



The Global Fund
To Fight AIDS, Tuberculosis and Malaria

Office of the Inspector General

Investigation of Procurement Irregularities in Global Projects Implementation Center, Georgia

GF-OIG-13-018
23 May 2013

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B. Executive Summary

Preliminary indications of misuse of funds through
OIG Diagnostic Review

1. Beginning in October 2011, following a referral from the OIG Audit Unit, the Office of the Inspector General's (OIG) Investigation Unit conducted an investigation of allegations of misappropriation of Global Fund grant funds disbursed to the Global Projects Implementation Center (GPIC), the Principal Recipient (PR) of Global Fund grants to Georgia. Preliminary indications of misuse of funds became evident through the OIG Audit Unit's Diagnostic Review of the financial records of GPIC in September and October 2011. The Diagnostic Review identified red flags of irregularities in GPIC's food voucher program for HIV and TB patients, as well as indications of improper procurement practices and bid rigging between two suppliers. Upon identification of these irregularities, the case was transferred to the OIG Investigations Unit for a full investigation. This report summarizes the findings of this investigation.

PR awarded contracts to Zimmer and Siesta, companies which were run by the same people who worked together to steer contracts to each other

2. The investigation identified credible and substantive evidence that two suppliers, Zimmer Ltd. (Zimmer) and Siesta Ltd. (Siesta) (the "Suppliers"), with which GPIC had contracted to implement its food voucher program for HIV and TB patients, worked together to steer food voucher contracts to each other, with the aid of GPIC's Senior Manager, TB Program Officer, TB Program Manager and procurement staff. Under the food voucher program, HIV and TB patients who complied with their drug regimens received vouchers they could exchange for food and toiletries at participating stores throughout Georgia. GPIC contracted with Zimmer and Siesta to print the vouchers, establish agreements with a network of stores and collect redeemed vouchers from these stores.

3. The evidence adduced demonstrates that although Zimmer and Siesta submitted separate bids as two distinct companies, in fact, they were functionally one and the same: (i) Zimmer was founded by Siesta employees; (ii) the two companies used the same registered address and vehicles; and (iii) Zimmer and Siesta were operated by the same people. Additionally, the bid proposals submitted by Zimmer and Siesta for food voucher contracts bore striking similarities, sufficient to establish that it is more likely than not that the same person prepared both companies' bid proposals. The PR deliberately disregarded these similarities, employed an irregular scoring system to favor Zimmer and Siesta and awarded multiple contracts to both companies.

PR's Program Officer prepared business related documents for Zimmer and Siesta

4. Records and documents obtained by the OIG show that GPIC staff had a less than arms-length purely commercial relationship with the founders of Zimmer and Siesta. Evidence was identified through the investigation that a PR staff member routinely prepared food voucher related business documents for Zimmer and Siesta, tasks that GPIC had purportedly sought to engage the companies to perform. Among these types of business documents found in the possession of the PR staff member were partially completed drafts of invoices and business letters, as well as documents related to the Suppliers' bid proposals. In an objective and fair procurement process, one would not expect to see such documents in the position of the requisitioner. The purchaser, or requisitioner, must be an impartial purchaser, and not favor or aid any one particular supplier as such activities would compromise the integrity of the process.

PR made improper salary payments to Senior Manager's domestic partner

5. The investigation also identified that GPIC made salary payments from Global Fund grant funds to a GPIC senior manager's domestic partner for purported monitoring and evaluation work, although no evidence was found to indicate that this individual performed any work for GPIC at the time the payments were made, nor has this individual presented any work product to the OIG. More specifically, the investigation did not identify evidence that the GPIC senior manager's domestic partner engaged in any duties or responsibilities that would have justified her

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receipt of monthly salary payments from Global Fund grant funds. No communications, emails, work product, or memoranda associated with the GPIC senior manager's domestic partner was found, and no witness (among those interviewed) could attest that the senior manager's domestic partner was present and performed any duties and responsibilities on behalf of the PR. The evidence also demonstrates that the senior manager aided and abetted his domestic partner in receiving these sums by executing an employment contract in her favor and authorizing monthly bank wire transfers to her.

6. Finally, during the course of the investigation, GPIC staff falsely stated to OIG investigators that they were unaware of the connection between Zimmer and Siesta, as well as denying their own involvement in aiding the two companies to win food voucher contracts.

C. Message from the Executive Director of the Global Fund



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Our Ref: OED/MD/CK/SY/DM/2013.05.15 - GEORGIA

15 May 2013

MESSAGE FROM THE EXECUTIVE DIRECTOR

I would like to thank the Office of the Inspector General for its thorough and insightful work on the investigation of Global Fund grants to Georgia.

Since 2003 total funds committed by the Global Fund to HIV/AIDS, tuberculosis and malaria programs in Georgia amount to over US \$80 million, of which US \$71.2 million has been disbursed to date.

Beginning in October 2011, the Office of the Inspector General's investigation unit investigated allegations of misappropriation of Global Fund grants disbursed to the Global Projects Implementation Center (GPIC), the Principal Recipient of Global Fund grants to Georgia.

Preliminary indications that funds were being misused came to light in the course of a diagnostic review of the Principal Recipient's financial records in September and October 2011 which found signs of irregularities in GPIC's food voucher program for HIV and TB patients and indications of bid rigging involving two suppliers.

The case was as a result transferred to the Office of the Inspector General's investigations unit for a full investigation.

The investigation found credible and substantive evidence that two suppliers, which the Principal Recipient had contracted to implement its food voucher program for HIV and TB patients, colluded to steer food voucher contracts to each other with the help of GPIC's senior and other staff.

This eliminated the possibility for open, transparent and honest competition among prospective suppliers for these contracts.

The food voucher program was designed to provide TB and HIV patients with an incentive to adhere to their treatment regimens.

On advice of the Global Fund, the food voucher scheme operated with these entities has been halted as of January 2013 and the entities are no longer operational.

The investigation also found that the Principal Recipient made salary payments from Global Fund grant funds to a GPIC senior manager's domestic partner for purported monitoring and evaluation work. No evidence was found to indicate that this person performed any work for the Principal Recipient at the time the payments were made.

The evidence also shows that the senior manager aided and abetted his domestic partner in receiving a salary by executing an employment contract in her favor and authorizing monthly bank wire transfers to her.

The Office of the Inspector General recommends that the Global Fund Secretariat seek to recover from the Principal Recipient the total amount of service fees paid to the suppliers to the voucher program, an amount currently identified as US \$859,000. In addition, it recommends that GPIC should be replaced as the Global Fund's Principal Recipient in Georgia for making improper salary payments and for carrying out improper procurement practices.

The Office of the Inspector General is also calling on the Secretariat to require that the Principal Recipient's senior manager reimburse the Global Fund for salary payments he secured for his domestic partner, worth US \$24,300.

The Secretariat has also been asked to re-evaluate the ability of the Local Fund Agent's country team to perform its fiduciary duty with sufficient objectivity and independence in Georgia and to replace members of the team, as necessary.

In response to the draft investigation report dated 15 February 2013, The Global Fund Secretariat defined an action plan to address all of the report's findings and recommendations and enforce measures to mitigate risks. This includes putting in place a temporary Fiscal Agent to provide oversight and control for the grant resources until a new Principal Recipient is in place. An assessment of the past food voucher program and the actual costs associated with its operation is also envisaged.

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

Yours sincerely



D. Message from the Country Coordinating Mechanism

From: [redacted]
Sent: Monday, 11 March 2013 5:43 PM
To: Norbert Hauser
Cc: [names redacted]
Subject: RE: Investigation Report Georgia

Dear Norbert Hauser,

Thank you for sharing the Investigation Report on Georgia; We highly appreciate efforts of the new leadership of the OIG to improve auditing standards. During September 2011 – February 2013, we hosted several visits of OIG Diagnostic and Investigation missions. We provided all our efforts to offer the best collaboration; however, at some extent, we have being insulted by false allegations spread among the secretariat and other stockholders, which seriously affected organizations image. Moreover, these allegations are not the part of the report.

We also would like to stresses that we did not receive any drafts of any report or other written materials for comments, hence, GPIC had no factual opportunity to raise any counterarguments and comments as well as provide any documents prior to receipt of the Report.

In the attachment you will find our response to the report. We kindly ask you to review it and rise a question regarding creation of a special commission which, in contrary to OIG's investigators, can carry out the comprehensive and objective review and reinstate the impeccable reputation of GPIC and its officers which was fully tainted by false conclusions of the Report; We are not talking about PR-ship, which is out of our authority, but we talking about the organizations and its employees reputation.

We count on your assistance and also propose to involve the Audit and Ethics Committee in the discussions of this cases.

Sincerely yours,

[PR representative – name redacted]

The PR's comments are reproduced and the OIG's responses are detailed in Annex A of this report.

E. Background

E.1. Global Fund Grants to Georgia

USD 83.5 million total funds committed, USD 72 million disbursed to Georgia

GPIC took over as PR in 2011; all staff at the Global Fund Unit at GHSPIC became staff members of GPIC

PR provided food vouchers to TB and HIV patients to incentivize compliance with drug treatment regimens

7. Since 2003, total funds committed by the Global Fund to HIV/AIDS, Tuberculosis and Malaria programs in Georgia amounts to USD 83.5 million, of which USD 72 million has been disbursed to date.¹ The PR of Global Fund grants was Georgia Health and Social Projects Implementation Center (GHSPIC) from 2003 until March 2011. GHSPIC was part of the Ministry of Health and within GHSPIC there was a unit dedicated solely to implementing and overseeing Global Fund projects.²

8. On 1 April 2011, this unit dedicated in the PR responsible for Global Fund programs separated from GHSPIC to form the Global Projects Implementation Center (GPIC). GPIC then became the PR of Global Fund grants for tuberculosis, HIV/AIDS and malaria in Georgia.³ All the staff within this unit left GHSPIC to work at GPIC.⁴ The people who were in charge of implementing Global Fund grant programs at GHSPIC, continued performing the same roles at GPIC.⁵ The founders of GPIC comprise senior management and key staff members of the Global Fund unit at GHSPIC.⁶

9. The goals of the HIV and TB programs are to obtain universal access to quality diagnosis and treatment of tuberculosis and to reduce HIV mortality and transmission, respectively. The food voucher program was intended to advance these goals. In order to incentivize patients to comply with their treatment regimens, GPIC provided food parcels and vouchers to patients who met their drug treatment requirements. Under the food voucher program, TB and HIV patients who adhered to their drug treatment regimen received vouchers that they could then take to participating stores and exchange for food and toiletries. This investigation concentrates on the food voucher program component of the tuberculosis and HIV grants awarded to GPIC.

E.2. Grant Implementers

E.2.1. Global Projects Implementation Center (GPIC)

10. GPIC, the current PR, was founded in January 2011 and started operating on 1 April 2011 as a non-profit organization.⁷ According to senior officials in GPIC, GPIC is explained to be a private entity and is not considered a governmental entity under state control.⁸

11. GPIC took over as PR from GHSPIC in 2011 for the Round 6 Malaria and Tuberculosis grants, as well as one single stream funding grant for HIV/AIDS and one single stream funding grant for Tuberculosis. At the time of the issuance of this

¹ Global Fund Disbursements Report (17 Dec. 2012).

² ROC of GPIC's Senior Manager. at para 3 and 4 (15 May 2012); ROC of GPIC's Program Manager at para. 4 (8 May 2012).

³ ROC of GPIC's Senior Manager at para. 5 (15 May 2012); ROC of GPIC's Program Manager at para. 3 (8 May 2012).

⁴ ROC of GPIC's Senior Manager at para. 4 (15 May 2012); GHSPIC staff list, 29 April 2010; GPIC staff list, 15 July 2011.

⁵ Id. at para 4-5 and 9.

⁶ Charter of GPIC (10 Jan. 2011).

⁷ ROC of GPIC's Senior Manager at para. 3, 6 and 8 (15 May 2012).

⁸ ROC of GPIC's Senior Manager at para. 3 and 8 (15 May 2012); ROC of GPIC's Program Manager at para. 3. (8 May 2012).

GHSPIC was a governmental entity and subject to state procurement rules; GPIC is not a state entity

report, the Global Fund has disbursed USD 27.7 million to GPIC.⁹ To date, GPIC's sole source of funding is the Global Fund.¹⁰

12. According to GPIC, its decision to separate from the GHSPIC was partly motivated by the fact that some Georgian laws were in conflict with Global Fund rules.¹¹ For instance, GPIC staff contended that Georgian law requires that bidding fees and contract penalties relating to procurements conducted by a state entity be transferred to the state budget.¹² The Global Fund grant agreements require that any funds earned by PRs or Sub-recipients (SRs) from grant program activities be accounted for and used solely for program purposes.¹³ Therefore, these officials explained that procurements conducted with Global Fund grant funds through GHSPIC would be subject to Georgian law given GHSPIC's status as a governmental entity. GPIC staff also stated that by separating from GHSPIC, GPIC had less reporting requirements and restrictions as a non-governmental entity.¹⁴

13. When GHSPIC's obligations under its agreements with the Global Fund ended on 31 March 2011, GPIC assumed responsibility for all existing contracts between GHSPIC and its suppliers.¹⁵ At this point, GPIC began operating as a non-profit organization and assumed the role of PR in full.

All Global Fund grants to GHSPIC ended and the balance of remaining grant funds was returned to Global Fund; New grants signed with GPIC

14. The transition did not come, however, without any complications. There were delays in the transfer of Global Fund grant funds to GPIC.¹⁶ All Global Fund grants to GHSPIC ended and the balance of remaining funds was returned to the Global Fund. GPIC, therefore, had to wait for the Global Fund to approve disbursements of new grants to GPIC,¹⁷ which resulted in a delay wherein GPIC did not receive grant funds until late June, 2011.¹⁸ The Malaria and HIV grants with GPIC were signed on 28 April 2011, and the Tuberculosis grant with GPIC was signed on 21 April 2011. GPIC stated that it continued working without interruption on certain programs by obtaining agreements from suppliers to accept late payments.¹⁹ One of these programs was the food voucher program for TB and HIV patients.

E.2.2. LFA

Crown Agents has been LFA since October 2008

15. Under the Global Fund model, the LFA is the "eyes and ears" of the Global Fund on the ground, in-country, and responsible for overseeing that grant programs are operating effectively, efficiently, and financially appropriate. The Global Fund engaged two organizations to fulfill the LFA function throughout the life of the grants to Georgia. KMPG served as the LFA from 2003 and was phased out through the end of December 2008, after the Global Fund re-tendered the LFA position. Crown Agents was awarded the tender and has served as the LFA since October 2008. The LFA is bound by the Global Fund LFA Manual, and terms of reference with the Global Fund.²⁰

⁹ Global Fund Disbursement Details Report (17 Dec. 2012).

¹⁰ ROC of GPIC's Senior Manager at para. 5 (15 May 2012).

¹¹ Id. at para. 3.

¹² Id. at para. 3 and 4.

¹³ Single Stream Funding Global Fund Grant, Standard Terms and Conditions, Art. 11(c).

¹⁴ ROC of GPIC's Senior Manager, at para. 8 (15 May 2012).

¹⁵ Id. at para. 6 and ROC of GPIC's Program Manager at para. 4 (8 May 2012).

¹⁶ ROC of GPIC's Senior Manager at para. 5 (15 May 2012).

¹⁷ Id.

¹⁸ Id.

¹⁹ Id. at para. 6.

²⁰ LFA Manual (2011).

E.2.3. National Center for Tuberculosis

16. The National Center for Tuberculosis has served as the sole Sub-Recipient (SR) for the tuberculosis grants and the National Center for Disease Control as the sole SR for the malaria grant. The National AIDS Center has been the primary SR of the HIV/AIDS grants, receiving a majority of the grant funds designated for this disease.

E.3. Background on the Food Voucher Program

17. The food voucher program started under GHSPIC and is currently carried out by GPIC.²¹ The program was designed to incentivize tuberculosis (TB) patients throughout the country of Georgia to go to the TB centers on a daily basis to receive drug treatment.²² TB patients who are responsive to TB drugs, referred to as “sensitive TB patients”, are given vouchers with a value of GEL 15 per month if they complete the required daily drug regimen.²³ The vouchers can be taken to any participating supermarket and redeemed for groceries and/or toiletries.²⁴

Regular TB patients received monthly GEL 15 food vouchers; MDR TB patients received weekly GEL 25 food vouchers

18. Drug resistant TB patients, referred to as “MDR” (multiple drug resistant) patients, must follow a more rigorous drug regimen for an extended period of time as a result of the severity of the disease.²⁵ MDR TB patients receive GEL 25 food vouchers each week if they comply with their prescribed drug regimen.²⁶ The food voucher program was also extended to HIV patients under the former PR and continues to be carried out by the current PR.²⁷ HIV patients receive GEL 40 vouchers once a month for adhering to their drug regimens.²⁸

Siesta was food voucher supplier from 2008 to 2011

19. Zimmer and Siesta, located and registered to conduct business in Georgia, are companies that both the former PR and the current PR have engaged to print the food vouchers and to contract with stores to accept the food vouchers.²⁹ Siesta was awarded the first food voucher contract by GHSPIC following a call for tenders in June 2008. Siesta was the primary food voucher supplier to the PR from 2008 until 2011, when it suspended its business activities due to the manager’s poor health.³⁰

Siesta’s Manager denied being acquainted with PR staff prior to first food voucher contract, but evidence indicates he knew the PR’s Senior Manager

20. Siesta’s Manager stated to OIG investigators that he did not know anyone at GHSPIC prior to seeing the call for tenders in the newspaper, and that his company was chosen based on its past experience in food distribution.³¹ Evidence presented below, however, shows that Siesta had no business activities prior to the award of the food voucher contract by GHSPIC in 2008. Electronic evidence gathered by the OIG also contradicts Siesta’s Manager’s statement that he did not know anyone at GHSPIC prior to the first tender for food vouchers. The PR’s Senior Manager’s Outlook address book, created in 2004, contained Siesta’s Manager’s telephone number,³² four years before the first tender for food vouchers was executed.

Zimmer became food voucher supplier in August 2010

21. Zimmer began supplying GEL 15 TB food vouchers to the former PR in August 2010, and is currently the PR’s sole food voucher supplier. Zimmer Manager stated to OIG investigators that it advanced money to the smaller stores by bank transfer to

²¹ ROC of GPIC’s Program Manager at para. 4 (8 May 2012).

²² Id. at para. 8; 10 and 12.

²³ Id. at para. 8 and 10 (8 May 2012).

²⁴ ROC of Zimmer’s Manager and Zimmer’s Consultant at para 14 and 18 (28 October 2011).

²⁵ ROC of GPIC’s Program Manager at para. 8 (8 May 2012).

²⁶ ROC of GPIC’s Program Manager at para. 5 (20 July 2012).

²⁷ ROC of GPIC’s Senior Manager at para. 31 (15 May 2012).

²⁸ ROC of GPIC’s Program Manager at para. 5 (20 July 2012).

²⁹ ROC of GPIC’s Senior Manager at para. 11-13. (15 May 2012).

³⁰ ROC of Siesta’s Manager at para. 11 (16 July 2012).

³¹ Id. at para. 11 and 13.

³² Outlook contacts list created on 20 August 2004.

Zimmer staff hold other full time jobs, and perform work for the food voucher program on weekends

The work requires high level of organization, paper work and extensive travel

cover the value of the food vouchers, but that it did not have to advance money to larger stores, such as a supermarket chain in Georgia.³³ Rather, Zimmer reimbursed the larger chains for the redeemed food vouchers.³⁴

22. Zimmer's managers and employee stated that they each held other full-time jobs and that they performed their responsibilities for Zimmer on weekends and sometimes during the week.³⁵ Zimmer's manager stated that two members of their staff (usually the managers) travelled on weekends to the different regions of Georgia to collect redeemed food vouchers from the stores.³⁶ Zimmer representatives also stated that its employees sometimes drove from Tbilisi to Batumi, a Black Sea resort town, twice a month to collect food vouchers.³⁷

23. Once the redeemed food vouchers have been collected from the stores, Zimmer must record the serial numbers of the vouchers from each store, and consolidate this information into one document, 'an act of acceptance', in order to seek reimbursement from GPIC. The process entails a high level of organization and a substantial amount of paperwork and may be repeated several times a month, depending on the frequency at which Zimmer collects redeemed vouchers from the stores.³⁸

24. Zimmer representatives explained to OIG investigators that the following steps are undertaken to reconcile their records and accounting books with the stores and to request reimbursement from GPIC:

- (1) Zimmer's employee prepares an act of acceptance between each store and Zimmer which itemizes all redeemed vouchers collected at that store by serial number and value.³⁹
- (2) This act of acceptance is signed by both Zimmer and the store (Zimmer-Store Act of Acceptance).⁴⁰ Zimmer retains a copy and provides a copy to the store.
- (3) Zimmer's employee then creates a separate act of acceptance, between Zimmer and GPIC (Zimmer-GPIC Act of Acceptance).⁴¹ These acts of acceptances consolidate the information on the Zimmer-Store Acts of Acceptance and itemize all the redeemed vouchers collected from the stores by serial number and value. The Zimmer-GPIC Acts of Acceptance are generally submitted twice a month to GPIC.
- (4) Zimmer returns the redeemed vouchers collected from the stores and the Zimmer-GPIC Act of Acceptance to GPIC. The redeemed vouchers and Zimmer-GPIC Act of Acceptance are accompanied by a letter requesting reimbursement from GPIC;⁴² and
- (5) GPIC counts the vouchers and checks them against their copies as necessary.⁴³ If no discrepancies are found, GPIC countersigns and stamps the Zimmer-GPIC Act of Acceptance.⁴⁴

³³ ROC of Zimmer's Manager and Zimmer's Consultant at para. 15 (28 October 2011) and ROC of Zimmer's Managers and Employee at para. 9 (14 May 2012).

