<sup>154</sup> Code of Conduct for Suppliers

<sup>155</sup> STC to the MGA-910-G19-M grant agreement between Pact and the Global Fund

<sup>156</sup> In Pact's view, as stated to the OIG, the fact that the Global Fund had requested Pact to turn to SALAMA for procurements of health products was a form of risk assurance.

<sup>157</sup> Letter from Pact's Senior Official to SALAMA's Senior Official, on 5 June 2012

<sup>158</sup> Signed on 23 November 2011 and amended on 23 February 2012

<sup>159</sup> MGA 138,802,901, according to exchange rate on 27 June 2012

<sup>160</sup> Letter from Pact's Senior Official to SALAMA's representative, on 7 March 2012

<sup>161</sup> Pact's e-mail communications to SALAMA (21 and 28 March 2012). According to Pact's representatives interviewed by the OIG, there are no secrets between the NSA grant PRs regarding their respective budgets, as these budgets have been openly discussed in the course of the PRs' entering into their grant agreements with the Global Fund.

<sup>162</sup> MGA 60,681,626 according to the exchange rate on 22 March 2012

<sup>163</sup> MGA 61,457,467 according to the exchange rate on 10 April 2012

<sup>164</sup> SALAMA's procurement files for delivery of RDTs to Pact

116. Despite SALAMA having previously purchased the RDTs in stock from Access Bio at a cost of USD 0.56 per unit, there is no indication that SALAMA shared this price with Pact. The evidence demonstrates that SALAMA maximized its profit in relation to this purchase.

**F.3.3.2. Estimate of Charges in Excess of the Agreed Procurement Cost**

117. The OIG finds that from the total contract price of USD 29,029 for the purchase of RDTs through the NSA grant to Pact, SALAMA charged USD 8,571 or 42% more than the cost of goods and SALAMA’s management and transportation fee (which, according to communications between Pact and SALAMA, was estimated to be approximately 1/6 of Pact’s budget for this procurement).<sup>165</sup>

**Figure 6: Estimate of SALAMA’s charges in excess of the acquisition costs and transportation and management fee for the purchase and delivery of 27,900 RDTs**

Description of goods	No. of units	Supplier price per unit (USD)	Supplier price, total (USD)	Transportation and management fee (USD) <sup>166</sup>	SALAMA price to Pact (USD) <sup>167</sup>	Overpriced margin (USD)
A	B	C	D=BxC	E	F	H=F-D-E
RDTs	27,900	0.56	15,624	4,834	29,029	8,571

118. To date, SALAMA had not adjusted the amount charged to the Global Fund sponsored NSA grant to Pact.

**F.3.3.3. Other relevant contractual provisions**

119. The OIG reviewed the 22 March 2012 draft contract and the 10 April 2012 final contract between Pact and SALAMA and noted several changes. First, two items originally listed under “Article 8 – SALAMA Obligations” were omitted from the final contract – namely, (1) “the purchase of goods at the lowest possible price” and (2) “the application of transparent and competitive procedures”. In his interview with the OIG, Pact’s Program Official 2 noted that it was possible that these clauses were removed in the final contract by SALAMA because the procurement was done on an urgent basis.<sup>168</sup>

120. Also, two terms originally included in the draft contract under Article 12 “Conditions of the Contract” were also deleted from the draft of the final version: (1) 1% penalty per day on late deliveries and (2) Pact’s right to cancel any late deliveries.<sup>169</sup>

**F.3.3.4. SALAMA’s response to the OIG**

121. SALAMA in its comments on the OIG’s draft investigation report stated that the OIG findings were based on the historical cost of RDTs previously purchased by SALAMA [following an international tender], and that, taking into account the urgency of response to the epidemics in Madagascar, SALAMA needed to purchase locally the RDTs to be delivered to Pact. SALAMA stated that the RDTs’ price invoiced to Pact equaled the price charged by the vendor, plus the transportation fee indicated by Pact. Hence, there was no excess charge.<sup>170</sup> The OIG requested SALAMA to provide the proof of the cost invoiced by the vendor. SALAMA’s Senior Official provided a copy of the price quotation by the company Fimed (local representative of Access Bio in Madagascar), dated 26 March 2012, offering

<sup>165</sup> The management and transportation fee for this procurement was consistently communicated in exchanges between Pact and SALAMA (emails of 21 and 28 March 2012) and was calculated as 1/6 of Pact’s budget for this procurement.

<sup>166</sup> According to SALAMA’s invoice to Pact: MGA 10,233,067 (according to the exchange rate on 10 April 2012)

<sup>167</sup> MGA 61,457,467 according to the exchange rate on 10 April 2012

<sup>168</sup> Interview with Pact’s Program Official 2, on 8 June 2012

<sup>169</sup> 22 March 2012 draft contract and 10 April 2012 final contract between Pact and SALAMA

<sup>170</sup> SALAMA’s comments (19 September 2013) on the OIG’s draft investigation report

24,080 RDTs for MGA 1,836 or USD 0.86<sup>171</sup> per test.<sup>172</sup> If SALAMA had purchased the RDTs from the local vendor for this price, the cost invoiced to Pact would involve no charge in excess. Considering this was only a price quotation, the OIG requested SALAMA to provide the proof of payment or delivery by this vendor.

122. In response, SALAMA's Senior Official provided a detailed history of this procurement. He confirmed that SALAMA had used its previous stock of RDTs (that was kept with another PR, AIM) to deliver them to Pact, considering the emergency at the time. [Respectively, the RDTs purchased from Access Bio in late 2011 for USD 0.56 per test]. However, the stock that was used had to be replaced. SALAMA's Senior Official stated that until the receipt of the OIG's draft investigation report [in September 2013], his Office had not been informed that SALAMA's Procurement and Supply Division had not placed an order for replacement of these RDTs at the time. On 19 September 2013 SALAMA's Senior Official requested explanations from the Officials in this Division who confirmed the omission of this replacement order due to the change in Division's directorship at the time, inquiring at the same time how was it possible that the Official in charge of the stock that had to be replaced did not notice the gap in stock all this time [between April 2012 and September 2013]. SALAMA's Senior Official stated that his Office had to rectify this situation and immediately placed an order to the company Fimed on the basis of its price quotation dated 26 March 2012. On 16 September 2013 SALAMA's Senior Official issued the order for 27,900 RDTs for MGA 1,836 or USD 0.83<sup>173</sup> per test (USD 23,199 in total). 17,000 of these RDTs were received by SALAMA on 9 October 2013. According to SALAMA's Senior Official, the rest was to be received in the following days and all RDTs would be handed over to PNL. SALAMA's Senior Official added that the delay in replacement of stock was caused, on one side, by the lack of coordination in the relevant SALAMA's Division and, on another side, by the lack of follow-up by Pact and PNL.<sup>174</sup>

123. While taking into account the explanations provided by SALAMA's Senior Official, the OIG notes that SALAMA delivered the RDTs to Pact in April 2012 from SALAMA's earlier stock purchased for the lower price, resulting in the excess charge to Pact, mentioned in section F.3.3.2 above and which the OIG finds to be non-compliant expenditure. The OIG also finds that, taking into account the time elapsed during which the stock was not replaced, the procurement decision to replace it should have been made considering the current stock and market situation, in order to benefit from any potential economies in scale, rather than reverting to and validating a price quotation that was 18 months old.

## **F.4. IDA's Delivery of Medicines Non-Conforming to the Global Fund's Quality Assurance Guidelines; SALAMA's and the LFA's Inaction**

### **F.4.1. Background**

124. In January 2011, SALAMA initiated a tender for the purchase of anti-malarial medicine Sulfadoxine + Pyrimethamine [500mg + 25mg]. At the time the tender was launched, REMEDICA, a drug manufacturer based in Cyprus, was the sole manufacturer of Sulfadoxine + Pyrimethamine [500mg + 25mg] on the Global Fund's "List of A or B products" producers and as a result, SALAMA accepted IDA Foundation's (IDA) offer to deliver 410 bottles containing 1,000 tablets each of the drug<sup>175</sup> manufactured by REMEDICA for a total amount of USD 17,068.<sup>176</sup>

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<sup>171</sup> MGA 1,836 according to the exchange rate on 26 March 2012

<sup>172</sup> SALAMA's Senior Official's e-mail communication to the OIG (8 October 2013)

<sup>173</sup> MGA 1,836 according to the exchange rate on 16 September 2013

<sup>174</sup> SALAMA's Senior Official's e-mail communication to the OIG (9 October 2013)

<sup>175</sup> On the WHO pre-qualified or List A of Global Fund approved products

<sup>176</sup> In April 2011, SALAMA informed IDA by email about the contract award.