³⁴ ROC of Zimmer's Manager and Zimmer's Consultant at para. 15 (28 August 2011).

³⁵ ROC of Zimmer's Managers and Employee at para. 24 and 25 (14 May 2012).

³⁶ Id at para. 27.

³⁷ Id at para. 25.

³⁸ Id. at para. 12 and 26 and ROC of Zimmer's "Manager 2" at para. 11 and 43 (19 July 2012).

³⁹ Id. at para. 12.

⁴⁰ Id.

⁴¹ Id. at para. 16.

⁴² Id. at para. 16 and ROC of GPIC's Senior Manager at para 20 (15 May 2012).

⁴³ ROC of GPIC's Senior Manager at para. 20 (15 May 2012).

⁴⁴ Examples from Zimmer's files.

E.4. Background on Georgia's Procurement Rules

25. In Georgia there are two different sets of laws regulating the procurement of goods and services: the Law on State Procurement and the Civil Code of Georgia (CCG).⁴⁵ Procurement exercises conducted by GHSPIC were subject to the Law on State Procurement because GHSPIC was organized under the Ministry of Health, and therefore considered a state entity.⁴⁶ As a non-profit organization, GPIC is considered a private legal entity.⁴⁷ Its procurement exercises are, therefore, subject to the CCG and not the Law on State Procurement.⁴⁸

E.4.1. Rules of state procurement:

Electronic tender is standard method under Law on State Procurement; GHSPIC was subject to state procurement rules.

GPIC is a private entity and its procurements are governed by the Civil Code of Georgia.

Tender commission awards contracts based on compliance of proposal with tender requirements and price

First stage: review of technical aspects of proposal; Second stage: bidders are invited to lower their prices in auction style bidding

26. The Law on State Procurement sets forth the methods for conducting state procurements as either electronic tender or simplified tender.⁴⁹ Electronic tender is the standard method, whereas simplified tender is only applicable in limited circumstances (e.g., where delivery of goods or services can only be performed by one supplier and there is no alternative, there is an emergency, to maintain the quality and continued use of a specific good or service, provided the price is not more than the price of initial delivery).⁵⁰ Both procedures are very similar and the only meaningful difference is that simplified tenders can be completed in less time.⁵¹ State procurements must be carried out by the tender commission of the procuring state entity in question. The commission takes decisions through majority votes.⁵² The tender announcement must be published in the newspaper "24 Hours".⁵³ The tender commission approves the method of calculating the tender proposal price and determines the qualification requirements.⁵⁴ The winner of the tender is selected by the tender commission based on compliance of the tender proposal with the tender requirements and the price suggested by the candidate.⁵⁵

27. In addition, the Law on State Procurement also sets forth that two-stage tenders can only be used for banking and investment services, legal services, accounting, audit and fiscal services and recruiting and training services.⁵⁶ In the first stage of the tender, the tender committee reviews the technical aspects of the proposal and assesses the quality of the services.⁵⁷ The second stage involves rounds of price bidding, in which bidders are invited to lower their prices as in an auction.⁵⁸ The first price proposal is made by the candidate with the best technical ranking.⁵⁹ During the additional rounds of electronic bidding each participant can see the amounts proposed by competing bidders, which may in turn incentivize the candidates to lower their price proposals.⁶⁰

⁴⁵ Memorandum from BLC Law Office, Tbilisi, Georgia, p. 3-4 (19 July 2012).

⁴⁶ Id. at p. 4.

⁴⁷ Id.

⁴⁸ Id.

⁴⁹ Id. at p. 6.

⁵⁰ Id.

⁵¹ Id.

⁵² Id. at p. 6, citing Art. 10.3 of the Law on State Procurement.

⁵³ Id. at p. 6.

⁵⁴ Id.

⁵⁵ Id. at p. 7.

⁵⁶ Id. at p. 7, citing Annex 1 of the Order on Two Stage Tender.

⁵⁷ Id. at p. 7.

⁵⁸ Id.

⁵⁹ Id.

⁶⁰ Id.

E.4.2. Procurement rules under the Georgian Civil Code:

28. The Georgian Civil Code applies to procurement exercises conducted by private entities.⁶¹ The code is based on the principle of freedom of contract and allows for parties to pursue any course of action not prohibited by law.⁶² This means that under the code GPIC can freely select suppliers through a method of their choosing and negotiate the contractual terms.⁶³

E.4.3. GPIC's Procurement Rules

At time of OIG
Diagnostic Review,
GPIC did not have
Operations Manual

29. At the time of the OIG Diagnostic Report in September – October 2011, GPIC did not have an operations manual in place. GPIC has since then formalized an internal procedure for procurement, although at the date of this report GPIC's Operations Manual has not yet been approved by the Global Fund Secretariat. GPIC's draft Operations Manual sets forth several different methods of procurement, depending on the contract amount.⁶⁴

30. National Electronic Competitive Bidding (NECB) is used for procurement of products exceeding EUR 80,000 in value.⁶⁵ NECB is used for the procurement of goods and services that are available locally.⁶⁶ GPIC uploads the tender announcement in Georgian in the Electronic Procurement System (EPS), which is a portal located on GPIC's website.⁶⁷ The announcement is also published on www.jobs.ge.⁶⁸ After completing registration and paying the bid fee, the bidding company indicates their bid price on the system and uploads its technical proposal.⁶⁹ The bid fees previously went to the state treasury, as required by the Georgian law.⁷⁰ (Although GPIC, as a private entity, is no longer required to collect bid fees it still continues this practice.⁷¹ However, instead of being transferred to the state treasury, the bid fees are returned to the bank account of the relevant Global Fund grant.)⁷²

31. After the tender is closed, the bid prices are accessible to all bidders.⁷³ The bidders may then participate in an electronic reverse auction, each lowering their bid prices in three rounds.⁷⁴ After the electronic reverse auction is completed, the bidders' identities and last proposed price are communicated to the tender committee.⁷⁵ The tender committee then evaluates the technical proposals of each bidder and assigns a score to each bidder.⁷⁶ NECB is used for food voucher contracts because the contract value exceeds EUR 80,000 and the services can be procured locally.

⁶¹ Id. at p. 3.

⁶² Id. at p. 4, citing Art. 10.2 of CCG.

⁶³ Id. at p. 4.

⁶⁴ GPIC Draft Operations Manual (7th version), p. 38-39.

⁶⁵ Id. at p. 39.

⁶⁶ Id. at p. 41.

⁶⁷ Id. at p. 41 and 44.

⁶⁸ Id. at p. 44.

⁶⁹ Id. at p. 48.

⁷⁰ ROC of GPIC's Senior Manager at para. 3 (15 May 2012).

⁷¹ ROC of GPIC's Finance Officer at para. 5 (8 May 2012); GPIC Draft Operations Manual (7th version), p. 48.

⁷² ROC of GPIC's Finance Officer at para. 5-9. (8 May 2012)

⁷³ GPIC Draft Operations Manual (7th version), p. 48.

⁷⁴ Id.

⁷⁵ Id. at p. 49.

⁷⁶ Id.

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National Electronic Competitive Bidding used for food voucher contracts

32. International Electronic Competitive Bidding (IECB) is used for the procurement of products exceeding EUR 350,000 in value.⁷⁷ The tender announcement is uploaded in English in the EPS and published on www.dgmarkt.com and www.jobs.ge.⁷⁸ Most health products are procured through IECB.⁷⁹

33. Shopping is a procurement method used for procurement of products with a value of less than EUR 80,000.⁸⁰ GPIC prepares a list of potential suppliers.⁸¹ GPIC then solicits price quotations from at least three suppliers and selects a supplier with the most competitive price proposal, although some technical factors, such as delivery time, may be considered in addition to price.⁸² Single-source procurement is used only for procurements for a value of less than EUR 10,000.⁸³

E.4.4. The Global Fund's Policy on Procurement Practices

Global Fund grant agreements require contracts be awarded in a transparent and competitive basis

34. Under the standard terms and conditions of the Global Fund grant agreements, contracts must be awarded on a transparent and competitive basis.⁸⁴

⁷⁷ Id. at p. 41.

⁷⁸ Id. at p. 45.

⁷⁹ Id. at p. 41.

⁸⁰ Id. at p. 54.

⁸¹ Id. at p. 55.

⁸² Id.

⁸³ Id.

⁸⁴ Standard Terms and Conditions (Single Stream Funding) Grant Agreement, GEO-T-GPIC, Art. 18 and Standard Terms and Conditions Grant Agreement, GEO-611-G10-T.

F. Methodology

F.1. Scope of Investigation

OIG investigates misappropriation and mismanagement of grant funds

35. The OIG is responsible for conducting investigations of misappropriation and mismanagement of Global Fund grant funds by PRs and SRs (collectively, “grant implementers”), Country Coordinating Mechanisms (CCMs), Local Fund Agents and third party vendors.

36. The following definitions are applicable to this Report:

(1) “**Misappropriation**” is defined as the intentional misuse or misdirection of money or property for purposes that are inconsistent with the authorized and intended purpose of the money or assets, including for the benefit of the individual, entity or person they favor, either directly or indirectly.⁸⁵

(2) “**Mismanagement**” is defined as inappropriate, imprudent, inefficient or incompetent management of funds, notably through an absence of transparency, fairness, accountability or honesty in the management of said funds.

(3) “**Gross Mismanagement**” is defined as reckless or intentional behavior leading to inappropriate, imprudent, inefficient or incompetent management of funds, notably through negligence, absence of transparency, fairness, accountability or honesty in the management of said funds.

37. Two in-country missions to Georgia were conducted by the OIG Investigations Unit in October and November 2011 to collect relevant information and evidence from the PR and two food voucher suppliers engaged by the PR.

38. An additional in-country mission was conducted in May 2012 to collect further evidence and information, assess the evidence that had been identified by the OIG’s Diagnostic Audit Report and to review the collected evidence with the assistance of local translators.

PR staff consented to OIG requests for books and records

39. The PR’s Senior Manager and staff consented to the OIG’s requests to access and copy its books and records, stored electronically or in hard copy, on all occasions.

40. Following the OIG’s review and analysis of the evidence, OIG investigators conducted a final mission in July 2012 to interview the PR’s staff and the food voucher suppliers.

Global Fund Secretariat, LFA, CCM and PR had opportunity to review and comment on OIG’s findings

41. The OIG has provided the Global Fund Secretariat, the LFA, the CCM and the PR an opportunity to review and comment on its findings prior to the finalization of this report.

42. The PR’s Senior Manager was fully informed of the scope of allegations and provided with relevant evidence through three interviews, including his connection to the Suppliers and the PR’s involvement in the food voucher procurement exercises. The OIG conducted three interviews with the PR’s Senior Manager and during the interviews addressed the matters discussed in this Report.⁸⁶ The PR’s Senior Manager was also afforded ample opportunity to present relevant documents to investigators.⁸⁷

⁸⁵ Code of Conduct for Recipients of Global Fund Resources, Annex I (16 July 2012).

⁸⁶ ROC of GPIC’s Senior Manager (15 May 2012 and 20 July 2012).

⁸⁷ Id. at para. 20, 68, 69 and 70 (20 July 2012).

PR commented on
OIG's Investigation
Report. OIG's
responses to each of
PR's comments are
annexed to Report.

43. The Senior Manager was provided with a copy of the draft report on 15 February 2013, to which the PR has commented. These comments were received by the OIG on 11 March 2013. The PR subsequently sent additional comments to the OIG on 4 April 2013. The OIG has given careful consideration to each of the PR's comments, changed the report where appropriate, and where it has not accepted a proposed change, the OIG has responded to each of the comments individually and delivered the responses to the PR. After a thorough and careful review by the OIG team, and separate members of the OIG disassociated from the investigation, the OIG determined that none of the PR's comments warranted a modification to any of the material findings of the Report. The PR's comments and the OIG's responses are annexed to this Report.

44. The OIG conducted a survey of the stores participating in the food voucher program throughout Georgia in order to verify the program was being carried out as represented by the PR and Suppliers. However, the results of the survey were inconclusive because the OIG could not verify that the patients received the food vouchers, due to patient confidentiality concerns. As such, the OIG felt it inappropriate to contact patients, as it would be a violation of their confidentiality and privacy. The OIG has, therefore, made a recommendation in this Report that the Global Fund Secretariat conduct a comprehensive evaluation of the effectiveness of the food voucher program in Georgia.

45. The information and documents provided by GPIC and the Suppliers were carefully examined and fully incorporated into this Report. The evidence and documents referenced in this Report were obtained pursuant to the OIG's Charter and Terms of Reference⁸⁸ and the Global Fund's Code of Conduct for Suppliers⁸⁹ and with the express consent of GPIC and the Suppliers.

OIG makes findings
based on credible
evidence and makes
recommendations to
Global Fund for
recovery of losses
and sanction

46. Upon concluding its findings based upon credible evidence, the OIG makes recommendations to the Global Fund for recovery of losses and sanctions/debarment of grant implementers and/or vendors, as appropriate. It also provides the Global Fund Board with an analysis of lessons learned for the purpose of identifying key risks areas and recommendations for mitigating such risks.

F.2. Limitations of Investigation

Zimmer did not fully
comply with OIG's
requests for records

47. Despite the existence of the Global Fund Supplier Code of Conduct, the OIG's investigation was significantly limited by the Suppliers' lack of cooperation with requests for the production of documents and relevant materials. On 9 November 2011, members of the OIG requested access to Zimmer's electronic records relating to work for the food voucher contracts.⁹⁰ Zimmer refused this request and subsequently sent a written response dated 18 November 2011, to the OIG setting forth the reasons for its refusal.⁹¹

Records provided by
Zimmer were
incomplete

48. OIG investigators offered compromise solutions, which Zimmer declined. After repeated requests for Zimmer's electronic records, Zimmer finally agreed to allow the OIG to access these records. However, the electronic and hard copy records provided by Zimmer were incomplete. For example, Zimmer did not provide

⁸⁸ Art. 10 of the OIG's Charter and Terms of Reference gives it the authority to access, inspect, review, retrieve and make copies of all books and records (including financial documents and records) relating to grants funded by the Global Fund or the implementation of Global Fund projects, programs and operations, whether maintained by Principal Recipients, Suppliers or other individuals and entities engaged in or involved in, carrying out Global Fund funded projects, programs or operations.

⁸⁹ Art. 17 of the Suppliers' Code of Conduct requires suppliers to cooperate with any reasonable request from the OIG to inspect any relevant accounts, records and documents relating to bidding for or performing Global Fund financial contracts.

⁹⁰ ROC of Zimmer's Managers and Employee at para 6-18. (9 Nov. 2012)

⁹¹ Letter from Zimmer to OIG (18 Nov. 2011).

any copies of their bid proposals and supporting accounting documents were insufficient.

Siesta's Manager attempted to prevent OIG from accessing Siesta's bank account statements

49. OIG investigators also encountered similar challenges from Siesta, the other supplier engaged by GHSPIC, and then later GPIC, to print food vouchers and to contract with stores to accept the food vouchers from patients. Siesta's Manager delayed meeting OIG investigators for several days following their request for the company's books and records. Siesta's Manager also attempted to revoke a power of attorney that he previously granted to the OIG to obtain the company's bank account statements.

PR's Senior Manager did not believe Zimmer and Siesta were under any obligation to cooperate with OIG

50. It is noteworthy that GPIC officials did not believe suppliers were obligated to comply with the OIG's requests for information and, therefore never communicated the Global Fund's Code of Conduct for Suppliers to its suppliers, which is required under Article 21(d) of the Standard Terms and Conditions of the Grant Agreement.⁹² In fact, when OIG investigators expressed dissatisfaction over the Suppliers' lack of cooperation, GPIC's Senior Manager stated that the OIG had no legal basis or grounds to access the Suppliers' books and records.⁹³ Although OIG investigators pointed out the relevant sections of the Grant Agreement and the Global Fund's Code of Conduct for Suppliers, GPIC's Senior Manager maintained that he did not believe the Suppliers had any obligation to cooperate with the OIG's inquiry.⁹⁴

F.3. Exchange Rate

Exchange rate from GEL to USD set as GEL 1.68 to USD 1.00

51. The report describes amounts in Georgian Lari (GEL) together with the equivalent amounts in United States dollars (USD) where appropriate, for ease of reading. For the purpose of this report, the exchange rate from GEL to USD has been set as the average daily exchange rate from the period 17 July 2008⁹⁵ to 17 May 2012⁹⁶, GEL 1.68 to USD 1.00. This value is an average of the published daily exchange rate for the National Bank of Georgia.

⁹² Standard Terms and Conditions (Single Stream of Funding), Art. 21(d).

⁹³ ROC of GPIC's Senior Manager at para. 5 (14 Nov. 2011).

⁹⁴ Id. at para. 5-11.

⁹⁵ The first food voucher contract, between Siesta and the PR, is dated 17 July 2008.

⁹⁶ The OIG last acquired bank account statements from the PR and the Suppliers in May 2012.

G. Investigation Findings

G.1. Zimmer and Siesta are alter egos of each other

Zimmer and Siesta were one and the same; PR was aware of this and helped both companies to win contracts

Zimmer's managers and employee worked at Siesta

Siesta's Manager's phone number was in PR Senior Manager's Outlook address book four years before Siesta had a business relationship with PR

52. OIG's investigation identified credible and substantive evidence that purportedly competing food voucher suppliers, Zimmer and Siesta, were indeed for all intents and purposes, one and the same entity and this fact eliminated the ability for open, transparent and honest competition amongst prospective suppliers for these contracts. It is also evident that the PR was aware of this circumstance, and actively supported it by providing administrative support to Siesta and Zimmer and by aiding them both to win the food voucher contracts by employing an irregular scoring system to favor the companies.

53. The investigation has revealed that Siesta's connection with Zimmer, and the individuals associated with each company have a deep, shared and common history. Siesta was founded in April 2006, by Siesta's Manager while he was working as a commercial director at a major beverage company in Georgia.⁹⁷ At the time, Siesta's Manager recruited two other individuals to work for Siesta: Zimmer's Manager and a Zimmer employee, who were working as colleagues at the beverage company.⁹⁸ All three worked full-time at the beverage company while also working for Siesta, with the exception of Siesta's Manager who left the beverage company in 2007 to concentrate on building Siesta's business.⁹⁹

54. Zimmer's Manager is currently still working as Head of Distribution at the beverage company, and Siesta's former employee is still working at that company as well.¹⁰⁰ Zimmer's Manager's half-brother, who is Zimmer's "Manager 2", also worked at Siesta from August 2009 until June or July 2011.¹⁰¹ Zimmer's employee, a relative of Zimmer's managers, worked as a driver for Siesta picking up redeemed food vouchers from participating stores.

55. According to Siesta's Manager, Siesta initially distributed beer, ice cream, food and personal hygiene products.¹⁰² However, a review of Siesta's bank account statements, which date back to its opening date of 24 April 2006, do not show any transactions to support these claims. In fact, Siesta's bank account statements do not show any business transactions until June 2008, when it submitted its first bid for a food voucher contract announced by GHSPIC, which it subsequently won.¹⁰³

56. Siesta's Manager told OIG Investigators that he only learned of the food voucher program for tuberculosis patients through GHSPIC's call for tenders in 2008 placed in a newspaper and that prior to that he was not acquainted with any staff member of GHSPIC.¹⁰⁴ This was not the case, as the evidence demonstrates that Siesta's Manager knew the head of the Global Fund unit within GHSPIC well before 2008. GPIC's Senior Manager, who was a senior manager of the Global Fund unit at GHSPIC at the time, had already entered Siesta's Manager's contact information into his Outlook address book as early as 2004.¹⁰⁵ Such a false

⁹⁷ ROC of Zimmer's Managers and Employee at para.5 (14 May 2012).

⁹⁸ ROC of Siesta's Manager at para. 4 (16 July 2012).

⁹⁹ Id.