125. Despite bidding with the REMEDICA brand and providing a sample of REMEDICA drugs with its bid, IDA ultimately delivered medicines produced by a different manufacturer, China-based Guilin Pharmaceuticals (Guilin). IDA had not informed SALAMA about the switch in manufacturers.<sup>177</sup> SALAMA discovered this error after the receipt of goods in country and after its erroneous entry into the PQR<sup>178</sup> system, and immediately sought an explanation from its supplier IDA and the LFA.<sup>179</sup> Neither IDA nor the LFA responded to SALAMA's request for explanation.<sup>180</sup>

126. SALAMA ordered WHO-prequalified (List A) medicines; however, it received drugs produced by Guilin who was at the time included on the "List of Expert Review Panel's (ERP) Reviewed Products." Goods stemming from manufacturers on this list are permitted for time-limited use only and are subject to a quality control test performed by the Global Fund.<sup>181</sup> Such tests were never performed on the Guilin drugs delivered under this procurement.<sup>182</sup>

127. The Global Fund's Price-Quality Reporting (PQR) system erroneously reflected IDA Foundation procured drugs as REMEDICA.<sup>183</sup>

128. In addition, the price paid by IDA for the drugs delivered was USD 5,269 lower than the USD 17,068 contract value SALAMA paid to IDA out of the NSA grant for the purchase and supply of anti-malarial medicines produced by a Global Fund pre-approved manufacturer.<sup>184</sup>

#### **F.4.2. Global Fund's Quality Assurance and Price and Quality Reporting requirements**

129. According to the Global Fund's Quality Assurance for Pharmaceutical Products' requirements, anti-malarial medication purchased with Global Fund grant funds must be either (i) prequalified by the WHO Prequalification Programme (List A)<sup>185</sup> or authorized for use by a Stringent Drug Regulatory Authority (List B)<sup>186</sup>; or (ii) be recommended for use by the Expert Review Panel (ERP).<sup>187</sup> The ERP is an independent advisory body composed of external technical experts whose role is to review, upon the Global Fund's request, the potential risks and benefits associated with the use of finished pharmaceutical products<sup>188</sup> that are not yet on the List A or List B.<sup>189</sup>

130. If a PR wishes to procure medicines that are neither on List A nor B, grant funds may be used to procure ERP reviewed products for a limited 12-month time period. A list of all

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<sup>177</sup> OIG's interviews with IDA's representatives including IDA's Senior Official, on 4 September 2012

<sup>178</sup> For more information about the Global Fund's Price and Quality Reporting system please see:

<http://www.theglobalfund.org/en/procurement/pqr/>

<sup>179</sup> Letters sent from SALAMA to the LFA on 10 August 2011 and IDA on 30 August 2011

<sup>180</sup> Interviews with representatives of IDA Foundation including IDA's Senior Official, on 4 September 2012; and the LFA's representatives on 30 August 2012; LFA's email to SALAMA on 15 July 2011

<sup>181</sup> Global Fund Quality Assurance Guidelines Requirements. For more information please see:

<http://www.theglobalfund.org/en/procurement/quality/pharmaceutical/>

<sup>182</sup> Interview with SALAMA's Procurement Official, on 19 June 2012; interview with SALAMA's Program Official, on 20 June 2012

<sup>183</sup> <http://www.theglobalfund.org/en/procurement/pqr/>

<sup>184</sup> Interview with IDA's Senior Official, on 4 September 2012; email from IDA to the OIG on 28 September 2012

<sup>185</sup> Classified by the Global Fund as 'List A' Product – these products have already been prequalified by the WHO Prequalification Programme: <http://www.theglobalfund.org/en/procurement/quality/pharmaceutical/#General>

<sup>186</sup> Classified by the Global Fund as 'List B' Product – these products have already been approved or authorized for use by a stringent regulatory authority (a member, observer or associate of ICH); Stringent Drug Regulatory Authority (SRA) means a regulatory authority which is (a) a member of the ICH (as specified on its website:); or (b) an ICH Observer, being the European Free Trade Association (EFTA) as represented by Swiss Medic, Health Canada and World Health Organization (WHO) (as may be updated from time to time); or (c) a regulatory authority associated with an ICH member through a legally binding mutual recognition agreement including Australia, Norway, Iceland and Liechtenstein (as may be updated from time to time). For more information on ICH (The International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use) please see <http://www.ich.org/>

<sup>187</sup> Article 7 of The Global Fund Quality Assurance Policy for Pharmaceutical Products (as amended and restated on 14 December 2010)

<sup>188</sup> Finished Pharmaceutical Product (FPP) means a medicine presented in its finished dosage form that has undergone all stages of production, including packaging in its final container and labeling. Article 2 of The Global Fund Quality Assurance Policy for Pharmaceutical Products.

<sup>189</sup> Please also see Article 19 (a) of the Standard Terms and Conditions to the grant agreements signed between the Global Fund and PRs.

finished pharmaceutical products that have been recommended by the ERP is publically available on the Global Fund's website. When procuring an ERP recommended product, the PR must send a "notification form" to the Global Fund and can proceed with the procurement only upon receiving a "no objection" letter from the Global Fund.<sup>190</sup> An independent laboratory contracted by the Global Fund must perform a quality control test of the product in question. If the test is successful, the Global Fund sends a final letter, which includes the test report, to the PR and manufacturer approving the shipment of the product.<sup>191</sup>

131. Article 31 of the Global Fund's Quality Assurance Policy for Pharmaceutical Products provides: *"when a PR procures a Finished Pharmaceutical Product (FPP)<sup>192</sup> that has been recommended for use by the ERP, the Global Fund will make the necessary arrangements for randomly selected samples of the FPP to be tested for quality control purposes, in accordance with advice provided by the ERP, prior to the delivery of that FPP by the manufacturer to the PR or other designated recipient."*

### **F.4.3. Change of manufacturer and erroneous PQR reporting**

#### **F.4.3.1. The role of SALAMA**

132. Though never officially notified by IDA about the switch in manufacturers, SALAMA missed the following opportunities to identify the discrepancy.

133. On 31 May 2011 IDA sent an email to the SALAMA's Procurement Official attaching a Certificate of Origin issued by the Dutch Chamber of Commerce listing<sup>193</sup> the People's Republic of China - not Cyprus - as the country of origin of the medication.<sup>194</sup> SALAMA's Procurement Official told the OIG that she does not read this type of email messages but delegates them to her assistants.<sup>195</sup>

134. The Agence de Médicament de Madagascar ("AMM"), the Malagasy agency that assures the quality of medication imported into the country, delayed issuing a customs declaration prior to receiving an official invoice relating to this particular drug order.<sup>196</sup> Thus, on 6 June 2011 SALAMA requested and received from IDA a copy of the invoice (same as the invoice shown in Figure 27 in Annex 3) mentioning the name and location of the drug manufacturer, Guilin and China respectively. SALAMA's Procurement Official told the OIG that she had not seen this invoice until August 2011, after she had entered the information into the Global Fund's PQR system.<sup>197</sup>

135. Representatives of SALAMA and PNLP held a Reception Committee meeting on 22 June 2011, for the purpose of final acceptance of the medication. The Committee failed to notice anything about the change of manufacturer (see Figure 28 in Annex 3).

136. SALAMA's Program Official told the OIG that he had not looked at anything other than the expiration dates of the medication delivered and whether they met the required standards of quality. Asked how this standard of quality was determined if no accompanying documentation was reviewed, the Program Official told the OIG that he did not remember the circumstances of this particular case. He further stated that assurances of the standard of quality fall under the purview of PNLP's representatives on the Reception Committee. The

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<sup>190</sup> For more information please see: <http://www.theglobalfund.org/en/procurement/quality/pharmaceutical/>

<sup>191</sup> Pre-shipment QC testing and results, for more information please see:

<http://www.theglobalfund.org/en/procurement/quality/pharmaceutical/>

<sup>192</sup> Finished Pharmaceutical Product (FPP) means a medicine presented in its finished dosage form that has undergone all stages of production, including packaging in its final container and labeling. Article 2 of the Global Fund Quality Assurance Policy for Pharmaceutical Products.