¹⁰⁰ ROC of Zimmer's Managers and Employee at para. 4 and 17 (14 May 2012) and ROC of Siesta's Manager and Siesta's Employee at para 4 (14 Nov. 2011).

¹⁰¹ ROC of Zimmer's Manager at para. 37 (19 July 2012) and ROC of Zimmer's "Manager 2" at para. 17 and 19 (19 July 2012).

¹⁰² ROC of Siesta's Manager at para. 4 (July 16, 2012).

¹⁰³ Bank of Georgia bank account statements and Bank Republic bank account statements; contract between Siesta Ltd. and GHSPIC dated 17 July 2008.

¹⁰⁴ ROC Siesta's Manager at para. 11 and 13 (16 July 2012).

¹⁰⁵ See para. 99 of this report.

statement impedes the credibility of the manager, and calls into question other substantive claims that he has made to investigators about the relevant events in this case.

G.1.1. Zimmer's and Siesta's Connection to One Another

Zimmer's managers founded Zimmer while still working at Siesta in 2009 and continued working for Siesta until 2011

57. Zimmer's managers founded Zimmer Ltd., a competitor company, in April 2009 when both were still working for Siesta.¹⁰⁶ Zimmer's "Manager 2" acknowledged that he and Zimmer's Manager, as well as a Zimmer employee, worked concurrently for Siesta and Zimmer until July 2011, when Siesta suspended its business activities due to Siesta's Manager's health problems.¹⁰⁷

58. Zimmer's "Manager 2" stated that he collected vouchers for both Zimmer and Siesta at the same stores during the period when he and Zimmer's Manager worked for both companies.¹⁰⁸ Siesta's Manager stated that he knew Zimmer's Manager had established Zimmer, a competitor company, while he was working at Siesta and that Siesta's Manager allowed Zimmer's Manager to work concurrently at both companies until July 2011, when Siesta stopped operating.¹⁰⁹

Siesta's bid proposal listed Zimmer's employees as Siesta's employees

59. Zimmer staff concurrently worked at both companies. Zimmer's "Manager 2" stated that both he and Zimmer's Manager worked concurrently for both companies from September 2010 until June or July 2011.¹¹⁰ Siesta's bid proposal documents for GEL 40 HIV food vouchers in February 2011, which was submitted to GHSPIC electronically, listed Zimmer's managers as staff members. The bid proposal identified Zimmer's "Manager 2" as Siesta's manager; and Zimmer's Manager as Siesta's chief manager. Siesta's bid proposal also identified a woman, who is Zimmer's employee, as an operator for Siesta; and another woman, who is a tax/accounting consultant to Zimmer,¹¹¹ as Siesta's employee.

Siesta and Zimmer shared same registered address

60. In addition, both Zimmer and Siesta had the same registered address in Tbilisi, Georgia, which is also the principal place of business of the beverage company where Zimmer's Manager works.

Siesta and Zimmer used same vehicles

61. Further, as demonstrated by Figures 1 A and B below, Zimmer and Siesta used the same vehicles. Zimmer's managers and an employee rented their personal vehicles to both Siesta and Zimmer, while they worked at both companies simultaneously. Bid documents submitted by Zimmer and Siesta show Zimmer's driver rented his vehicle (Mercedes Benz 180, registration number WHW 345) to Siesta on 22 September 2010 for a 12 month period and to Zimmer on 1 August 2011 for a 12 month period.

¹⁰⁶ ROC of Zimmer's Manager and Employee at para. 3 (14 May 2012); and ROC of Zimmer's Manager at para. 11 (19 July 2012).

¹⁰⁷ ROC of Zimmer's "Manager 2" at para. 5 and 25 (19 July 2012).

¹⁰⁸ Id. at para. 24.

¹⁰⁹ ROC of Siesta's Manager at para. 6 (10 November 2011) and ROC of Siesta's Manager at para. 26 and 39 (16 July 2012).

¹¹⁰ ROC of Zimmer's Manager 2 at para 17 (19 July 2012).

¹¹¹ [Name Redacted] has stated she is a consultant for Zimmer, but not Zimmer's accountant. ROC of Zimmer's Manager and Zimmer's Consultant at para. 17 (28 October 2011).

Figure 1a: Car Rental Agreement between Zimmer's Employee and Siesta

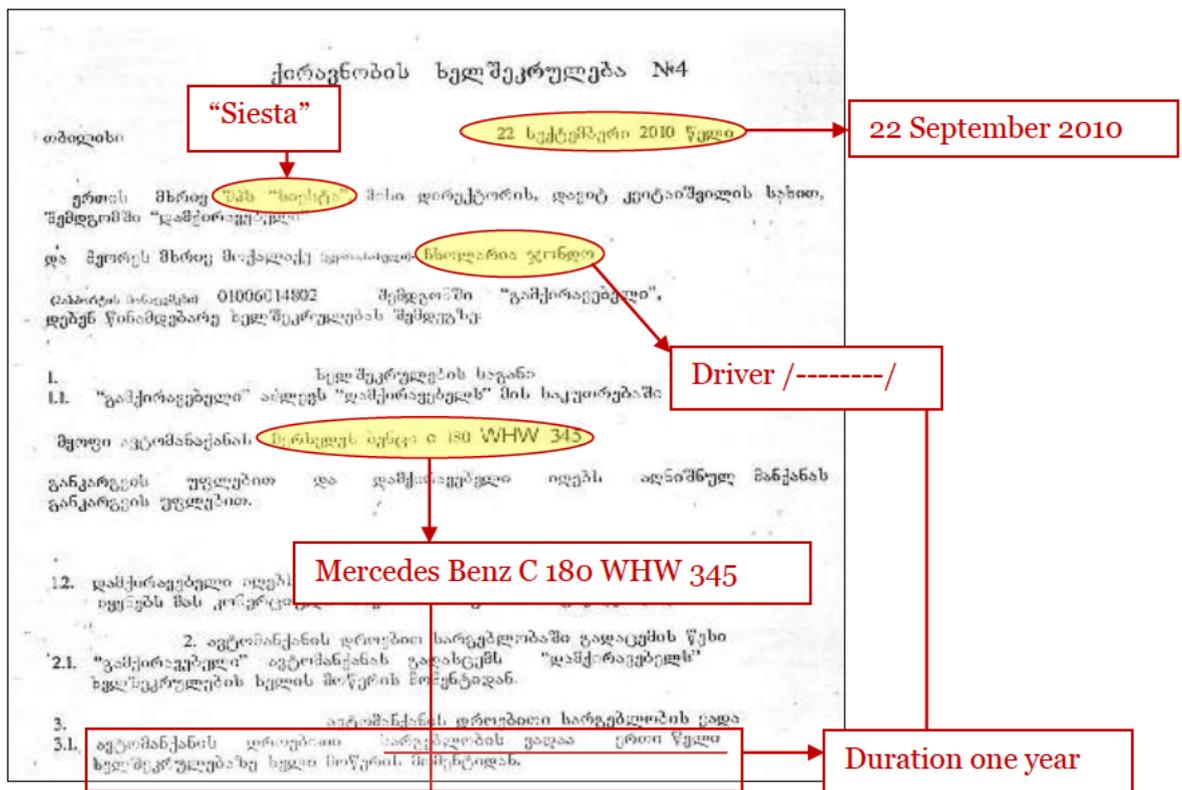
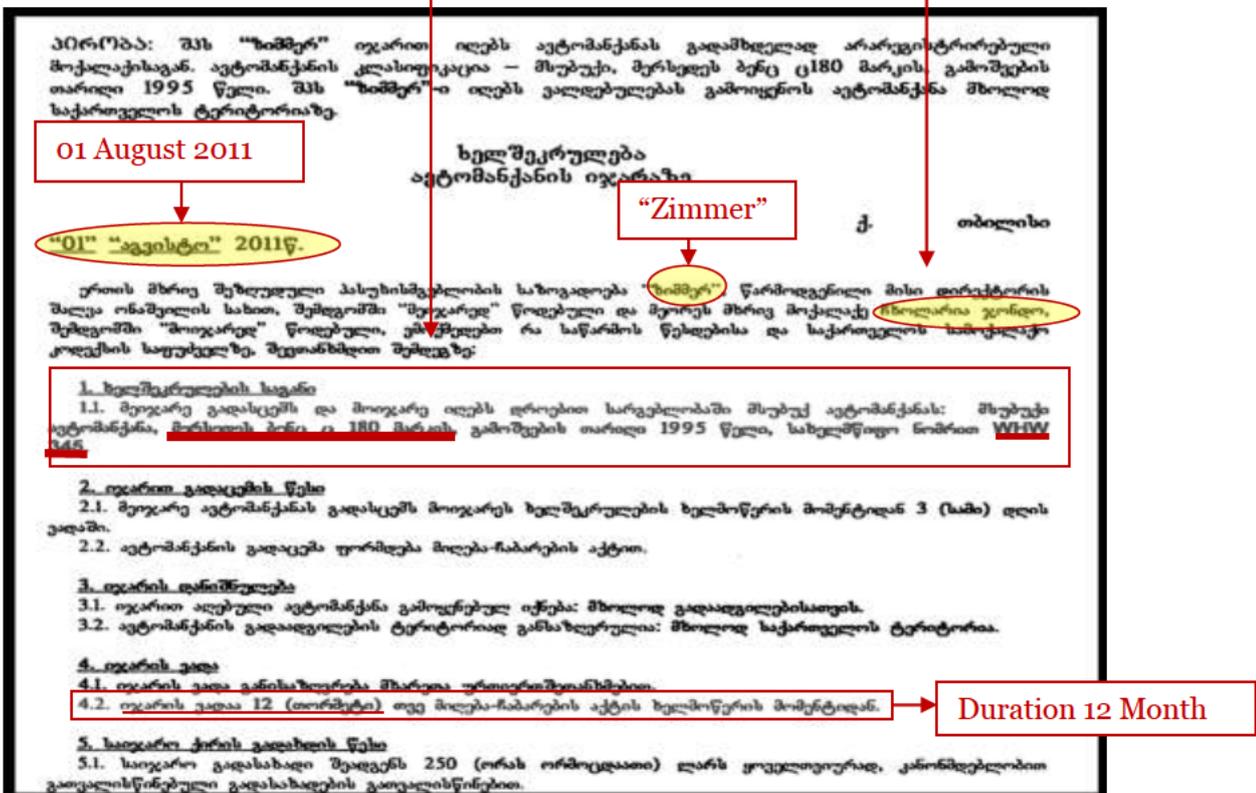


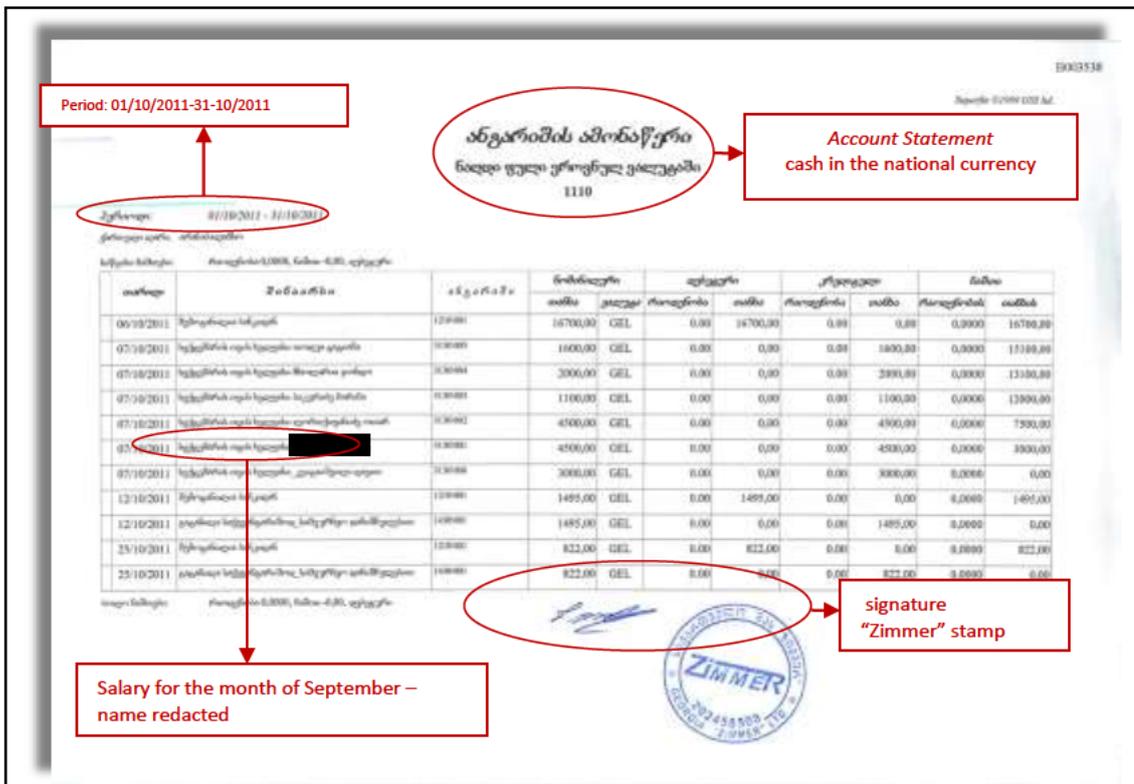
Figure 1b: Car Rental Agreement between Zimmer's Employee and Zimmer



G.1.2. Siesta’s Manager was on Zimmer’s payroll

62. Although Siesta’s Manager denied having ever worked for Zimmer¹¹², documents obtained during the investigation show that Siesta’s Manager, also worked at Zimmer. This is illustrated by Zimmer’s payroll sheet for October 2011, which reflects that Siesta’s Manager received a salary payment. According to this document, Siesta’s Manager was paid GEL 3,000 (USD 1,813) in the month of October (Figure 2). That same month, a hotel receipt dated 28 October 2011 and bearing Siesta’s Manager’s name for L. Bakuri hotel in Batumi, Georgia was also found in Zimmer’s books and records. (Figure 3)

Figure 2: Zimmer’s Payroll Sheet



¹¹² ROC of Siesta’s Manager at para. 31 (16 July 2012).

Figure 3: Hotel Receipt Found in Zimmer’s Records

შპს „ბაკური“ „BAKURI“ LTD B003585
 სანსტუმრო «L-ბაკური»
HOTEL «L-BAKURI»
 ანგარიში • ACCOUNT № _____

შპს „ბაკური“, ქ. ბათუმი, საბურთალოს რაიონი, Batastsvili str., Batumi „Bakuri“ Ltd
 სავაჭროდოკუმენტო კოდი 245392089 ID Code
 „სიესტა“ ბანკის ბათუმის ფილიალი, „TBC“ Bank Batumi branch
 ბანკის კოდი 220101835 Bank Code
 ანგარიშის ნომერი: GE48TB100000000257841 Account Number

ოთახი / Room № 405, 406 ქვეყანა / Country საქართველო
 გვარი, სახელი / Surname (რ. იმის) [Redacted]
 შემოსვლა / Entrance 22.10.2011 გასვლა / Departure 23.10.2011

მომსახურების სახე / Kind of service	ფასი / Price
სანატორი	131,00
სულ / TOTAL	131,00

ნომრის ფასი 69,00
 The price of the room
 გატარებული დღე-ღამის რაოდენობა 2-2
 Amount of spending twenty-four hours
 დაბრუნება
 Return
 ბინადრობის ფასი 120,00
 Sum for staying
 რეგისტრატორის ხელწერა
 Signature of registrar

Siesta’s Manager worked for Zimmer

63. When questioned about these documents, Zimmer’s “Manager 2” confirmed that his signature was on the payroll sheet, but stated that he did not know why Siesta’s Manager was listed on Zimmer’s payroll. However, there is no evidence to support that Siesta’s Manager’s name on Zimmer’s October 2011 payroll sheet was an error. No one complained at the time, and the entry was never corrected. Moreover, Zimmer’s “Manager 2” provided no explanation as to how Zimmer would be in possession of Siesta’s Manager’s hotel receipt if he had not provided it to the company for reimbursement.¹⁴³

G.2. Zimmer and Siesta Officials Worked Together to Set Bid Prices and to Steer Food Voucher Contracts to One Another

Together Siesta and Zimmer collected USD 853,804 in service fees

64. The OIG’s investigation found substantive and credible evidence that Zimmer and Siesta worked together to set bid prices for food voucher contracts and to steer contracts to one another. As explained herein, two Siesta employees—Zimmer’s managers—founded Zimmer, but continued to work at Siesta for over two years after having established Zimmer. Both companies share the same registered address, and submitted bid proposals that contained identical wording and formatting. Both companies submitted competing bids for food voucher contracts on two occasions during this period. In fact, Siesta and Zimmer only competed against each other

¹⁴³ ROC of Zimmer’s “Manager 2” at para. 14-16 (19 July 2012).

when the World Food Programme participated in food voucher tenders, as described in Section of D.3. “Improper Procurement Practices” of this report. At all other times, when there were no competitors, either Siesta or Zimmer was the sole bidder in food voucher tenders and achieved the contract. Six out of nine food voucher contracts were sole-sourced by the PR to either Siesta or Zimmer. Together both Siesta and Zimmer amassed USD 853,804 (GEL 1,434,390) in services fees from the food voucher contracts.

WFP was only organization to have competed against Siesta and Zimmer

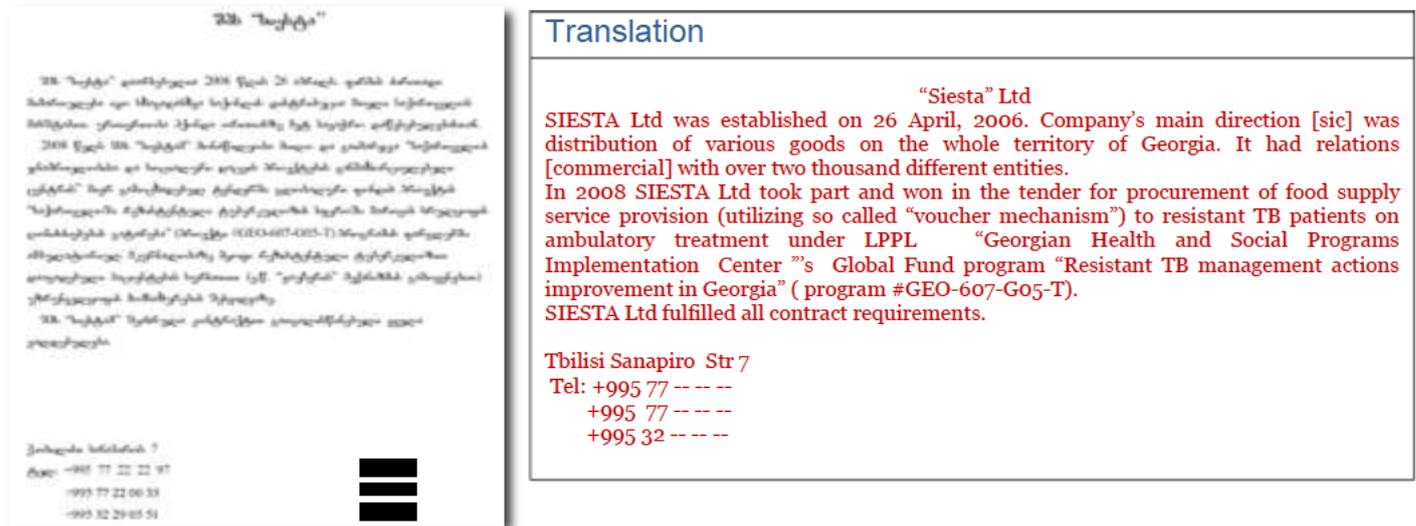
65. The World Food Programme (“WFP”) was the only organization identified to have competed against Zimmer and Siesta for food voucher contracts. The WFP supplied food packages in partnership with GHSPIC to tuberculosis patients from 2006 to 2009¹⁴⁴. In 2008, when GHSPIC began using food vouchers, WFP had been winding down its activities in Georgia and was considering pulling out of the country.¹⁴⁵ WFP decided that if it won the food voucher tender it would maintain a presence in Georgia in order to help run the food voucher program for GHSPIC.¹⁴⁶

G.2.1. Striking Similarities between Zimmer and Siesta’s Bid Proposals

PR’s Program Officer admitted to having created a bid document for Siesta

66. Figure 4 below shows Siesta’s company history, which appears to have been created by the PR’s Program Officer. This document was located in the possession of the PR’s Program Officer, who had electronically stored this document for Siesta in Word format in her GPIC computer. The Program Officer acknowledged creating a description of Siesta’s company history, which was submitted with the company’s bid proposal for several food voucher tenders, namely 24 February 2010 TB GEL 25 food vouchers, 6 August 2010 TB GEL 25 food vouchers and TB GEL 15 food vouchers.¹⁴⁷ In addition, as described herein, the PR was found to have used existing Siesta documents as templates to create Zimmer’s documents.

Figure 4: Description of Siesta’s Company History Drafted by PR’s Program Officer



¹⁴⁴ World Food Programme bid proposal for GEL 15 TB food vouchers, August 2010. ROC of Former WFP Employee 1 at para. 5 (11 July 2012).
¹⁴⁵ ROC of Former WFP Employee 2 at para. 3 (16 July 2012) and ROC of Former WFP Employee 1 at para. 25 (11 July 2012).
¹⁴⁶ ROC of Former WFP Employee 2 at para. 4 (16 July 2012).
¹⁴⁷ ROC of GPIC’s Program Officer, para. 75 (19 July 2012).

Description of Services

67. Both Zimmer’s and Siesta’s bid proposals for GEL 15 TB vouchers submitted to GHSPIC in August 2010 contained similar descriptions of how each company proposed to carry out the food voucher program. The two descriptions, written in the same writing style, consisted of three short paragraphs and contained the same spelling error and identical wording (Figures 5A and 5B).

Figure 5A: Same Spelling Error, Identical Wording, Formatting in Description of Services

შ.ს.ს. სიესტა

მის: ქ. თბილისი
სანაპიროს 7
ტელ: [REDACTED] 2010

გამაწვეა მიმსახურების შესრულების შეთანხმება. მოცულობა და ვადები

“სიესტა” იღებს ვალდებულებას, რომ სულსაწყობის გათავსებამდე 2 კვირის ვადაში დაიწყოთ და 2011 წლის 31 მარტის **ინკლუზიური** დამხრულის სენსიტიური ტუბერკულოზით დაავადებული პაციენტების სენსიტიური ცენტრების (საქართველოს უსრუველდოა კერძოდ სენსიტიური ტუბერკულოზით დაავადებული სენსიტიური ცენტრების სისრულეს და თბილისის ცენტრ) უსრუველდოა იქნება სენსიტიური ცენტრები 2011 წლის 31 მარტის სავალი.

“სიესტა” იღებს ვალდებულებას, რომ დაავადებული პაციენტების სენსიტიური ცენტრებში უსრუველდოა უსრუველდოა უსრუველდოა უსრუველდოა 66 ქ. სს ტუბერკულოზის და ფულის დაავადებით დაავადებული პაციენტების შესახებ. დანართების ასანაზარებელი შე სულსაწყობით გათავსებული და სეროლოგიკური და კონტრაქტის წინაშე წლის 30 აპრილი.

დირექტორი

Translation

“SIESTA” Ltd
Address: Tbilisi
Sanapiro Str 7
Tel: Redacted

06.08.2010

Execution methodology, scale and deadlines for services to be provided

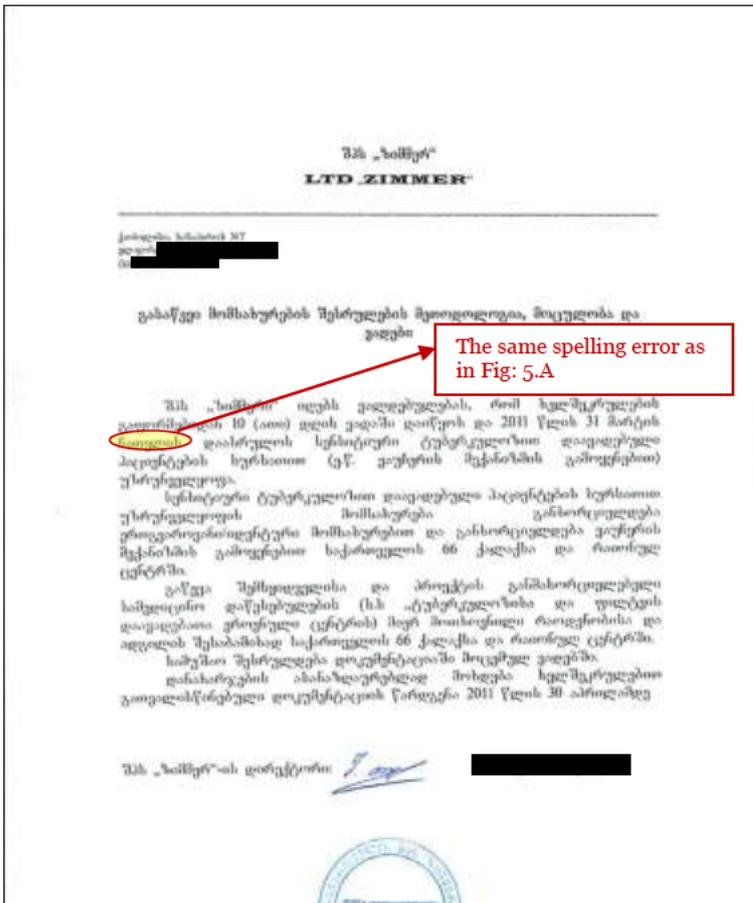
“SIESTA” Ltd is pledging, to start within 2 weeks from execution of the contract and to finish 31 March 2011 **inclusive** [sic], food distribution (through so called voucher mechanism) to the patients suffering with sensitive tuberculosis. Specifically, [those] suffering with sensitive tuberculosis shall be provided with foodstuffs (except tobacco and alcohol) upon presentation of the vouchers to the food stores inclusive 31 march 2011.

“SIESTA” Ltd is pledging, that food supply service to the patients suffering from sensitive tuberculosis be carried out through identical/homogeneous service and be carried out through utilization of voucher mechanism in 66 towns and regional centers according to the vouchers issued by the National Center for Tuberculosis and Lung Disease.

For reimbursement of expenses documentation envisaged by agreements shall be presented to the purchaser periodically / in stages. Deadline for presentation of documentation is 30 April 2011.

Director
/-----/

Figure 5B: Same Spelling Error, Identical Wording, Formatting in Description of Services



The same spelling error as in Fig: 5.A

Translation

“ZIMMER” Ltd

Tbilisi, Sanapiro No7
e-mail: Redacted
Tel: Redacted

Execution methodology, scale and deadlines for services to be provided

“ZIMMER” Ltd is pledging, to start within 10 (ten) days from execution of the contract and to finish 31 March 2011 **inclusive** [sic], food distribution (through so called voucher mechanism) to the patients suffering with sensitive tuberculosis.

The food supply service provision to the patients suffering from the sensitive tuberculosis shall be carried out through identical/homogeneous service and shall be carried out through utilization of voucher mechanism in 66 cities and regional centers of Georgia.

Carried [sic] subject to the amounts and location required by the purchaser and the medical institution executing the project (National Center for Tuberculosis and Lung Disease) in 66 towns and regional centers of Georgia. The work shall be executed within the time frame presented in the documentation.

For reimbursement of expenses documentation envisaged by agreements shall be presented until 30 April 2011

“Zimmer” Ltd Director: /-----/

Terms of Payment

68. Zimmer’s and Siesta’s terms of payment submitted with their GEL 15 TB voucher bid proposals in August 2010, also contained striking similarities. As demonstrated in Figures 6a and 6b below, both were written in the same style, contained the same spelling error, identical wording, paragraph size, font and formatting.

Investigation of Procurement Irregularities in GPIC, Georgia

Figure 6a: Same Spelling Error, Identical Wording, Formatting on Terms of Payment

“შ.ს.ს” სიესტა”

მის: ქ. თბილისი
სანაპიროს 7
ტელ: [Redacted] 06.08.2010

თქვენთვის განკარგულების პირობებზე შეტყობის

განმარტავდები ყოველთვიური (ან ყოველკვარტალური) მისამართების აღწერის წარმოდგენის შემდეგ მიმდევრობით არაუგვიანეს 10 (ათი) სამუშაო დღისა.

ყოველი განმარტავდული ვაუჩერის დაფინანსება მიხდება წყნის მიერ სულგარეულობით გათვალისწინებული მოკუმრტაციის წარმოდგენის და მდებარეობის აქტის გაფორმების შემდეგ 10 (ათი) სამუშაო დღის განმავლობაში.

წყნის მიერ ხაზსკიით განმარტავის წარმოდგენის შემდეგ განმარტავდული თანხის არაუგვიანეს 80%

დირექტორი:

Translation

“SIESTA” Ltd
Address: Tbilisi
Sanapiro Str 7
Tel: Redacted
06.08.2010

Information on Payment Terms

Pment [sic] to take place monthly (or quarterly) no later than 10 (ten) working days following the submission of service report.
Financing of each redeemed voucher shall take place within 10 (ten) working days after presentation by us of the documentation envisaged by the agreement and execution of the delivery-acceptance act.
After presentation of the bank guarantee from us advance payment not exceeding 80 % of the agreement amount shall be requested.

Director: /-----/

Description of Prior Experience in Food Voucher Distribution

Zimmer won first food voucher contract because it proposed lowest price (lack of prior experience not considered)

69. In Zimmer’s description of its prior experience in food voucher distribution, which it submitted with its GEL 15 TB food voucher bid proposal, it conceded that it did not have any experience in food voucher or food package distribution. Although Zimmer did not provide specific information to support its capacity to provide such services should it win the contract, it did however allude to having certain unspecified experience in this area (“within the limits of our experience”). The contract was awarded to Zimmer on the merit of having solely proposed the lowest price. According to GPIC, GHSPIC was required to award contracts to the supplier with the lowest bid proposal under the government procurement rules, irrespective of experience of the vendor.¹¹⁸

Zimmer’s and Siesta’s bid proposals used identical wording, syntax, font and formatting

70. Similar to these examples, both Zimmer’s and Siesta’s description of their experience in food voucher distribution shared identical wording, syntax, font and formatting (Figures 7A and 7B).

¹¹⁸ ROC of GPIC’s Senior Manager at para. 45 (20 July 2012).

G.3. Improper Procurement Practices

PR helped Zimmer and Siesta by preparing bid documents for them and using an irregular scoring system to favor them

71. As set forth above and herein, the OIG found through its investigation substantive and credible evidence that the PR improperly steered contracts to favored vendors, Zimmer and Siesta through a procurement process whose integrity was tainted. The pattern of significant irregularities in procurement exercises, including the PR's failure to recognize and act upon patent similarities in bid submissions in multiple procurement exercises, as well as an irregular scoring system that improperly favored Zimmer and Siesta. The evidence suggests that the PR willfully facilitated these schemes. Such practices violates the Grant Agreements as the bidders did not genuinely compete against one another, but instead worked together and collaborated with PR program officials.

Grant Agreement requires transparent and competitive procurement practices

72. The OIG identified multiple tenders in which general principles of fair and competitive procurement were not followed. Article 18 of the Standard Terms and Conditions of the Grant Agreement with the PR states that procurement practices must meet the following criteria: (i) Contracts must be awarded on a transparent and on a competitive basis; (ii) Contracts are awarded to responsible contracts that have the ability to successfully perform the contracts; and (iii) No more than a reasonable price shall be paid for the services.¹¹⁹ The Grant Agreement also requires that the PR ensure that any person affiliated with the PR does not engage in a "scheme or arrangement between two or more bidders designed to establish bid prices at artificial, non-competitive levels."¹²⁰

Of eleven tenders for food vouchers conducted by PR, only three had multiple participants: Siesta and Zimmer were only supplier to have ever been awarded food voucher contracts

73. Of the eleven tenders for food vouchers conducted by GHSPIC and GPIC, only three had multiple participants. Siesta and Zimmer were the only food voucher suppliers to have ever been awarded contracts. Together both companies grossed GEL 1,434,390 (USD 853,804) from service fees collected under the food voucher contracts (including all contract extensions and amendments).¹²¹

74. In spite of the PR's Senior Manager's insistence that the tendering process for the food voucher contracts was competitive and transparent, a comprehensive review of the process and documentation collected reveals that such was not the case.

¹¹⁹ Standard Terms and Conditions (Single Stream of Funding), Art. 18(i), (v) and (vi).

¹²⁰ Id. at Art. 21(b)(v).

¹²¹ Siesta collected GEL 711,276 under four food voucher contracts and Zimmer collected GEL 623,150 under five food voucher contracts.

G.3.1. GEL 40 HIV Food Voucher Contract

In July 2010, Zimmer, Siesta and WFP submitted bids for a GEL 40 HIV food voucher contract; this is the first time Siesta competed against another supplier and the first time Zimmer participated

WFP proposed a plan to issue electronic smart cards to patients in major cities

Paper vouchers would be used in the villages

WFP pre-assessed and selected the same shops used by Zimmer and Siesta

OIG investigators could not locate Zimmer's and Siesta's bid proposals for the July 2010 HIV food voucher tender in PR's files or Siesta's or Zimmer's files

75. In July 2010, Zimmer, Siesta and the WFP submitted bids for a GEL 40 HIV food voucher contract. This was the first occasion when Siesta was challenged by an alternative proposal from the WFP and also when a previously unknown entity--Zimmer--submitted a bid for a food voucher contract.

76. The WFP's July 2010 tender bid for GEL 40 HIV food vouchers (which the OIG obtained directly from the WFP) consisted of up to 117 pages. They proposed a plan to issue electronic smart cards to patients that could be used at Georgia's biggest supermarket chain in the cities of Tbilisi, Kutaisi and Batumi.¹²² Patients completing their required drug regimens would receive credit on the 'Smart Card' each month and would be able to make purchases at any store of a major supermarket chain in Georgia.¹²³ WFP's bid proposal also stated the 'Smart Card' would be designed to resemble cards issued by the supermarket chain to ordinary customers, in order to mitigate the risk of stigma among HIV patients.¹²⁴

77. The WFP proposed a plan to use paper vouchers in villages where electronic smart cards could not be used. For example, in Zugdidi, where the supermarket chain does not have a presence, paper vouchers would be issued to patients instead.¹²⁵

78. Its bid proposal stated that it pre-assessed and selected shops in 66 cities and district centers in Georgia.¹²⁶ The Program Manager of GPIC confirmed that the stores selected by the WFP were the same stores used by Zimmer and Siesta.¹²⁷

79. Although the OIG obtained a copy of WFP's bid proposal for the GEL 40 HIV food voucher tender directly from the WFP, OIG investigators could not locate any of the participants' bid proposals for this particular tender in either GPIC's, Zimmer's or Siesta's files. One would reasonably expect that copies of such proposals would be maintained by a business for tenders for which the company presented bids.

80. On 4 April 2013, after the OIG had sent the Report to the PR for comment, the Senior Manager provided a partial copy of Siesta's bid proposal for the July 2010 GEL 40 HIV food voucher tender in an effort to refute one of the OIG's findings. Following a comprehensive review of all the data and documents it collected from the PR and Siesta, the OIG determined that this document had never before been provided to the OIG by either the PR or Siesta, despite the fact that the OIG had requested all the bid proposals for all the food voucher tenders from both parties.

81. Upon further examination of the electronic files obtained from the PR, the OIG located four Word files of Siesta's tender document resembling the one the PR sent to the OIG on 4 April 2013. Although the document appears to be a standard form to be filled out by bidders, each of the four documents bore Siesta's name and were separately located in the possession of either the PR's Program Officer, Program Manager, or procurement officer. Forensic examination determined the documents were created on 30 June 2008 on the PR's computer and subsequently modified and saved on different dates, ranging from 2009 to 2011.

¹²² World Food Programme bid proposal for GEL 40 HIV food vouchers (July 2010) and ROC of Former WFP Employee 1 at para. 6 and 11 (11 July 2012).

¹²³ ROC of Former WFP Employee 2 at para. 5 (16 July 2012).

¹²⁴ Id. at para. 6.

¹²⁵ Id.

¹²⁶ World Food Programme bid proposal for GEL 15 TB food vouchers (August 2010) and World Food Programme bid proposal for GEL 25 food vouchers (August 2010).

¹²⁷ Roc of GPIC's Program Manager at para. 5 (20 July 2012).

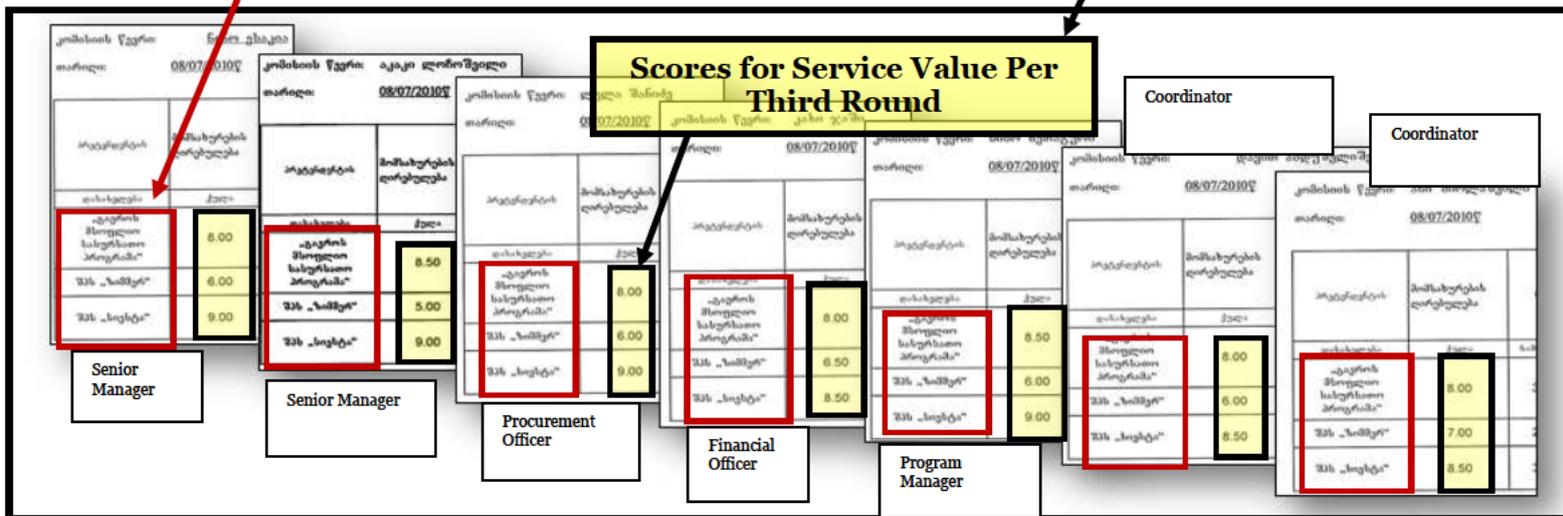
82. At the time of the OIG’s investigation, the only documents identified in GPIC’s files for the GEL 40 HIV food voucher tender were the tender committee’s minutes and individual score sheets, which provide limited information on how the committee members arrived at the awarded scores. The minutes, however, document the results of the bid which show the final bid prices of the bidders. These price proposals were scored after the technical evaluation and were considered together with the technical scores.

PR tender committee gave Siesta highest rating using an irregular scoring system

83. Figure 8 shows that GPIC’s tender committee placed Siesta in an advantageous last bidder’s position ahead of the reverse auction bidding. Thus, Siesta was able to underbid the WFP by GEL 200 (USD 120).

Figure 8: Bid Results for GEL 40 HIV Food Voucher Contract and Excerpts from the Tender Committee Member Score Sheets – July 2010

Name	Starting bid (GEL)	First Round (GEL)	Second Round (GEL)	Third Round (GEL)
WFP	64,430.00	62,500.00	58,000.00	52,000.00
Zimmer	64,000.00	62,000.00	57,800.00	57,800.00
Siesta	63,000.00	61,900.00	57,500.00	51,800.00



Siesta’s position as last bidder allowed it to underbid WFP by USD 120; Ordering of participants in reverse auction bidding is at the tender committee’s discretion

84. It is noteworthy that the last bidder in this process was given the final opportunity to lower its bid price. Siesta’s position as the last bidder allowed it to underbid WFP’s bid proposal by GEL 200 (USD 120, which is less than 0.5% of the bid value) and ultimately win the food voucher contract. Furthermore, there is no documented or apparent justification for the ordering of the tender participants prior to the reverse auction, leading the OIG to conclude that the decision on how to rank participants in a reverse auction is left to the tender commission’s discretion. For example, in the July 2010 tender auction, it appears as if the bidders are ordered from highest to lowest starting bid. See Figure 8. However, in the August 2010 tender auction for GEL 15 vouchers, the order of bidders appears to have no connection to the starting bid price. See Figure 9.