<sup>193</sup> Through the invoice attached to the email correspondence between IDA and SALAMA

<sup>194</sup> Email communication available in OIG's files

<sup>195</sup> Interview with SALAMA's Procurement Official, on 19 June 2012

<sup>196</sup> The questioned invoice sent by IDA to SALAMA is dated 26 May 2011; email correspondence between IDA and SALAMA, on 6 June 2011

<sup>197</sup> Interview with SALAMA's Procurement Official, on 19 June 2012

Program Official subsequently added that failure to notice the change of manufacturer on the documentation accompanying the shipment was SALAMA's fault.<sup>198</sup>

137. SALAMA's Procurement Official told the OIG that she only looked at IDA's offer to SALAMA when entering the information into the Global Fund's PQR system, a publically available data base for collecting information from PRs on procurement of key health products.<sup>199</sup> It was only when compiling the materials for LFA's review and verification that SALAMA's Procurement Official noticed manufacturer discrepancy.<sup>200</sup>

138. On 10 August 2011 SALAMA informed the LFA in writing about having entered the wrong information into the PQR system and sought its advice on how to proceed. According to both SALAMA's Program Official and SALAMA's Procurement Official, SALAMA had fulfilled its obligation to inform the Global Fund about the erroneous delivery and entry into the PQR system by informing the LFA.<sup>201</sup> The LFA had not responded to SALAMA nor informed the Global Fund.<sup>202</sup>

139. On 30 August 2011, SALAMA wrote to IDA asking for IDA's confirmation on whether the Guilin-produced medication is included on the Global Fund's list of approved products as requested in SALAMA's tender specifications. IDA did not respond to this query.<sup>203</sup>

140. Despite attempts to clarify the situation with IDA and the LFA, SALAMA did not contact the Global Fund directly regarding this issue. Further, instead of quarantining the non-conformant shipment, returning it to the supplier and requesting the shipment of compliant medication,<sup>204</sup> SALAMA, distributed the medicines received through PNLN to end-users between 25 November 2011 and 6 January 2012.<sup>205</sup>

#### F.4.3.2. The Role of the IDA

141. IDA employee's failure to properly verify the identity of the manufacturer entered into IDA's supply management system resulted in the erroneous order. IDA's software system automatically selects the "preferred supplier for the product requested" for a particular tender.<sup>206</sup> It is then up to the tender department to verify the information and make the necessary changes in the system.<sup>207</sup> The price paid for REMEDICA produced drugs was USD 5,269 more than what IDA ultimately did pay to Guilin.<sup>208</sup>

142. In order to prevent similar errors from happening again and remedy existing consequences to the extent possible, on 28 September 2012 IDA informed the OIG that it will refund the USD 5,269 erroneously overcharged to the NSA grant, as well as appoint a special program team and a focal point to deal with Global Fund funded requests. In addition, IDA is looking into whether it would be possible to provide through its new process ordering system

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<sup>198</sup> Interview with SALAMA's Program Official, on 20 June 2012

<sup>199</sup> The PQR is meant to enable the Global Fund to monitor adherence to its Quality Assurance Policy, improve transparency and communicate market information to PRs, as well as help the Global Fund and its partners better understand and influence the market for pharmaceutical products. For more information, please see: <http://www.theglobalfund.org/en/procurement/pqr/>

<sup>200</sup> Interview with SALAMA's Procurement Official, on 19 June 2012

<sup>201</sup> Interview with SALAMA's Program Official, on 20 June 2012 and SALAMA's Procurement Official, on 19 June 2012.

SALAMA was under an obligation to inform the Global Fund pursuant to the Article 23 of the Global Fund Quality Assurance Policy for Pharmaceutical Products: *PRs are responsible for monitoring the performance of suppliers with respect to product and supply chain quality, and must submit information to the Global Fund on supplier performance as defined by the Global Fund.* Source: <http://www.theglobalfund.org/en/procurement/quality/pharmaceutical/#General>. Global Fund's policy further provides that *the Global Fund is only responsible for quality control of ERP-reviewed products for which a notification has been received.*

<sup>202</sup> Interview with the LFA Official, on 30 August 2012

<sup>203</sup> Email from IDA to the OIG, on 28 September 2012; also previously confirmed by IDA's Senior Official, on 4 September 2012

<sup>204</sup> SALAMA's Procurement Official informed the OIG on 19 June 2012 that these are SALAMA's internal procedural requirements for when non-conformant products are received.