Investigation of Procurement Irregularities in GPIC, Georgia

Figure 9: Reverse Auction Results for GEL 15 TB Food Voucher Contract – August 2010

Name	Starting bid (GEL)	First Round (GEL)	Second Round (GEL)	Third Round (GEL)
WFP	78,300	78,300	78,300	78,300
Zimmer	66,300	66,300	66,300	66,300
Siesta	72,500	72,500	72,500	72,500

85. In both the July and August 2010 tenders—the only occasions where Zimmer and Siesta bid together against a third party—the order for the reverse auction bidding was ranked WFP then Zimmer then Siesta; thereby putting WFP in the weakest position to undercut the other bidders, and Siesta in the strongest. The applicable procurement regulation on state procurements at the time of the tender is silent about ranking procedure.¹²⁸

86. Although Siesta’s bidding position is not necessarily evidence of wrong doing, Siesta’s lower price proposal was a determining factor in them being awarded the contract. The proposal price was weighted at 40 per cent of the total score by the tender committee. This contributed to the tender committee awarding the highest scores to Siesta as set forth in Figures 10a, 10b and 10c. GPIC’s scoring unfairly favored Siesta.

Figure 10a: Compilation of Scoring for GEL 40 HIV Food Voucher Tender

Name	Last Price GEL	Committee Members Scores awarded for final price proposal						
		Scorer A	Scorer B	Scorer C	Scorer D	Scorer E	Scorer F	Scorer G
WFP	52000	8	8	8.5	8.5	8	8	8
ZIMMER	57800	6	6	6	5	6.5	6	7
SIESTA	51800	9	8.5	9	9	8.5	9	8.5

Figure 10b: Comparison of Difference in Scores Awarded

	Price Difference GEL	Difference in Scores						
		Scorer A	Scorer B	Scorer C	Scorer D	Scorer E	Scorer F	Scorer G
SIESTA vs WFP	200	1	0.5	0.5	0.5	0.5	1	0.5
SIESTA vs ZIMMER	6000	3	2.5	3	4	2	3	1.5
ZIMMER vs WFP	5800	2	2	2.5	3.5	1.5	2	1

Figure 10c: Illustration of Irregular Scoring

	GEL	Average of Difference in Scores	Disproportionate Score Weighting (per increments of 200 GEL)
SIESTA's advantage over WFP	200	0.64	0.64
SIESTA's advantage over ZIMMER	6000 (30X200)	2.71	0.09
WFP's advantage over ZIMMER	5800 (29X200)	2.07	0.07

¹²⁸ See Memorandum of BLC Law Office, Tbilisi, Georgia (19 July 2012).

No reason offered for disproportionate scoring favoring Siesta

87. The scoring sheets demonstrate that by underbidding the WFP by GEL 200, Siesta received a 0.64 point advantage, and that by underbidding Zimmer by GEL 6,000, Siesta received a 2.71 point advantage. Moreover, by underbidding Zimmer by GEL 5,800 the WFP received a 2.07 point advantage over Zimmer. Every GEL 200 price reduction during an auction earned the WFP an additional 0.07 points over Zimmer, but the same price reduction of GEL 200 with respect to Siesta, earned Siesta a score with 9 times the point advantage awarded to the WFP (0.64 vs. 0.07). No reason is offered for the disproportionate scoring, favoring Siesta, in the PR's tender committee minutes.

G.3.2. GEL 15 TB Food Voucher Contract

WFP's August 2010 bid proposal for GEL 15 TB food voucher contract included detailed description of implementation of food voucher program and past experience

88. In August 2010, Zimmer, Siesta and WFP each submitted bid proposals for a GEL 15 TB food voucher contract.

Siesta's and Zimmer's bid proposals did not contain clear plan for executing food voucher program

89. WFP's bid proposals for the GEL 15 TB food voucher contract described how it would implement a paper voucher program across 66 cities and towns in Georgia. In addition, its proposals detailed past experience with food distribution with other partners.

Zimmer's and Siesta's bid proposals contained same spelling errors, identical wording and same formatting

90. Zimmer's and Siesta's bid proposals for the GEL 15 food voucher contract consisted of a mere 14-18 pages, and did not contain a clear plan for executing the food voucher program. In contrast to the WFP's detailed bid proposal, the bid proposals submitted by Zimmer and Siesta were incomplete and lacked essential information (e.g. contracts with stores, documented capacity to carry out large scale food/cash aid programs). Both contained similarly worded opaque descriptions of how they would implement the food voucher program. For example, the same spelling errors, identical wording and same formatting were found in both companies' bid proposals. In fact, Zimmer's bid proposal for GEL 15 TB food vouchers listed just two employees (director and partner) as the company's personnel and, a BMW as the company's vehicle. GHSPIC, nevertheless, and despite these deficiencies, awarded the GEL 15 TB food voucher contract to Zimmer.

PR awarded contract to Zimmer

91. This is the last tender in which Zimmer participated, where there were other suppliers competing for the same contract. In 2010 and 2011, the PR routinely included the anticipated budget for each contract in the call for tenders. As the PR explained, this number was the ceiling of what the PR could accept for a winning bid.¹²⁹ After the August 2010 tender Zimmer never submitted a bid proposal that was below GPIC's proposed budget. When asked to explain why Zimmer consistently submitted proposals at the maximum contract price for the subsequent tenders, Zimmer's "Manager 2" stated that there were no competitors in these tenders so Zimmer could propose the maximum amount budgeted for by GHSPIC or GPIC.¹³⁰ However, in a proper, honest and fair procurement exercise, when it submitted its proposal, a bidder should not have known whether or not there would be competing bidders.

After winning its first contract, Zimmer never again proposed a price below GPIC's proposed budget

92. It is also noteworthy that Zimmer's and Siesta's bid proposals for this particular tender contained striking similarities; they were written in the same style, contained identical wording, paragraph size, font and formatting, as detailed above in Figures from 5A to 7B.

¹²⁹ ROC of GPIC's Program Manager at para. 6 (20 July 2012).

¹³⁰ ROC of Zimmer's "Manager 2" at para 29 and 30 (19 July 2012).

Zimmer's bid proposal did not demonstrate that it had contracts with stores and capacity to manage service contract requiring high-level of organization and logistical coordination

93. Zimmer won the contract, offering the lowest price of GEL 66,300. This food voucher contract was the first ever to be awarded to Zimmer, a company with no prior operating experience or documented resources to carry out the contract. Zimmer's bid proposal listed just two employees (director and partner) as the company's staff and a BMW as the company's vehicle. Zimmer did not demonstrate that it had contracts with stores and that it had the capacity to manage a service contract requiring a high-level of organization and logistical coordination with the participating stores.

G.3.3. GEL 25 TB Food Voucher Contract

Zimmer did not participate in August 2010 GEL 25 TB food voucher tender

94. In parallel to the GEL 15 food voucher contract, GHSPIC announced a call for tenders for a GEL 25 TB food voucher contract in August 2010. Siesta and WFP submitted bids in August 2010. Zimmer did not submit a bid proposal for this contract. Zimmer's "Manager 2" stated that Zimmer did not submit a bid for GEL 25 TB food vouchers because he wanted to "start small", even though he acknowledged that the work would be the same because Zimmer would collect both types of vouchers from the same stores.¹³¹ Zimmer's "Manager 2" also stated that Zimmer did not have enough funds to advance to the stores for the GEL 25 vouchers, although he did not offer an explanation as to why he could not ask GHSPIC for an advance to cover the initial costs, as Zimmer had done for the GEL 15 voucher contract.¹³²

Siesta competed against WFP and was awarded the contract

95. For this particular tender, the OIG Investigation was provided a full set of documentation which enabled a full evaluation of the tender process. WFP's proposed price was GEL 175,500 and Siesta's proposed was GEL 172,500. Neither party lowered their bid price during the bidding. Siesta, therefore, won the contract by GEL 3,000, an amount less than 2% of the contract value.

G.4. The PR Helped Zimmer and Siesta to Secure Food Voucher Contracts

Telephone records of PR's Senior Manager show he received calls from and made calls to Zimmer and Siesta executives in days leading up to August 2010 tenders for GEL 15 and GEL 25 food voucher contracts

96. The OIG identified evidence that when viewed in its aggregate and its totality, indicates that it is more likely than not that the PR improperly assisted Zimmer and Siesta to secure Global Fund grant funded food voucher contracts. First, the telephone records of a Senior Manager of GPIC show that he received calls from, and made calls to, Zimmer and Siesta executives in the days leading up to the August 2010 tenders for GEL 15 and GEL 25 TB food voucher contracts. While the substance of the calls is not obviously known, the fact, frequency and timing of the calls suggests not only obvious contact, but a connection between principals of the two entities. Further, the PR's Program Officer routinely created documents, such as invoices and correspondence, for both Zimmer and Siesta. Notably, the PR's Program Officer was not only in possession of Zimmer's and Siesta's bid related documents, but forensic examination revealed that the Program Officer had created these documents herself. Such evidence not only indicates a less than arms-length relationship between GPIC's Senior Manager and Program Officer with the founders of Zimmer and Siesta, but also that the PR facilitated Zimmer and Siesta's scheme to secure Global Fund grant funded contracts. Under the food voucher contracts Siesta and Zimmer collected services fees which amounted to USD 482,881 (GEL 811,240) and USD 370,923 (GEL 623,150), respectively, and USD 853,804 (GEL 1,434,390) in the aggregate.

¹³¹ Id. at para. 22.

¹³² Id.

Zimmer's capacity to perform contracts called into question: PR's Program Officer created business related documents for Zimmer; Zimmer did not maintain an office; Key Zimmer staff members each held other full time jobs

97. Given the fact that the PR's Program Officer created extensive documentation for Zimmer, that Zimmer did not maintain an office outside of its employee's personal residence (as detailed below), and that the key staff members of Zimmer each held other full time jobs - the totality of the circumstances calls into question Zimmer's ability to perform the contracts which it had been awarded. Under Article 18(a)(v) of the Grant Agreement, the PR is required to reward contracts to "responsible contractors that possess the ability to successfully perform contracts. By not selecting a supplier with the requisite capacity to perform all tasks required under the food voucher contract, such as creating invoices and correspondence, GPIC is in breach of the Grant Agreement. A similar finding cannot be made in the case of Siesta because that company had ceased operations by the time of the OIG's mission, thus rendering it impossible to conduct an investigation of its office premises.

G.4.1. The PR's Senior Manager held a less than arms-length relationship with the founders of Siesta and Zimmer

Evidence indicates PR's Senior Manager had significant contact with founder of Siesta and Zimmer at least seven years before tenders for food voucher contracts

98. Although senior management at GPIC stated to OIG investigators that they had no relationship with personnel at Siesta or Zimmer prior to the food voucher tenders, evidence identified by the OIG investigation demonstrates that, in fact, the PR's Senior Manager had significant contact with the founders of Siesta and Zimmer at least seven years before these tenders.

99. OIG investigators identified that the PR's Senior Manager had in his possession a list of phone numbers, including a number designated as belonging to "Bichi". Forensic analysis indicates that this list was created on 27 November 2003, seven years before the PR's award of food voucher contracts to Zimmer. A search of a Georgian cellular phone number directory indicated that the telephone number assigned to "Bichi" on the Senior Manager's list belongs to one of Zimmer's managers. Indeed, Zimmer's Manager told OIG investigators his nickname was "Bichi".¹³³

100. Likewise, the PR's Senior Manager's Outlook address book also contained a cellular phone number for a person named "Kvita". The Georgian cellular phone number directory confirmed that the phone number belonged to Siesta's Manager. Forensic analysis identified that the number for Siesta's Manager was entered into the PR's Senior Manager's address book on 17 August 2004—e.g., six years before the food voucher contract tenders.

G.4.1.1. Phone Calls from the PR's Senior Manager's home phone number to Zimmer during the OIG's in-country mission

Phone records show PR's Senior Manager made calls outside business hours to Zimmer's during OIG's in-country mission

101. Prior to the OIG's 7 to 22 May 2012 mission, the OIG sent a letter via email on 4 May 2012 to GPIC's Senior Manager so as to formally inform the PR of the OIG's upcoming visit. GPIC's Senior Manager's phone records show that on the weekend of 5-6 May 2012, four telephone calls were placed from the his home telephone number to a Zimmer Manager's mobile number. From 3-14 May 2012, another eleven calls from PR's Senior Manager's home phone were made to Zimmer's Manager's mobile phone. Eight of the calls were made after business hours between the hours of 20:00 and 22:47. The duration of the calls from the Senior Manager's home landline to Zimmer's Manager was, on average, 20 minutes.

¹³³ ROC of GPIC's Program Manager at para. 32 (20 July 2012) and ROC of GPIC's Senior Manager at para. 69 (20 July 2012).

102. Additionally, on the same day that OIG Investigators interviewed Zimmer’s managers and a staff member on 14 May 2012, two calls were placed from GPIC’s Senior Manager’s home phone to a Zimmer manager. The first of these calls occurred at 20:43, lasting a total of 18:50 minutes, and the second call, at 21:02, lasted a total of 12:24 minutes.

103. The chart below (Figure 11) sets forth a list of the phone calls made from the GPIC’s Senior Manager’s home landline to Zimmer’s Manager during the OIG’s in-country mission in May 2012.

Figure 11: Record of Calls Made from the PR’s Senior Manager’s Home Landline to Zimmer’s Manager

Date	Time	Duration of Call	OIG Schedule in Tbilisi
Friday, 4 May 2012			Letter from the OIG emailed to GPIC on Friday, 4 May at 17:58 (Tbilisi time) to inform GPIC of OIG’s visit.
Saturday, 5 May 2012	14:06:22	17:57	
Saturday, 5 May 2012	14:25:07	00:33	
Sunday, 6 May 2012	21:11:21	32:45	OIG arrive in Tbilisi.
Sunday, 6 May 2012	21:44:40	04:38	OIG arrive in Tbilisi.
Monday, 7 May 2012	20:38:58	09:17	OIG in Tbilisi.
Monday, 7 May 2012	20:56:42	30:02	OIG in Tbilisi
Thursday, 10 May 2012	22:47:50	15:50	OIG in Tbilisi.
Friday, 11 May 2012			OIG called Zimmer’s Manager to request a meeting. Zimmer’s Manager agreed to meet on Monday, 14 May at 10:00.
Sunday, 13 May 2012	15:41:16	02:33	
Monday, 14 May 2012	20:43:02	18:50	OIG met with Zimmer from 10:10 – 12:20.
Monday, 14 May 2012	21:02:11	12:24	

Circumstantial evidence of collaboration and exchange of information between PR’s Senior Manager and Zimmer regarding OIG’s investigation

104. Although the exact substance of these calls is unknown, the timing of these calls, as well as the fact that they were outside of business hours and made on personal telephones, supports coordination between the PR’s Senior Manager and Zimmer’s Manager regarding the OIG’s investigation. It is important to note that in analyzing evidence, it is axiomatic that a single piece of evidence is never viewed in isolation from other evidence. Rather, evidence is viewed in the aggregate, and in its totality. Findings of facts can therefore be made when the accumulation of mutually corroborating evidence leads to one reasonable inference over all other alternative explanations.¹³⁴

105. The Senior Manager has provided a table of phone calls purportedly made from his GPIC office phone to an unknown telephone number together with his

¹³⁴ For precedent in common law, see Jack B. Weinstein & Margaret A. Berger, 2 Weinstein’s Federal Evidence § 401.04[2][d] (McLaughlin, ed.) (2011); for precedent in civil law, see Civil Procedure in France, Peter Herzog, para. 7.31, p. 316; See also Corfu Channel Case, Judgment of April 9th, 1949, I.C.J. Reports 1949, p. 4, at pp. 18, 19, 20, 22-23. Available at <http://www.icjci.org/docket/files/1/1645.pdf> (accessed 23 August, 2011).

flight itinerary from Tbilisi to and from Geneva on 8 and 12 May 2012, respectively. The table of phone calls provided by the Senior Manager is not authenticated by official telephone records and does not indicate which telephone number was used to make the calls. The Senior Manager's stated purpose for sending these documents to the OIG was to establish that he could not have placed the calls himself.

106. The OIG has studied the table together with the flight itinerary and found that just one of the calls could not have been made by the PR's Senior Manager. Though this may be the case, it does not negate the fact that a call from the Senior Manager's home landline was made to Zimmer's Manager on the date in question. Furthermore, the calls on the table provided by the PR's Senior Manager purportedly originating from GPIC's office does not exclude the possibility that someone other than the Senior Manager made those calls.

G.4.1.2. Phone calls made from GHSPIC to Siesta's Manager and Zimmer's Manager during the GEL 15 and GEL 25 tenders

PR staff knew Zimmer's Manager was working at Siesta

107. When questioned by OIG investigators, senior management at GPIC stated that they did not know that prior to founding Zimmer, Zimmer's Manager was working at Siesta. Similarly, GPIC senior management stated that prior to Zimmer's first contract with GHSPIC for food vouchers in August 2010, they did not have contact with Zimmer's Manager.¹³⁵ However, GHSPIC's telephone bill for April 2009—over a year prior to Zimmer's first contract award—indicates 15 outgoing calls made to Zimmer's Manager. Indeed, during this time period Zimmer's Manager was working at Siesta.¹³⁶

Non-business SMS messages exchanged between Zimmer's Manager and PR's Senior Manager before Zimmer had a business relationship with PR

108. Similarly, GPIC's Senior Manager insisted on several occasions to the OIG that he was not aware either that Zimmer's Manager had ever worked at Siesta or that the latter was working at Siesta when that company, as well as Zimmer, submitted competing bids in August 2010 for the Global Fund grant funded food voucher contract.¹³⁷ Nonetheless, GPIC's Senior Manager's telephone records indicate that there were five missed calls from Zimmer's Manager on 7 July 2010. GPIC's Senior Manager's phone records also show that several non-business SMS messages were exchanged between Zimmer's Manager and GPIC's Senior Manager between 16 July 2010 and 4 August 2010. Given that there was significant contact between the two, common sense dictates that GPIC's Senior Manager was aware of Zimmer's Manager's employment at Siesta.

109. Further, GPIC's Senior Manager had numerous telephone exchanges with Zimmer's Manager during the time period of the tender invitation call for the GEL 15 and GEL 25 TB food voucher contracts, both of which were announced on 16 July and closed on 6 August 2010. Zimmer was awarded the first contract and Siesta was awarded the second of these contracts.

110. On 16 July 2010, a GHSPIC procurement officer used Zimmer's Manager's phone to send an SMS message to the PR's Senior Manager. The SMS messages sent from Zimmer's Manager's phone by the PR's procurement officer concerned the procurement of a vehicle.¹³⁸ This interaction is significant because it demonstrates that the PR staff, including the PR's Senior Manager, and Zimmer's Manager were

¹³⁵ ROC of GPIC's Senior Manager at para. 71 (20 July 2012) and ROC of GPIC's Program Manager at para. 32 (20 July 2012).

¹³⁶ ROC of Zimmer's Manager at para. 11 (19 July 2012) and ROC of Siesta's Manager at para. 39 (16 July 2012).

¹³⁷ ROC of GPIC's Senior Manager at para. 70 (20 July 2012).

¹³⁸ ROC of GPIC's Senior Manager at para. 4-13 (31 Oct. 2012).

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acquainted with each other prior to the food voucher contract tender, and in fact had contacted each other.

Figure 12: Text Messages from PR's Procurement Officer, Sent from Zimmer's Manager's Mobile Phone to PR's Senior Manager

SMS Messages				
"Received"	16/07/2010 7:22:40 PM	16/07/2010 10:22:48 PM	995 [redacted]	[redacted]
"Sent"	16/07/2010 7:24:22 PM	16/07/2010 7:24:22 PM	995 [redacted]	[redacted]

111. Further, as demonstrated in the figure below, phone records show 9 incoming calls from Siesta's Manager to the PR's Senior Manager's blackberry phone from 2 to 4 August 2010, during the tender process itself (Figure 13).

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Figure 13: Phone Calls from Siesta's Manager to PR's Senior Manager

"Eka"	8229		2/8/2010 2:20	0:00	Missed Call
"	8551		2/8/2010 14:01	0:00	Missed Call
"Kvita"	8772		2/8/2010 16:00	0:00	
"Zura Office"	8934		2/8/2010 20:27	0:00	Missed Call
"Kvita"	8772		3/8/2010 14:17	0:23	Received Call
"	8551		3/8/2010 14:29	0:21	Received Call
"	8909		3/8/2010 14:37	0:34	Received Call
"	825		3/8/2010 15:24	0:19	Received Call
"Kvita"	8772		3/8/2010 22:03	0:11	Received Call
"Kvita"	8772		3/8/2010 22:05	0:00	Placed Call
"	8993		3/8/2010 22:06	1:21	Placed Call
"Kote Ochigava MOH"	8779		3/8/2010 22:15	2:05	Received Call
"Kote Ochigava MOH"	8779		3/8/2010 22:19	0:50	Received Call
"Giorgi Bregvadze"	8771		3/8/2010 22:26	0:13	Received Call
"Kote Ochigava MOH"	8779		3/8/2010 22:27	0:18	Placed Call
"Kvita"	8772		3/8/2010 23:25	0:10	Received Call
"Kvita"	8772		4/8/2010 0:22	0:19	Received Call
"Zura"	8934		4/8/2010 0:37	0:05	Placed Call
"Kvita"	8772		4/8/2010 0:38	0:18	Placed Call
"Vake"	8322		4/8/2010 0:59	0:06	Received Call
"Zura"	8934		4/8/2010 1:12	0:19	Placed Call
"Kvita"	8772		4/8/2010 1:13	0:07	Received Call
"Vake"	8322		4/8/2010 2:51	0:11	Received Call
"832910252"	8329		4/8/2010 11:54	2:43	Received Call
"Kvita"	8772		4/8/2010 14:06	0:29	Received Call
"	8972		4/8/2010 14:07	0:28	Received Call
"	825		4/8/2010 14:11	0:26	Received Call

G.4.2. The PR made false statements to OIG about Siesta and Zimmer

PR's Senior Manager told OIG there was no connection between Siesta and Zimmer

112. GPIC's senior management and staff repeatedly made false statements to OIG investigators regarding Siesta's connection to Zimmer. In an email to the OIG's auditor dated 12 October 2011, GPIC's Senior Manager insisted there was no connection between Siesta and Zimmer. Similarly, in interviews with the OIG, a GPIC Program Manager repeatedly claimed ignorance of any connection between Siesta and Zimmer.¹³⁹

Program Manager denied knowledge of Siesta's connection to Zimmer

113. Additionally, in an interview which was conducted at an early stage of the OIG's investigation, the PR's Program Manager claimed that she could not recall the names of the founders of both companies, even though she was on the tender committee and would have reviewed Siesta's and Zimmer's bid proposals for the

¹³⁹ ROC of GPIC's Program Manager at para. 17 (8 May 2012) and at para. 32 (20 July 2012).

three food voucher contracts, and would have seen Siesta's staff list.¹⁴⁰ In subsequent interviews, the PR's Program Manager retracted her prior statement, and acknowledged that she knew the founders of both companies. Nevertheless, she denied having been aware of the companies' connection to one another.¹⁴¹

Siesta's bid proposal for GEL 40 HIV food vouchers overtly listed the founders of Zimmer as Siesta staff

PR's Program Officer, with knowledge of Program Manager, prepared documents for both companies

114. In contrast to their statements to the OIG, the totality of the evidence indicates that GPIC's senior management and staff were aware that Siesta and Zimmer were in actuality one and the same. GPIC's disregard of patent similarities over the course of multiple bid submissions indicates senior management's knowledge of the connection between the two companies. Indeed, Siesta's bid proposal for GEL 40 HIV food vouchers in February 2011 overtly listed the founders of Zimmer as members of its staff. Further, as detailed below, GPIC's Program Officer, with the knowledge of the Program Manager, routinely prepared documents for Siesta and Zimmer, using a document for one company as a template for a similar document for the other.

G.4.3. The Connection between GPIC's Program Officer and Siesta and Zimmer

The types of documents and high volume demonstrate PR's Program Officer performed an administrative function for Siesta and Zimmer

115. The OIG also reviewed evidence which indicates the Program Officer maintained a less than arms-length relationship with Zimmer's Manager, whose work she was responsible for overseeing as per the terms of the contract.

116. The types of documents and the high volume of documents created for Zimmer and Siesta found in the PR's Program Officer's possession demonstrate that she performed an administrative function for both companies. These documents include: (i) acts of acceptance between Zimmer and Siesta with GPIC; (ii) requests by Siesta for reimbursement of redeemed vouchers returned to GPIC; (iii) requests by Siesta for advances from GPIC; and (iv) an electronic file of Zimmer's company logo. Moreover, as these documents range in date from 2008 to as recent as 2011, it is evident that the PR's Program Officer performed work for Zimmer and Siesta on an on-going basis.

PR's Program Officer regularly emailed drafts of documents she created for Zimmer and Siesta to Program Manager

117. The large quantity of incomplete drafts for Zimmer and Siesta found in the Program Officer's possession and the frequency at which she created or modified documents for the companies support the conclusion that the Program Officer performed this function with, at the very least, the knowledge and participation of the PR. Indeed, the OIG found that the Program Officer regularly sent drafts of documents she had created for Zimmer and Siesta to GPIC's Program Manager. These emails did not include any text; but rather only contain draft Word documents for either Zimmer or Siesta as attachments. The figures 14 and 15 below are examples of such email messages.

¹⁴⁰ ROC of GPIC's Program Manager at para. 16 and 17 (8 May 2012).

¹⁴¹ ROC of GPIC's Program Manager at para. 32 and 33 (20 July 2012).

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Figure 14: Email From PR's Program Officer to Program Manager with Attachment of Draft Word Document for Zimmer Entitled "Zimmer blank"

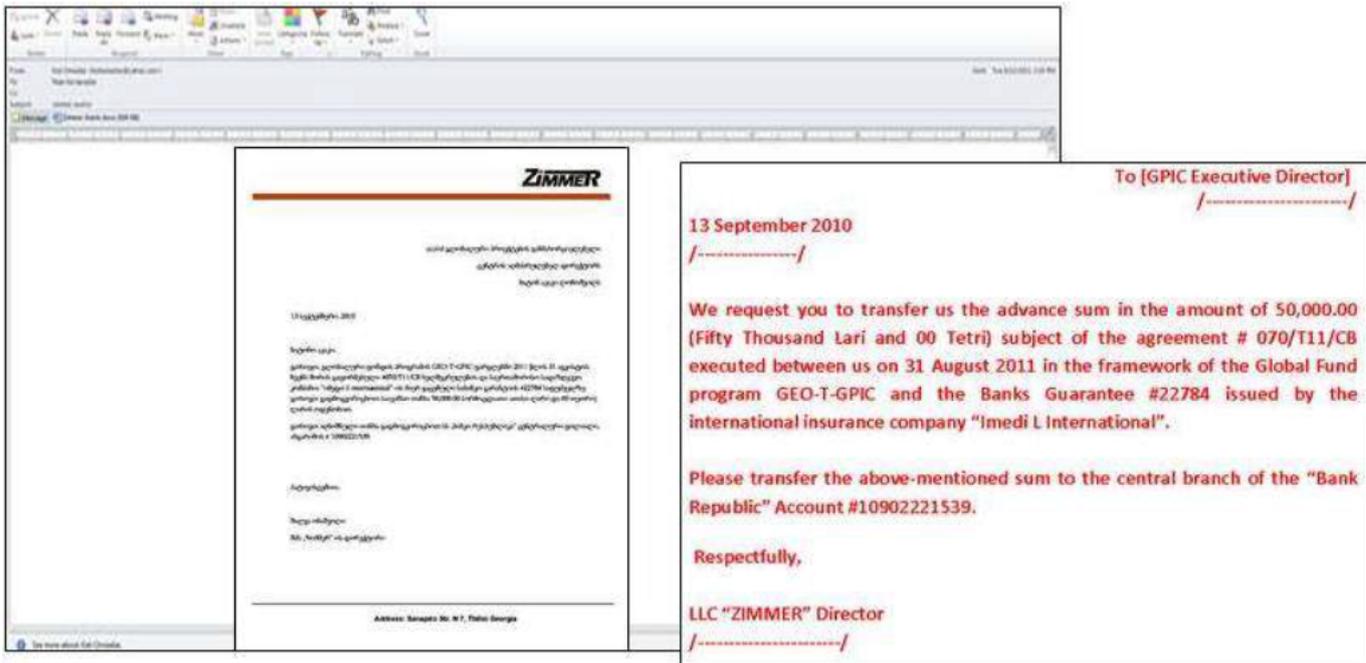
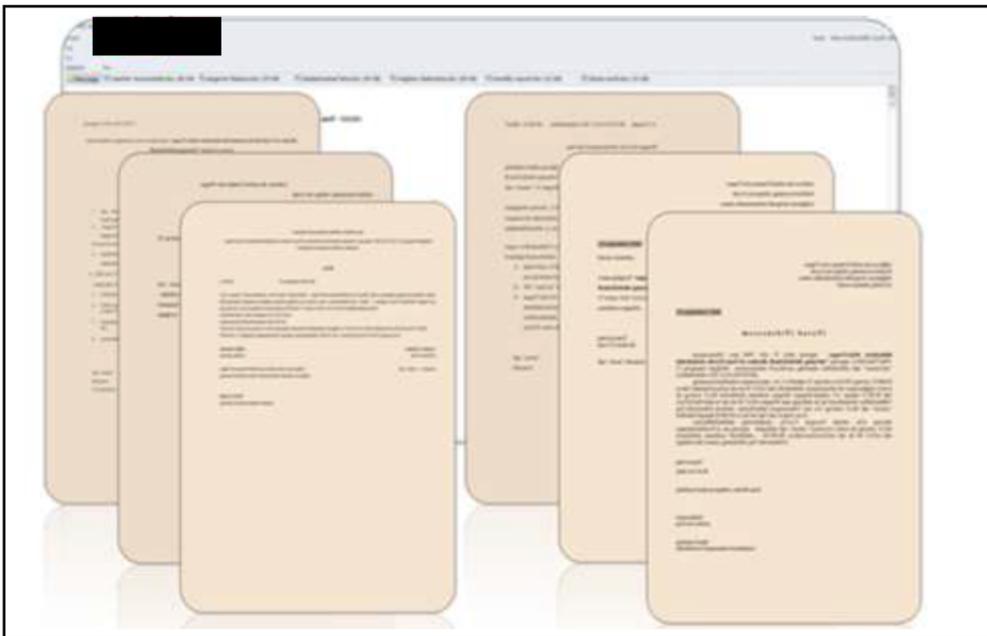


Figure 15: Email From PR's Program Officer to Program Manager with Attachments of Draft Word Documents for Siesta



G.4.3.1. The PR's Program Officer prepared bid related documentation for Siesta and Zimmer

PR's Program Officer prepared bid-related documents for Siesta and Zimmer

118. The investigation identified evidence that the PR prepared bid-related documents for Siesta and Zimmer, namely Siesta's company history and a letter for Zimmer, which requested the return of Zimmer's 1% tender proposal collateral guarantee letter from the PR (described under Section D.4.3.3. and Figure 16 of this Report). The OIG found that GPIC's Program Officer created and was in possession

of an electronic document with a description of Siesta's company history.¹⁴² This identical document was used in Siesta's bid proposals for GEL 25 and GEL 15 TB food voucher contracts dated 6 August 2010, as well as its bid proposal for a GEL 25 TB food voucher contract dated 24 February 2010.

119. When the OIG presented this document to the Program Officer, she stated that Siesta had asked her to create it and that she "did not understand what was wrong with it."¹⁴³ The Program Officer stated that if the WFP had asked her to help prepare their bid proposal she would have helped them.¹⁴⁴ However, there is no evidence that WFP solicited such assistance. WFP had already been an established supplier, providing food packages to the PR for several years and it was already experienced in preparing comprehensive bid proposals. Nevertheless, such assistance taints the integrity of the process, and is contrary to a fair and honest procedure as is required under Global Fund policy guidelines.

120. Furthermore, the bid proposals of Zimmer and Siesta were found in GPIC's office and nowhere else. Neither Zimmer nor Siesta kept copies of their bid proposals in their books and records. Siesta's employee stated, in fact, that Siesta did not keep the procurement records, and directed investigators to GPIC for copies of their bid proposals.¹⁴⁵ Siesta did not offer an explanation as to why they did not keep on file copies of past bid proposals on file. In contrast to Zimmer and Siesta, the WFP had copies of their bid proposals for food voucher contracts and was able to make them available to the OIG upon request.

121. On 4 April 2013, the PR's Senior Manager sent the OIG a copy of Siesta's company history, which had been purportedly submitted with its bid proposal for the July 2010 GEL 40 HIV food voucher tender. As set forth in Section D.3.1 of this Report, the PR had never before made available to the OIG copies of bid proposals for the July 2010 GEL 40 HIV food voucher tenders, notwithstanding the OIG's requests for the same. The Senior Manager asserted that the copy of Siesta's company history from its bid proposal was different from the one the PR's Program Officer admitted to having created for Siesta. The OIG has compared this document against the one found in the Program Officer's possession and has determined that the documents are indeed identical.

122. The OIG specifically requested copies of bid proposals for this particular food voucher tender because it was one where Siesta won the contract by underbidding WFP by GEL 200 – the same food voucher tender which prompted the WFP to send an email to the Global Fund to raise concerns about the transparency of the tender process (described in further detail in Sections D.3.1. and D.7 of this Report).

G.4.3.2. The PR's Program Officer created invoices and correspondence for Siesta

123. Seventeen Siesta documents were found in the possession of the Program Officer.¹⁴⁶ These documents do not bear Siesta's stamp and are not signed. The OIG found identical documents in the files provided by Siesta. The only difference between the two sets of documents is that those from Siesta's files are signed and stamped, and those in the possession of the Program Officer are unsigned. This, in

Bid proposals of Zimmer and Siesta were found only at PR's office and nowhere else; Neither Zimmer nor Siesta had copies of their bid proposals

Siesta documents without signature and stamp found in Program Officer's possession; Identical signed and stamped versions were found in Siesta's files

¹⁴² The metatags for this document indicated it was created by someone with access to Program Officer's computer username.

¹⁴³ ROC of GPIC's Program Officer at para. 74 (19 July 2012).

¹⁴⁴ Id. at para. 75.

¹⁴⁵ ROC of Siesta's Manager and Employee at para. 8 (14 Nov. 2011).

¹⁴⁶ The metatags of the documents indicate someone with access to the Program Officer's computer username created them.

turn, suggests that the documents were prepared by the Program Officer and later finalized with a stamp and signature by Siesta.

124. When asked by the OIG whether she had ever been asked to prepare documents for Siesta or Zimmer, the Program Officer initially denied having ever created documents for either company,¹⁴⁷ stating that she had only corrected mistakes on Siesta's and Zimmer's invoices on five or six occasions.¹⁴⁸ Nevertheless, she later directly contradicted this statement, conceding that she helped create documents for both companies.¹⁴⁹ Although the Program Officer routinely created documents for both Zimmer and Siesta, she claimed to have had little interaction with the founders of both companies and to having no knowledge of the companies' connection to one another.¹⁵⁰

PR's Program Officer admitted she helped create documents for both companies

125. The OIG also presented the Program Officer with a draft letter, which had been found in her possession, from Siesta to GHSPIC informing the latter of a change of legal address. The Program Officer conceded that she created this letter and stated that she had to perform Siesta's responsibilities in order to "help keep things on track."¹⁵¹

G.4.3.3. The PR's Program Officer created invoices and correspondence for Zimmer

PR's Program Officer created business related documents for Zimmer

126. The OIG Investigation presented the Program Officer with several examples of documents bearing Zimmer's logo and name relating to requests for reimbursement of redeemed vouchers and accompanying documentation. Forensic analysis revealed that the Program Officer created these documents for Zimmer.

PR's Program Officer created bid-related document for Zimmer

127. For example, the investigation recovered from the Program Officer's possession a draft letter from Zimmer to GPIC requesting the return of a letter from the bank granting Zimmer a collateral guarantee of 1% of the value of the contract for GEL 40 HIV vouchers. This letter would have been submitted together with Zimmer's bid proposal (Figure 16). Zimmer did not win this tender.

¹⁴⁷ ROC of GPIC's Program Officer at para. 37 (19 July 2012).

¹⁴⁸ Id. at para. 18.

¹⁴⁹ Id. at para. 75, 78, 82.

¹⁵⁰ Id. at para. 24 and 27.

¹⁵¹ Id. at para. 70.

Figure 16: Zimmer Draft Letter Found in PR's Program Officer's Possession



Translation

To the LPPL “Georgian Health and Social Programs Implementation Center”’s Tender commission

“Zimmer” Ltd
Director -----’s

Request Statement

We note that we participated in LPPL “Georgian Health and Social Programs Implementation Center”’s tender for food supply service provision (utilizing so called “voucher mechanism”) to the HIV/AIDS afflicted patients in the framework of the Global Fund’s program “HIV/ AIDS Prevention, Treatment, Care and Support Actions widening” (program #GEO-607-G06-H).

Please refund 1% tender proposal collateral guarantee letter presented by us.

Director /-----/

128. When asked why she had created this document, the Program Officer did not offer an explanation and stated instead that the letter concerned the HIV program, with which she was not involved. The same document in hard copy, signed and stamped by Zimmer, was found in GPIC’s procurement files.¹⁵²

Electronic file of Zimmer’s logo found in PR’s Program Officer’s possession

129. An electronic file of Zimmer’s logo was also found in the possession of the Program Officer (Figure 17). The logo was contained in a standalone file and was not affixed to another document. When presented with the file and asked for an explanation as to why an electronic file of Zimmer’s logo was found in her

¹⁵² Id. at para. 52.

possession, the Program Officer stated that she did not know why it was on her computer and could not offer an explanation.¹⁵³

Figure 17: JPEG. Electronic File of Zimmer Logo Found in Program Officer's Possession



G.4.3.4. The PR's Program Officer used Siesta's documents to create documents for Zimmer

PR's Program Officer modified documents previously created for Siesta for Zimmer

130. The OIG found in the possession of the PR's Program Officer an invoice for Siesta that had been altered for Zimmer's use. The electronic evidence indicated that the author of the document was the Program Officer. The metadata of the document demonstrates that although the invoice was once created for Siesta, all references to Siesta had been replaced with the name of Zimmer. The author, however, inadvertently left Siesta's tax identification number on the invoice.

131. Additionally, the OIG recovered a cover letter for Siesta, which would normally have accompanied an act of acceptance between Siesta and GHSPIC, which had been modified by GPIC's Program Officer for Zimmer. Although the signature block in this letter had been altered to include Zimmer's and its director's name, the Program Officer inadvertently left Siesta's name in the body of the document.

132. The Program Officer stated that she modified Siesta's documents in order to provide templates to Zimmer,¹⁵⁴ thereby contradicting her prior statement that she had never created documents for Siesta or Zimmer.¹⁵⁵

G.4.4. Zimmer did not maintain an office

Zimmer's employee prepared its paperwork at her home

133. An OIG field visit to Zimmer's business premise confirmed that Zimmer did not maintain a separate office as a business premise. Zimmer told OIG investigators that a Zimmer employee prepared its paperwork at her home. OIG Investigators indeed visited the employee's residence on several occasions in order to gain access Zimmer's books and records and observed that the employee performed work for Zimmer in her apartment (Figure 18).

¹⁵³ Id.

¹⁵⁴ Id. at para. 62 and 64.

¹⁵⁵ Id. at para. 37.

Figure 18: Zimmer's Office



Siesta ceased operating and did not have an office

134. Siesta claimed to have had an office, although at the time of the OIG Investigation Siesta had already ceased operations and did not maintain an office. On 14 October 2012, the Siesta's Manager led OIG investigators to an empty residential space where some of Siesta's books and records were stored.

G.5. Mismanagement and Waste

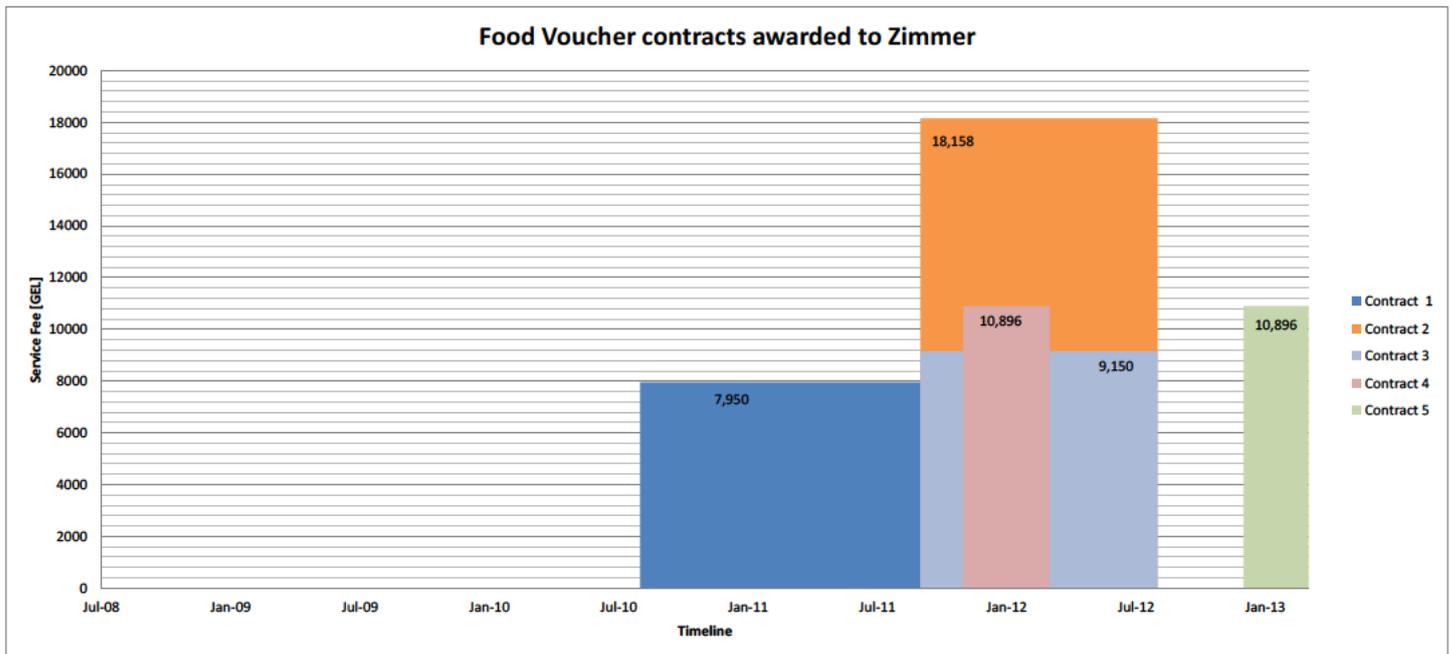
After August 2010, Zimmer became PR's sole food voucher supplier

135. After the August 2010 tender for the GEL 15 food voucher contract, Zimmer became, and continues to be, the sole food voucher supplier to the PR. Following this date, all contracts have been sole-sourced to Zimmer, which has proposed the highest service fee to be budgeted for by the PR in every tender for food voucher contracts.