<sup>205</sup> SALAMA provided to the OIG copies lists showing when medicines were handed over to PNLN.

<sup>206</sup> Interviews with IDA's representatives, on 4 September 2012

<sup>207</sup> Interviews with IDA's representatives including IDA's Senior Official, on 4 September 2012; and IDA's employee who was formerly in charge of entering information into the supply management system, on 10 September 2012

<sup>208</sup> According to the calculation provided by IDA; emails from IDA to the OIG, on 28 September 2012

a more automated solution for Global Fund funded requests with regards to matching adequate product/supplier combinations at the time of order bookings.<sup>209</sup>

#### F.4.3.3. The Role of the LFA

143. LFA Official initially told the OIG that she did not recall being made aware of any problems regarding SALAMA's procurement from IDA nor did she specifically remember reading SALAMA's letter dated 10 August 2011 seeking LFA's guidance.<sup>210</sup> LFA Official also said that her team is responsible for verifying, based on the documentation provided - such as invoices and purchase orders - that the information entered into the PQR system is accurate. She further stated that SALAMA provided the LFA with documents showing the vendor REMEDICA, a List A supplier, as the manufacturer of the pharmaceuticals and that consequently she did not feel that the LFA was in breach of its duties in regards to the accuracy of the PQR reporting.<sup>211</sup> When questioned further about her recollection surrounding the IDA purchase, the LFA Official remembered having read SALAMA's letter sent on 10 August 2011 and explained that this correspondence had arrived at a time when the LFA team was particularly busy thus she chose not to give it any consideration.<sup>212</sup>

144. The LFA informed the OIG of the protocol it instituted with the PRs whereby if PRs do not receive a response to their queries within 72 hours of informing the LFA, they are invited to resend them (see Figure 29 in Annex 3).<sup>213</sup>

145. The LFA role may be summarized at its most general level as independently oversee the program performance in-country and the accountable use of funds.<sup>214</sup> In this instance, the PR explicitly informed the LFA about its error in filling out the PQR information and sought the LFA's guidance on how to rectify the issue. The LFA appears to have ignored the issue outright.

146. In this regard, by not following up on the information SALAMA brought to its attention, the OIG finds that the LFA had not acted in accordance with its supervisory responsibilities, and failed to react to clear inconsistencies with the QA Policy. This situation is explicitly provided for in Article 29 of the Global Fund Quality and Assurance Policy for Pharmaceutical Products which provides: *"The Global Fund will request Local Fund Agents to verify whether PRs have complied with the process described in Sections 25 and 26."*<sup>215</sup>

147. The LFA's failure to provide the safeguards built into the quality assurance and PQR processes materially contributed to a continued flaw in the Global Fund's PQR data, which erroneously listed REMEDICA as the vendor.

148. In the OIG's view, the LFA did not comply with the principles and guidelines applicable to LFA services established by the Global Fund (including as set for the in the Global Fund's *LFA Manual*) with regard to this matter.<sup>216</sup> The LFA provided its comments on the OIG's draft investigation report, which are set forth in Annex 2.

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<sup>209</sup> Email from IDA to the OIG, on 28 September 2012

<sup>210</sup> Interview with the LFA Official, on 14 August 2012

<sup>211</sup> Email sent by the LFA Official to the OIG, on 24 August 2012

<sup>212</sup> Interview with the LFA Official and the LFA Senior Official, on 30 August 2012

<sup>213</sup> Email sent by the LFA Official to the OIG, on 24 August 2012; LFA's response to SALAMA, on 15 July 2011

<sup>214</sup> For more information, please see: <http://www.theglobalfund.org/en/lfa/>

<sup>215</sup> Referenced sections pertain to Finished Pharmaceutical Products and provide:

Section 25: In collaboration with NDRAs (National Drug Regulatory Authority is the official drug regulatory authority of a country), PRs must ensure that random samples of FPPs are obtained at different points in the supply chain - from initial receipt of the FPPs in-country to delivery to end-users/patients - for the purpose of monitoring the quality of such FPPs (including quality control testing).