In August 2011, PR concurrently awarded a GEL 25 and a separate GEL 15 food voucher contract to Zimmer, enabling the company to collect USD 16,256 per month in service fees

136. In August 2011, GPIC concurrently awarded a GEL 25 TB food voucher contract and a GEL 15 TB food voucher contract to Zimmer. Under the GEL 25 TB food voucher contract, Zimmer earned GEL 217,900 (USD 129,702) in service fees, amounting to GEL 18,160 a month (USD 10,810). Under the GEL 15 TB food voucher contract, Zimmer earned GEL 109,800 (USD 65,357) in service fees, amounting to GEL 9,150 (USD 5,446) a month. Thus, under both contracts Zimmer collected GEL 27,308 (USD 16,256) per month in service fees. The chart below illustrates the concurrent contracts awarded to Zimmer from August 2011 through August 2012. (Figure 18).

Figure 19: Contracts Awarded to Zimmer



Zimmer’s responsibilities under GEL 15 and GEL 25 voucher contracts are same: vouchers are collected together and during same visits; there no additional fuel expenses or personnel time

Only extra effort for Zimmer is additional paperwork

PR staff admitted there was no programmatic reason for separating GEL 15 and GEL 25 TB food voucher contracts

Significant increases to Zimmer’s profit margin after it became PR’s sole food voucher supplier

137. Zimmer’s responsibilities under the GEL 15 and GEL 25 voucher contracts are essentially the same. Zimmer informed OIG investigators that they had contracts with the same stores for both the GEL 15 and GEL 25 vouchers, and that once redeemed, they would collect both types of vouchers during the same visits to the stores. Therefore, no additional fuel expenses, vehicle maintenance costs or personnel time is required for the performance of both contracts.

138. The only differences between performing the two types of contracts are that GEL 25 vouchers are given out more frequently, resulting in more paperwork for the supplier; and with GEL 25 vouchers, the supplier must advance more funds to the stores given the higher value of the voucher and frequency of distribution to patients. Instead of charging double service fees, Zimmer’s necessity for more funds to advance to stores could have been addressed by requesting advances from GPIC, which Zimmer could have eventually reimbursed to GPIC after it started collecting redeemed vouchers from the stores. The only extra effort would have been the additional paperwork.

139. In interviews with the OIG, GPIC conceded that there was no programmatic reason for separating the two contracts. Moreover, if the OIG recommended that the contracts be combined, GPIC would implement the recommendation.¹⁵⁶

G.6. Indications Siesta and Zimmer Made Improper Cash Payments to a Third Party

140. Zimmer’s books and records show significant increases to Zimmer’s profit margin after it began securing food voucher contracts from the PR without having to compete against any other supplier. The company’s managers’ compensation increased from GEL 700 - 1,000 (USD 420 – 600) per month in August 2010 to GEL 4,500 (USD 2,680) in August 2011 and finally to GEL 9,000 (USD 5,360) in December 2011. (Zimmer’s only source of revenue is from GPIC.)

¹⁵⁶ ROC of GPIC’s Program Manager at para. 21 and 22 (20 July 2012); ROC of GPIC’s Senior Manager at para. 35 (20 July 2012).

Steep increase in managers' compensation were not in proportion to any increase in Zimmer's work load

141. The steep increases in managers' compensation were not in proportion to any increase in Zimmer's work load. Any increase to Zimmer's workload from 2010 to 2011 would have been negligible. As demonstrated in the preceding section on "Waste and Mismanagement" of this report, Zimmer's responsibilities under the GEL 15 and GEL 25 voucher contracts were the same. Zimmer's "Manager 2" conceded that the collection times for the redeemed GEL 15, GEL 25, and GEL 40 vouchers occurred at the same time and from the same stores. The only additional work would have been caused by the increased paperwork, of which a substantial amount was already being performed by the PR's Program Officer.

Zimmer and Siesta paid staff salaries in cash

142. Notably, both Zimmer and Siesta paid staff salaries in cash. When questioned as to why salaries were paid in cash, Zimmer's employee and managers told OIG investigators that it was "too complicated to make salary payments by bank wire transfer to its six staff members."¹⁵⁷ However, Zimmer representatives had previously told OIG investigators that it advanced funds to the 66 stores it contracted with in different regions by bank wire transfer, and that such transfers were sometimes conducted several times a week depending on the rate at which patients redeemed the vouchers.

G.7. LFA Did Not Perform its Fiduciary Function with Objectivity and Independence

Core principle of LFA role is objectivity and independence
LFAs report only to Global Fund, not the PR

143. One of the core principles embedded in the LFA's fiduciary role is objectivity and independence.¹⁵⁸ The LFA Manual expressly requires LFAs to "at all times demonstrate their professionalism, objectivity and independence."¹⁵⁹ Moreover, the LFA is employed by the Global Fund, and not the PR, to oversee the PR's management of Global Fund grant funds and program activities. Indeed, the LFA Manual states that LFAs report only to the Global Fund.

Following tender for GEL 40 HIV food vouchers in July 2010, WFP raised concerns about transparency of tender process with Global Fund staff member

144. Following the tender for the GEL 40 HIV food voucher contract, which was awarded to Siesta because it was able to underbid the WFP's bid by USD 120 (GEL 200), the WFP in Georgia addressed an email to a country team staff member at the Global Fund raising concerns about the transparency of the tender process.¹⁶⁰ The Global Fund staff member forwarded the WFP's email to the PR's Senior Manager. The PR's Senior Manager responded to the Global Fund staff member with an email message replete with capital letters and an exclamation mark, vehemently defending the tender process.

Without doing a review of the tender in question, LFA addressed an email to the PR, applauding and defending the PR

145. The Global Fund staff member shared this email thread with the LFA, soliciting its comments. Instead of reviewing the bid proposals and tender committee minutes associated with the tender in question, the LFA addressed an email¹⁶¹ to the PR's Senior Manager and the Program Manager to applaud the Senior Manager's response and commented that the food parcels the WFP distributed were of poor quality. It is important to note, however, that the food voucher contracts involved a complex financial assistance program to patients through food vouchers as opposed to distributing food parcels. In this case, the quality of the food parcels is irrelevant.

¹⁵⁷ ROC of Zimmer's Employee (19 July 2012).

¹⁵⁸ LFA Manual, B7 Conflicts of Interest, p. 49 (2011).

¹⁵⁹ LFA Manual, B4.2 Independence, p. 44 (2011).

¹⁶⁰ Email from WFP in Georgia to Fund Portfolio Manager, Subject: RE: HIV/TB Support in Georgia, 14 July 2010.

¹⁶¹ Email, 15 July 2010

WFP’s complaint should have prompted LFA to conduct review of tender in question

LFA’s actions indicate confusion about role

146. Although the level of effort agreed with the LFA at the time did not require the LFA’s Country Team to review bid proposals and tender committee minutes, the WFP’s complaint should have prompted the LFA’s Country Team to conduct a more detailed review of the tender in question.

147. The LFA’s actions indicate its confusion over its role to serve as the “eyes and ears” of the Global fund and the duty to perform its work with due diligence. Where an objective LFA, properly performing its fiduciary function, would have at minimum reviewed the tender documents in further detail to determine whether the WFP’s concerns were well-founded, the LFA addressed an email to the PR to offer its blind support without having done any due diligence on the tender process or the suppliers involved.

148. Had the LFA properly performed its fiduciary function in this case, it would have been able to identify and notify the Global Fund of the procurement irregularities described in this report.

149. At the same time, it was improper for the Global Fund staff member to forward the WFP’s complaint directly to the PR. By doing so, the Global Fund staff member demonstrated a tacit disregard for the confidentiality of complainants’ identities.

G.8. The PR Made Improper Salary Payments to Senior Manager’s Domestic Partner

PR’s Senior Manager’s domestic partner’s GPIC employment contract indicates she received monthly salary of USD 2,011

PR’s Senior Manager signed his domestic partner’s employment contract and authorizes bank wire transfers for monthly salary payments

150. The Senior Manager’s domestic partner appears on GPIC’s staff list as a Monitoring and Evaluation Officer and received a salary of GEL 40,560 (USD 24,143) from April 2011 to April 2012.¹⁶² Her employment contract also indicates a monthly salary of GEL 3,380 (USD 2,011) gross, which is on the same level as other officers at GPIC. As GPIC’s sole source of funding is Global Fund grants, GPIC’s staff salaries are paid with Global Fund grant funds.

151. The Senior Manager’s domestic partner’s employment contract is signed by the Senior Manager. The Senior Manager also confirmed that he authorizes all bank wire transfers for monthly salary payments to staff.¹⁶³

152. The OIG Investigation determined that the Senior Manager’s domestic partner was also a long-time staff member at GHSPIC. Her employment with GHSPIC dates back to 2003, when GHSPIC first started receiving Global Fund grant funding.¹⁶⁴ The Senior Manager’s domestic partner’s CV states that she worked as an AIDS Project Coordinator from October 2003 until January 2008, when she was promoted to Manager of the AIDS Project. According to her CV, the Senior Manager’s domestic partner was promoted to Monitoring and Evaluation Manager of all Global Fund projects in 2009.

153. The Senior Manager’s domestic partner’s employment contract with GPIC indicates that her main job responsibilities are: (i) overall coordination of issues related to program monitoring and evaluation; (ii) regular collection of indicators for reporting to the Global Fund, CCM, Ministry of Health and the LFA; (iii) provision of regular updates to the board of advisors on the program performance, trends and programmatic deviations; and (iv) cooperation with internal and external auditors in the execution of their duties.¹⁶⁵

¹⁶² GPIC’s bank account records confirm salary payments to Senior Manager’s domestic partner; ROC of GPIC’s Senior Manager’s Domestic Partner at para. 3 (21 Sept. 2012).

¹⁶³ ROC of GPIC’s Senior Manager at para. 26 (31 Oct. 2012).

¹⁶⁴ ROC of GPIC’s Senior Manager’s Domestic Partner at para. 1 (21 Sept. 2012).

¹⁶⁵ Employment Contract of GPIC’s Senior Manager’s Domestic Partner.

G.8.1. Lack of Evidence of Actual Work Performed

154. A search of all programmatic documentation and related communications did not reveal any evidence that the Senior Manager's domestic partner performed any work for GPIC.

No evidence Senior Manager's domestic partner performed any work for GPIC

155. No email communications were found that originated from the Senior Manager's domestic partner's GPIC email address related to monitoring and evaluation work assignments or reports. OIG investigators could only locate two emails that had been sent from the Senior Manager's domestic partner's GPIC email address: one to confirm her activation of her GPIC email address, and the other to modify information on her business card.

No email communications originated from Senior Manager's domestic partner's GPIC email address related to M&E work

156. When OIG investigators asked the Senior Manager's domestic partner whether she used her GPIC email account, she stated that she used her GPIC email address to conduct official GPIC business and that she only used her personal email account when there was no internet. She did not explain how she could access her personal email account without internet service.¹⁶⁶ In any case, the OIG identified that other emails from the Senior Manager's domestic partner that were sent from her private yahoo email address to the Senior Manager related to personal domestic issues, and not to GPIC work.

157. Further, the Senior Manager's domestic partner is not mentioned or included in nine email threads, consisting of a total of 109 separate emails, between the Global Fund Secretariat and GPIC staff, as well as among GPIC staff members themselves, on Monitoring and Evaluation activities in 2011. The absence of the Senior Manager's domestic partner from these emails is of particular significance, given that she is listed as GPIC's sole Monitoring and Evaluation Officer. It should be noted that the lack of a digital footprint from the Senior Manager's domestic partner on GPIC's business activities is in sharp contrast to the documented work activity of her peers occupying the same level of responsibility.

G.8.2. False Statements to the OIG about Employment

158. OIG investigators arranged a teleconference with the Senior Manager's domestic partner in September 2012, to inquire about her duties and the role she played at GPIC.

Senior Manager's domestic partner could not answer basic questions about job responsibilities and projects she worked on

159. When asked specific questions regarding her day-to-day job functions, the Senior Manager's domestic partner provided only vague answers. As the interview was conducted via video conference from Geneva, OIG investigators observed that the witness appeared to be reading from a list. The interview included anomalies, such as the lack of the ability to provide detailed answers. For example, the Senior Manager's domestic partner told OIG investigators that she helped to organize the Monitoring and Evaluation Systems Strengthening conference, but could not recall the date of the conference.¹⁶⁷

160. In addition, she informed OIG investigators that she actively participated in the set-up of the ERP system at GPIC, but could not identify the tasks she undertook to help set up the system.¹⁶⁸ When OIG investigators asked her if she could provide a more specific and substantive answer, she stated that she "took part in every detail, organization and suggestion," that "all information, such as indicators are accessible for all to see," and could not provide any further details.¹⁶⁹

¹⁶⁶ ROC of GPIC's Senior Manager's Domestic Partner (21 September 2012).

¹⁶⁷ ROC of GPIC's Senior Manager's Domestic Partner at para. 15 (21 September 2012).

¹⁶⁸ Id. at para. 13.

¹⁶⁹ Id.

161. The witness also made numerous conflicting statements throughout the interview. When asked whether she created any reports for the PR, she stated that her “role was not really a paper-based role, and that it was not necessary to create paperwork because she could remember everything in her head.”¹⁷⁰ When she was asked what type of work product she created at GPIC, she stated that she “created the success of the program,”¹⁷¹ without elaborating on how she achieved this.

¹⁷⁰ Id. at para. 20 and 27.

¹⁷¹ Id. at para. 30.

H. Findings

162. The following findings of fact are based upon credible and substantive evidence, and in light of the more likely than not standard of proof:

Zimmer and Siesta were alter egos of one another

(1) Zimmer and Siesta were alter egos of one another: (i) Zimmer was created by Siesta employees who concurrently worked at both companies even when they were competing against one another for food voucher contracts; (ii) both companies used the same registered address and vehicles; (iii) Zimmer and Siesta were operated by the same staff; and (iv) Siesta's Manager appeared on Zimmer's payroll.

Zimmer and Siesta worked together to set bid prices and to steer contracts to one another

(2) Zimmer and Siesta worked together to set bid prices and to steer contracts to one another: (i) Both companies' bid proposals contained identical wording and the same spelling errors, indicating that they were prepared by the same person; and (ii) Zimmer and Siesta only competed against one another in tenders when a third company participated; at all other times, either, but not both companies participated in tenders.

PR grossly mismanaged Global Fund grant funds by helping Zimmer and Siesta to secure food voucher contracts

(3) GPIC grossly mismanaged Global Fund grant funds by helping Zimmer and Siesta to secure food voucher contracts: (i) GPIC's Program Officer prepared bid related documents for both Zimmer and Siesta; (ii) the PR's Senior Manager received calls from and made calls to Zimmer and Siesta leading up to the August 2010 tenders for GEL 15 and GEL 25 TB food voucher contracts; and (iii) the PR's tender committee disproportionately awarded the highest scores to Siesta in a July 2010 tender for an HIV food voucher contract, which placed the company in the most advantageous position in the reverse auction bidding exercise.

PR had a less than arms-length relationship with Zimmer and Siesta, constituting conflict of interest

(4) The PR had a less than arms-length relationship with Zimmer and Siesta, which constitutes a conflict of interest: (i) phone records show GPIC's Senior Manager and GPIC staff were connected to the founders of Siesta and Zimmer; (ii) the PR's procurement officer used Zimmer's Manager's phone to communicate with the PR's Senior Manager through text messaging at a time when Zimmer was not yet a supplier; (iii) the PR's Program Officer routinely prepared business documents for Zimmer and Siesta; and (iv) the PR's Senior Manager made several phone calls on the weekend and evening to Zimmer's Manager during the OIG's in-country mission in May 2012.

PR staff made misrepresentations of material fact to OIG

(5) GPIC's staff, including the Senior Manager, Program Manager and the Program Officer made misrepresentations of material fact to the OIG by claiming that they did not know that Siesta and Zimmer were operated and run by the same people and that Zimmer's founders were working for Siesta -- as well as denying their own involvement in aiding the two companies to win food voucher contracts and/or preparing administrative documents for them.

PR mismanaged Global Fund grant funds by awarding concurrent contracts to Zimmer

(6) GPIC mismanaged Global Fund grant funds by awarding two concurrent contracts for food vouchers to Zimmer, which enabled the company to collect a windfall for performing essentially the same work, which one contract alone would have required.

LFA failed to perform fiduciary function with objectivity and independence

(7) The LFA failed to perform its fiduciary function with objectivity and independence, where it did not give the WFP's concerns of procurement irregularities due consideration regarding a tender in which Zimmer and Siesta, two companies with the same registered address competed against one another, and the PR used a disproportionate scoring system to favor Siesta.

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PR made improper salary payments to Senior Manager's domestic partner for work she did not perform

(8) GPIC made improper salary payments to the Senior Manager's domestic partner. The absence of electronic communications and work product created by the Senior Manager's domestic partner together with her inability to answer basic questions about work she purportedly performed for the PR indicate she was a fictive employee and received monthly salary payments from Global Fund grant funds for work she did not perform.

PR's Senior Manager misappropriated Global Fund grant funds by fabricating employment contract and authorizing salary payments to domestic partner

(9) GPIC's Senior Manager misappropriated Global Fund grant funds by fabricating an employment contract and authorizing monthly bank wire transfers in order to facilitate improper salary payments to his domestic partner for work she did not perform.

I. Losses to the Global Fund

I.1. The Global Fund's Right to Reimbursements

163. Under the Global Fund's Standard Terms and Conditions (STCs) of the Grant Agreement with GPIC, Article 27 stipulates that the Global Fund may require the PR "to immediately refund to the Global Fund any disbursement of the Grant funds where there has been a breach by the Principal Recipient of any provision of this (sic) Agreement."¹⁷²

164. On the basis of the totality of evidence presented herein, the OIG finds that the PR has breached the following provisions of the STCs:

165. Article 18(a) of the Grant Agreement requires that the PR ensures that: (i) contracts are awarded on a transparent and competitive basis, (ii) contracts are awarded to responsible contractors that possess the ability to successfully perform the contracts; (iii) no more than a reasonable price shall be paid to obtain goods and services; and (iv) that the PR and its representatives and agents do not engage in any corrupt practices as described in Article 21(b) of the Grant Agreement in relation to such procurement.¹⁷³

166. Article 18(f) of the Grant Agreement requires the PR to ensure that all goods and services and activities financed with Grant funds are used solely for Program purposes.¹⁷⁴

167. According to Article 21(b) of the Grant Agreement, the PR shall not and shall ensure that no person affiliated with the PR "engage(s) in a scheme or arrangement between two or more bidders, with or without the knowledge of the Principal or Sub-recipient, designed to establish bid prices at artificial, non-competitive levels."¹⁷⁵

168. In addition, under Article 21(d) of the Grant Agreement, the PR is obligated to ensure that the Global Fund's Code of Conduct for Suppliers (the "Code of Conduct") is communicated to all bidders and suppliers.¹⁷⁶ According to Article 21(d), "in the event of non-compliance with the Code of Conduct, to be determined by the Global Fund in its sole discretion, the Global Fund reserves the right not to fund the contract between the Principal Recipient and the Supplier or seek the refund of the Grant funds in the event the payment has already been made to the Supplier."¹⁷⁷

169. The OIG's finding that Zimmer and Siesta worked together to steer contracts to each other with the PR's knowledge and active assistance constitute a breach of Articles 18(a) and 21(b) of the Grant Agreement.

170. The OIG's finding that the PR used Global Fund grant funds to make improper salary payments to the Senior Manager's domestic partner for work she did not perform constitutes a breach of Article 18(f). As a result, the PR did not ensure that the funds were used for the purposes of the Grant Agreement.