Section 26: Such samples must be sent to NDRA laboratories or NDRA Recognized Laboratories or WHO Prequalified Laboratories or Global Fund contracted laboratory(-ies) for quality control testing.

<sup>216</sup> For more information, please see: <http://www.theglobalfund.org/en/lfa/>

## **G. Conclusions**

149. The OIG investigation concluded that expenditures totaling USD 1,160,340 were incurred in a way that was not in compliance with the grant agreements between the Global Fund and the respective PRs (UGP, Pact and SALAMA). Of this amount, USD 462,670<sup>217</sup> were charged to the Global Fund grants in excess of market prices, as a result of findings described in this report.

### **G.1. Irregularities and Overpricing by Vendors in UGP's Procurements in 2009 and 2010**

150. *Collusive and anti-competitive practices* by a number of third-party vendors with the full or partial knowledge of UGP's Procurement Unit Official (as well as her failure to timely disclose her family relationship with one of the vendors) resulted in non-compliant expenditures totaling USD 843,600 (USD 203,454 in 2009 and USD 640,146 in 2010) charged to the NSA and Round 7 grants to UGP. According to the OIG's best possible assessment, USD 382,937 of this amount (USD 53,328 in 2009 and USD 329,609 in 2010) were charged in excess of the market prices by the vendors.

151. UGP's Procurement Unit Official failed to comply with the STC of the grant agreement between the Global Fund and UGP for the NSA grant, specifically Articles 9; 18 (a) i, v, vi; 21 (b) iv, v, vi; 21 (c) i, ii; and 21 (d).

152. Vendors who bid in the respective tenders failed to comply with one or more of the provisions of the Code of Conduct for Suppliers, specifically Articles 7, 8, 9, 10, 11, 13, 17 and 24.

### **G.2. SALAMA's Overcharging of Health Products in its Capacity as Procurement Agent for Pact**

153. SALAMA, in its capacity as a procurement agent for Pact, charged in excess of its procurement costs for laboratory materials and RDTs paid from the NSA grant to Pact, resulting in non-compliant expenditures totaling USD 299,672 (USD 270,643 for laboratory equipment and USD 29,029 for RDTs). Of this amount, USD 74,464 (USD 65,893 for laboratory equipment and USD 8,571 for RDTs) were excess charges. With regard to laboratory equipment, SALAMA initially attempted to overcharge Pact by a greater amount, up to USD 967,499.

154. SALAMA's Senior Official failed to comply with the provisions of the contract between Pact and SALAMA for procurement of laboratory materials, specifically Article 8, as well as with the provisions of the Code of Conduct for Suppliers, specifically Article 8. Further, SALAMA's Program Official failed to comply with the provisions of the Code of Conduct for Suppliers, specifically Article 19.

155. Pact exercised insufficient oversight of its contracting process with SALAMA and therefore did not comply with the STC of the grant agreement between the Global Fund and Pact for the NSA grant, specifically Articles 9; 18 (a) vi; and 19 (f). Pact undertook corrective measures after it was made aware of the irregularities and recovered a partial amount of USD 64,038 from SALAMA.

### **G.3. Delivery of Medicines Non-Conforming to the Global Fund Quality Assurance Guidelines**

156. Due to a mistake by an IDA employee, IDA delivered to SALAMA non-conforming anti-malarial medicines, resulting in non-compliant expenditures of USD 17,068 charged to the

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<sup>217</sup> This amount is equal to 4% of the USD 12.2 million of grant funds reviewed by the OIG.

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NSA grant to SALAMA. Of this amount, IDA charged USD 5,269 in excess of the costs of the drugs, and has committed to refunding this amount.

157. Despite discovering the discrepancy, SALAMA distributed these drugs to end users, thereby circumventing the Global Fund's testing requirements.

158. Both IDA and the LFA were alerted by SALAMA but failed to take corrective action at that time. Therefore the OIG finds that the LFA failed to comply with the principles and guidelines applicable to LFA services established by the Global Fund (including as set for the in the Global Fund's *LFA Manual*) in handling the information reported by SALAMA.

## H. Recommendations

159. The OIG makes the following recommendations as a result of the findings and conclusions of this investigation:

1. The Secretariat should seek to recover from all parties responsible expenditures of Global Fund grant funds which were not made in compliance with the terms of the program grant agreements, in accordance with the applicable legal rights and obligations, and ensure that such entities are held accountable for their grant management practices, as well as take the appropriate management actions to ensure that the responsible individuals, notably UGP's Procurement Unit Official, SALAMA's Senior Official and SALAMA's Program Official, are held accountable for their actions. The Secretariat should consider whether or not UGP's Procurement Unit Official should any longer be associated with the management of grant funds.
2. The Executive Director should make the necessary determination regarding the appropriate sanctions for the suppliers to UGP involved in bid rigging or other *collusive* and *anti-competitive practices* as noted in this report.<sup>218</sup>
3. The Secretariat's Country Teams should use the lessons learned from this investigation and consider relevant risk mitigating measures applicable to high-value procurements in emergency circumstances and/or which do not follow an open tender procedure. At a minimum, in such cases a diligent review of tender documents and corresponding bids submitted by suppliers should be undertaken by the LFA, with an attention to detect any red flags of potential procurement fraud.
4. The Secretariat's Country Teams should enforce transparent principles for the remuneration of procurement agents and other similar intermediaries for grant recipients. Such remuneration should be monitored either by the Country Team directly or through the LFA.
5. The Secretariat should examine the issues related to LFA performance highlighted in this report and take appropriate action with respect to the LFA concerned. The Secretariat should ensure that all LFAs adopt a risk-based approach in reviewing expenditures, selecting representative samples from each budget cost center; this should include review of SR expenditures and programmatic reports where this is material. The Secretariat should further ensure that the requirements concerning staffing and team skills (as stipulated in the LFA manual) are monitored (e.g., by the LFA hub team) and that exceptions to this are corrected promptly.

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<sup>218</sup> The OIG has determined that there is credible and substantive evidence that creates a reasonable suspicion of a breach of the Code of Conduct for Suppliers, including but not limited to corrupt, fraudulent, collusive, anti-competitive or coercive practices in competing for or performing a Global Fund-financed contract.

## I. Acronyms

ACTs	Artemisinin-based combination therapies
AIM	Association Intercoopération Madagascar
AMFm	Affordable Medicines Facility - Malaria
AMM	The Agence du Medicament de Madagascar
BCC	Behavior Change Communication
CAID	Campagnes d'Aspersion Intra Domiciliaire
CCM	Country Coordinating Mechanism
CRM	Croix Rouge Malagasy
EFTA	European Free Trade Association
ERP	Expert Review Panel
FPM	Fund Portfolio Manager
FPP	Finished Pharmaceutical Product
GF	The Global Fund to Fight AIDS, Tuberculosis and Malaria
ICH	The International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use
IDA	International Development Association
IPT	Intermittent Preventive Treatment
IRS	Indoor Residual Spraying
LFA	Local Fund Agent
M&E	Monitoring and Evaluation
MGA	Malagasy Ariary
NGO	Non-governmental organization
NIF	Numéro d'Immatriculation Fiscale
NSA	The National Strategy Application
OIG	Office of the Inspector General
PNLP	Programme National de Lutte contre le Paludisme
PQR	Price-Quality Reporting
PR	Principal Recipient
PSM	Procurement and Supply Management
RDT	Rapid diagnostic tests
SAF	Sampan'Asa Fampanandrosona ny Fiangonana Jesosy Kristy eto
FJKM	Madagascar
SALAMA	Centrale d'Achats de Médicaments et de Matériel Médical
SR	Sub-Recipient
SRA	Stringent Drug Regulatory Authority
STAT	Numéro Statistique
STC	Standard Terms and Conditions
TB	Tuberculosis
UGP	Unité de Gestion des Projets d'Appui au Secteur de Santé
UNICEF	The United Nations Children's Fund
USD	United States Dollar
VAT	Value Added Tax
VPP	Voluntary Pooled Procurement
WHO	World Health Organization