171. The OIG's finding that Zimmer and Siesta did not fully cooperate with the OIG's requests for information and that the PR did not communicate the Global Fund's Code of Conduct for Suppliers to them constitutes a breach of Article 21(d).

¹⁷² Standard Terms and Conditions (Single Stream of Funding), Art. 27(b).

¹⁷³ Id. at Art. 18(a).

¹⁷⁴ Id. at Art. 18(f).

¹⁷⁵ Id. at Art. 21(b).

¹⁷⁶ Id. at Art. 21(d).

¹⁷⁷ Id.

I.2. Calculation of Loss

Absence of competitive market makes determination of fair market price impracticable

OIG recommends Global Fund seek to recover amount representing the monetary benefit to the supplier

OIG finds USD 853,804, which was paid to Siesta and Zimmer in service fees from 2008 to present, represents monetary benefit to Suppliers

172. By steering contracts to Siesta and Zimmer the PR aided both companies—which were for all intents and purposes the same company—to secure a monopoly of the Global Fund grant funded food voucher contracts, thereby eliminating any possibility of real competition. The absence of a competitive market makes the determination of a fair market price impracticable. In cases when the OIG is unable to establish the extent to which prices are artificially inflated as a result of corrupt procurement practices, the OIG recommends that the Global Fund seek to recover either the value of the contract or the amount representing the monetary benefit to the supplier, as appropriate.

173. The OIG finds that the amount of USD 853,804, which was paid to Siesta and Zimmer in service fees from 2008 to present, represents the monetary benefit to the Suppliers. This benefit was improperly secured through collaboration with the PR to secure Global Fund contracts without a transparent or competitive process. It should be noted that this amount does not represent the value of the contracts, but rather only the service fee portion of the contracts. Figures 20a and 20b illustrate services fees the PR paid to Siesta and Zimmer.

174. Figures 20a and 20b do not show the total value of the contract (service fee together with value of the food vouchers), because this amount depends on the quantity of food vouchers actually redeemed by patients. The contracts contain service fee amounts and the total number of vouchers which may be printed per contract. Therefore, the total value of the contracts is not mentioned on the contracts themselves because the amount of vouchers which will be redeemed cannot be known at the time the contract is drawn up.

Figure 20a: Service Fees Paid to Zimmer

Contract Number	Short Ref ID	PR	FV Value	Time Period	Service Fee per Contract (GEL)			GEL Paid	Amount in USD
					Original Service Fee	Amended Svc Fee	Total Svc Fee*	Per Bank Statements	
GF/T/RCC-081/07/10	1-081	GHSPIC^	GEL 15	Aug10-Jul11	66,300	33,150	99,450	3,495	
070/T11/CB	2-070	GPIC	GEL 25	Sep11-Aug12	217,900		217,900	27,775	
071/T11/CB	3-071	GPIC	GEL 15	Sep11-Aug12	109,800		109,800	3,090	
116/A11/CB	4-116	GPIC	GEL 40	Nov11-Feb12	38,000		38,000	-	
138/A11/CB	5-138	GPIC	GEL 40	Feb12-Jan13	158,000		158,000	-	
TOTALS					590,000	33,150	623,150	34,360	370,923

* Last two amounts (GEL 38,000 and GEL 158,000) are projected amounts based on Zimmer's food voucher contracts for the relevant period, because the OIG only has Zimmer's bank account statements up until May 2012.

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Figure 20b: Service Fees PR Paid to Siesta

Siesta Food Voucher Contracts									
July 2008 to May 2012									
Contract Number	Short Ref ID	PR	FV Value	Time Period	Service Fee per Contract (GEL)			GEL Paid	Amount in USD
					Original Service Fee	Amended Svc Fee	Total Svc Fee		
GF/A / LS-025/05/08	1-025	GHSPIC	GEL 25	Jul08-Jun09	225,560	(17,216)	208,344	208,292	
GF/T/LS-085/06/09	2-085	GHSPIC	GEL 25	Aug09-Jan10	133,800		133,800	133,800	
GF/T/LS-006/07/10	3-006	GHSPIC	GEL 25	Mar10-Jul10	115,000		115,000	115,000	
GF/A/LS - 072/07/10	4-072	GHSPIC	GEL 40	Jul10-Dec10	51,800		51,800	51,800	
GF/T/RCC-082/07/10	5-082	GHSPIC	GEL 25	Aug10-Apr11	172,500	13,806	186,306	186,305	
No 003GF/T/RCC-082/07/10	5-082	GPIC	GEL 25	May11-Jul11	n/a		67,826	67,826	
GF/A-R6-COS/LS-001/11	6-R6	GHSPIC	GEL 40	Mar11	24,108	(12,054)	12,054	12,054	
No 005/GF/A-R6-COS/LS-001/11	6-R6	GPIC	GEL 40	Apr11-Jun11	12,054	24,108	36,162	36,162	
TOTALS					734,822	8,644	811,292	811,240	482,881

OIG finds PR improperly paid USD 24,143
Total loss to Global Fund is USD 877,947

175. The OIG also finds that USD 24,143 was improperly paid to the Senior Manager's domestic partner for work that was not performed.

176. The OIG, therefore, finds that the total loss to the Global Fund is USD 877,947.

J. Recommendations

<p>PR's Senior Manager to personally reimburse the Global Fund for salary payments to domestic partner</p>	<p>177. The OIG makes the following recommendations as a result of the findings of this investigation:</p> <p>(1) That the Secretariat requires GPIC's Senior Manager to personally reimburse the Global Fund for the salary payments he secured for his domestic partner through GPIC, an amount identified as USD 24,300.</p>
<p>Secretariat to recover from PR total amount paid to Siesta and Zimmer in service fees</p>	<p>(2) That the Secretariat seeks to recover from GPIC, the total amount paid to Siesta and Zimmer in services fees, an amount currently identified as USD 859,000.</p> <p>(3) That Zimmer and Siesta and their respective founders be debarred from further contracting with any Global Fund financed program or entity that receives Global Fund resources.</p>
<p>Zimmer and Siesta and respective founders to be debarred</p>	<p>(4) That GPIC be replaced as PR of all Global Fund grants for making improper salary payments and for carrying out corrupt procurement practices.</p> <p>(5) That GPIC's Senior Manager, Program Manager and Program Officer be debarred from working, whether as a salaried employee or independent consultant, with any Global financed program or entity that receives Global Fund resources.</p>
<p>PR's Senior Manager, Program Manager and Program Officer to be debarred</p>	<p>(6) That Global Fund Secretariat implement a system for monitoring and enforcing PRs' compliance with Art 21(d) of the standard terms and conditions of the grant agreements, which requires PRs to ensure that the Global Fund's Code of Conduct for Suppliers is communicated to Suppliers.</p>
<p>Global Fund Secretariat to conduct study of food voucher program</p>	<p>(7) That the Secretariat thoroughly study the food voucher program in order to assess the program's effectiveness and to determine the actual costs associated with administering and running the program in Georgia; Propose an alternative framework for administering a food/cash incentive program for patients, and revise the budget, as necessary, to prevent waste and mismanagement.</p>
<p></p>	<p>(8) That in cases where the state procurement law of the implementing country, if applicable, is silent on whether past experience of the supplier must be considered over price before a contract is awarded – the Secretariat should require that past experience of suppliers be considered as a selection criteria by PRs and SRs alike in their procurement procedures.</p>
<p></p>	<p>(9) That the Global Fund Secretariat conduct a thorough evaluation of the new PRs' capacity to implement grant programs before awarding grants to the PR, regardless of whether the PR's personnel had previously worked with past Global Fund financed programs.</p>
<p>Global Fund Secretariat to re-evaluate LFA's country team ability to perform fiduciary duty</p>	<p>(10) That the Global Fund Secretariat re-evaluate the LFA's country team's ability to perform its fiduciary duty with objectivity and independence in Georgia and replace members of the team, as necessary.</p>
<p></p>	<p>(11) That the Global Fund Secretariat issue guidance to its staff regarding how to address whistleblowing complaints in order to ensure the confidentiality of complainants and to mitigate the risk of intimidation of such persons.</p>

K. Acronyms

GEL	Georgia Lari
GPIC	Global Projects Implementation Center
GHSPIC	Georgia Health and Social Projects Implementation Center
GF	Global Fund for HIV/AIDS Tuberculosis and Malaria
HIV	Human Immunodeficiency Virus
LFA	Local Fund Agent
M&E	Monitoring and Evaluation
NGO	Non-Governmental Organization
OIG	Office of the Inspector General
PR	Principal Recipient
SR	Sub-recipient
SSR	Sub-sub-recipient
TB	Tuberculosis
USD	United States Dollars
CCM	Country Coordinating Mechanisms
MDR	Multiple drug resistant
CCG	Civil Code of Georgia
WFP	World Food Program
STC	Standard Terms and Conditions

L. Annex A - OIG Response to GPIC’s Comments on Georgia Investigation Report

TGF-OIG/IU-13-002
15 February 2013

Text from Investigation Report	PR Comment	OIG Response
Executive Summary		
<p>1. In October 2011, following a referral from the OIG Audit Unit, the Office of the Inspector General’s (OIG) Investigation Unit conducted an investigation of allegations of misappropriation of Global Fund grant funds disbursed to the Global Projects Implementation Center (GPIC), the Principal Recipient (PR) of Global Fund grants to Georgia. Preliminary indications of misuse of funds became evident through the OIG Audit Unit’s Diagnostic Review of the financial records of GPIC in September and October 2011. The Diagnostic Review identified red flags of irregularities in GPIC’s food voucher program for HIV and TB patients, as well as indications of improper procurement practices and big rigging between two suppliers. Upon identification of these irregularities, the case was transferred to the OIG Investigations Unit for a full investigation. This report summarizes the findings of this investigation.</p>	<p>The addressee of allegations of misappropriation referred in paragraph 1 could have been only GHSPIC – a legal entity of public law (an entity founded by the State of Georgia), the PR from 2003 until April 2011. Please note that GPIC became the PR only after April 2011. Despite the fact that the part of personnel of GHSPIC which worked directly with Global Fund Projects are currently employed by GPIC and the latter assumed responsibility for GHSPIC’s contracts with the suppliers effective as of 1 April 2011, GPIC is not a legal successor of GHSPIC. GHSPIC was liquidated by the State of Georgia and the senior management of GHSPIC is currently in no legal connection with GPIC. We would especially like to draw your attention to the fact that GPIC had no obligation to keep and maintain the materials and documents of GHSPIC but in order to avoid the risk of loss of such materials, important and crucial for Global Fund Projects in Georgia, GPIC collected and stored them.</p>	<p>Novations, replacing GHSPIC with GPIC, were performed on the existing food voucher contracts still in force on 1 April 2011. Furthermore, GPIC told OIG investigators that all staff at GHSPIC working on Global Fund projects went to GPIC. Therefore, the same staff members responsible for aiding Zimmer and Siesta to win food voucher contracts, and inappropriately performing administrative work for both companies continued working at GPIC.</p> <p>Finally, the funds concerned are Global Fund grant funds, whether these funds were managed by GHSPIC or GPIC is immaterial.</p>
<p>2. The investigation identified credible and substantive evidence that two suppliers, Zimmer Ltd. (Zimmer) and Siesta Ltd. (Siesta) (the “Suppliers”), with which GPIC had contracted to implement its food voucher program for HIV and TB patients, worked together to steer food voucher contracts to each other with the aid of GPIC. Further, the evidence adduced</p>	<p>The statement again concerns the GHSPIC. In tenders (competitions) for voucher contracts announced by GPIC, Siesta did not take part at all. In the scope of assuming obligations of GHSPIC from the contracts with the suppliers, GPIC solely extended a contract with Siesta for two months period. Nevertheless, as the officers of GHSPIC are partly presented in the capacity of managers and officers and of GPIC, and many allegations</p>	<p>The Report refers to GHSPIC and GPIC interchangeably at the “PR”. As explained in response 1 above, the same staff members implicated in the wrongdoing described in the report continued working at GPIC in similar roles. The distinction between GHSPIC and GPIC are, therefore, immaterial.</p>

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<p>demonstrates that although Zimmer and Siesta submitted separate bids as two distinct companies, in fact, they were one and the same: (i) Zimmer was founded by Siesta employees; (ii) the two companies used the same registered address and vehicles; and (iii) Zimmer and Siesta were operated by the same people. Additionally, the bid proposals submitted by Zimmer and Siesta for food voucher contracts bore striking similarities, sufficient to establish that it is more likely than not that the same person prepared both companies' bid proposals. Failing to note these similarities, the PR awarded multiple contracts to Zimmer and Siesta.</p>	<p>of the Report are addressed to personalities and not the legal entity, in some cases we deemed expedient to provide responses also on behalf of GHSPIC.</p> <p>To the best of knowledge Zimmer and Siesta were not one and the same entity – Zimmer was indeed founded by Siesta employees but this is certainly a globally common practice that the former employees of an enterprise establish a competitor company. The registered address of Zimmer and Siesta may be the same, but this is also the case in regards to many other business vehicles involved in business activities - they are registered at the address of the beverage company JSC Kazbegi. Under Georgian Law, the registration of an address is a purely formal matter connected with initial incorporation of a company. The similarity of registered addresses does not mean that Zimmer and Siesta have the same factual addresses and we repeatedly state that it is usual for many companies to have one and the same registered address.</p> <p>Under Georgian law, the information in regards to a legal entity accessible for third parties (such as contractors) can be drawn from Commercial Registry maintained by National Agency of Public Registry. The excerpts from the referred Registry, duly requested by the PR, show that Zimmer and Siesta have different founders and different directors (see annex 1). As for vehicles, the PR had no knowledge and had no obligation to obtain the information in respect of Supplier's vehicles. Hence, despite the fact that the claim given in paragraph 2 can be addressed to GHSPIC and not GPIC, the latter denies any allegations that within the scope of reasonable prudence the PR could find any similarities between the companies save for the registered address and strongly doubts another statement that the same person prepared</p>	<p>The Report does not state that Zimmer and Siesta are identical. It states that both companies were controlled by the same people, and therefore, for all intents and purposes were “one and the same”. GPIC’s comment that it is a “globally common practice” for the employees of one company to establish a competitor company and compete in the same tender is alarming to the OIG. Such arrangements are typically carried out to give the appearance of competition, when there actually is none – a practice which constitutes non-competitive behaviour in procurements.</p> <p>The Report does not claim that the sole fact that Zimmer and Siesta share the same registered address establishes that both companies were “one and the same”. This is just one of many factors to support the finding that both companies were controlled by the same people.</p> <p>Having different directors does not indicate Siesta and Zimmer were independent companies. Zimmer’s Manager and Manager 2 continued working at Siesta until July 2011, when Siesta suspended its business activities. Zimmer’s payroll sheet also showed Siesta’s Manager worked for Zimmer. Siesta’s bid proposal in February 2011, openly identified Zimmer’s founders as its staff members. Moreover, Zimmer and Siesta only competed against each other in two tenders, where the WFP was a competing bidder (in the July 2010 tender for GEL 40 HIV food vouchers and again in August 2010 for GEL 15 TB food vouchers). A year after Zimmer won its first food voucher contract, Siesta suspended its business activities in July 2011. However, Zimmer’s payroll records show Zimmer</p>
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	<p>both companies bid proposals.</p>	<p>paid Siesta’s Manager in October 2011. <u>See Figure 2 of the Report.</u> Zimmer’s records also contained hotel receipts in Batumi for the same month in Siesta’s Manager’s name. <u>See Figure 3 of the Report.</u></p> <p>The key people on the relevant tender committee at GHSPIC, were the same people at GPIC in similar roles. Given that all the staff at the Global Fund unit within GHSPIC began working at GPIC in April 2011, when it began operating – GPIC cannot claim ignorance of any food voucher procurements which took place under GHSPIC.</p>
<p>3. Records and documents obtained show GPIC staff had a less than arms-length relationship with the founders of Zimmer and Siesta. Evidence was identified that a PR staff member routinely prepared food voucher related business documents for Zimmer and Siesta, tasks that GPIC had purportedly engaged the companies to perform. Among these types of business documents found in the possession of the PR staff member were partially completed drafts of invoices and business letters, as well as documents related to the Suppliers’ bid proposals.</p>	<p>The subject of paragraph 3 deals with totally 28 various documents out of more than one thousand received from Zimmer and Siesta within four years. However, please note that only one of them can be linked with GPIC and all others are from the period when GHSPIC acted in the capacity of PR. Nevertheless, as a response to this particular allegation we may clarify that the referred materials represented the electronic versions of the documents to be provided by the Suppliers. In order to avoid any technical defects in their documentation the representatives of supplier companies delivered drafts of respective documents for PR’s prior examination before printing the final versions. Besides, the PR states that save for Siesta’s corporate history, all other documents were routine working materials which had nothing to do with bid proposals (such documents as delivery-acceptances acts, invoices, verbal reports, letters on performed works etc.). The PR admits that the referred corporate history of Siesta lacked in the package of Supplier’s documents and in response to company’s request the representatives of GHSPIC assisted Siesta with drafting of the document reflecting its corporate history in GHSPIC’s office on computer of one of the</p>	<p>The Report establishes in full detail the extent of the Program Officer’s involvement and her own admissions. Again, the distinction between GPIC and GHSPIC is immaterial for the reasons already stated herein.</p>

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	<p>officers. Accordingly, we strongly believe that the statements of paragraph 3 indicate less than arms-length relationship with founders of Siesta and Zimmer.</p>	
<p>4. The investigation also identified that GPIC made salary payments from Global Fund grant funds to a GPIC senior manager's domestic partner for purported monitoring and evaluation services, although no evidence was found to indicate that this individual performed any work for GPIC at the time the payments were made. More specifically, the investigation did not identify evidence that the GPIC senior manager's domestic partner engaged in any duties or responsibilities that would have justified her receipt of monthly salary payments from Global Fund grant funds. No communications, emails, work product, or memoranda associated with the GPIC senior manager's domestic partner was found, and no witness (among those interviewed) could attest that the senior manager's domestic partner was present and performed any duties and responsibilities on behalf of the PR. The evidence also demonstrates that the senior manager aided and abetted his domestic partner in receiving these sums by executing an employment contract and authorizing monthly bank wire transfers to her.</p>	<p>As mentioned earlier, the staff of GHSPIC connected with Global Fund Projects became employees of GPIC and the domestic partner of GPIC's senior manager was one of them. She worked for GHSPIC from 2003, before she got involved in any personal relations with GPIC's senior manager. Due to her health status she was the only employee which got lower position in GPIC (the officer) than she had in GHSPIC (the manager). GPIC admits that she did not go to work permanently and was not able to fully fulfill her duties, however, to the extent possible in the light of her illness, she took part in certain activities. Due to her health status the GPIC's senior manager gave her certain amount of time for recovery. In case of OIG's request, we can provide respective materials evidencing her health history (due to confidentiality issue we avoid disclosing further details connected with her health status in this document). During this period, the duties of the referred lady were distributed among other staff members, they were performed without defects and GPIC did not hire any additional personnel and respectively did not incur any additional costs. Finally, as additional time given for her recovery did not bring the aimed results, GPIC's former domestic partner was not granted the extension of employment contract. Please be informed that GPIC has five vacancies on various positions open for two years and it has never been the PR's aim to fill any vacancy in order to receive illegal benefits from Global Funds sources.</p>	<p>GPIC's Senior Manager's domestic partner told the OIG in a formal interview that she had been working at GPIC from April 2011. She also told the OIG that the only times she was away from the office in 2012, was from 23 July to 24 August, and three days in September to attend a funeral. The Senior Manager's domestic partner stated that she was not away from the office at any other time. She never mentioned being ill and consequently on sick leave for an extended period of time. <u>ROC of Senior Manager's Domestic Partner, 21 Sept. 2012.</u></p>
<p>5. Finally, GPIC staff made false statements to OIG investigators regarding the connection</p>	<p>GPIC's senior manager noted in his correspondence with OIG Diagnostic Review (E-mail to [Name Redacted]</p>	<p>Although not mentioned in the Report out of respect for the privacy of the persons concerned, the</p>

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<p>between Zimmer and Siesta, as well as GPIC's relationship with the two companies.</p>	<p>dated 11 October 2011) that as Zimmer and Siesta are involved in the same field of activities within the same course of business they have certain personal knowledge or interconnection but GPIC is not aware of any unpermitted relations and corrupt deals between these two legal entities. Therefore, the statement from GPIC's senior manager was not false. The same concerns the GPIC's relationship with two companies.</p>	<p>OIG uncovered evidence indicating an inappropriate intimate relationship between the PR's Program Officer and Zimmer's Manager. Given the less than arms-length relationships between Zimmer and Siesta with the PR's staff and the PR's Program Officer's inappropriate relationship with Zimmer's Manager – it is implausible that the PR could be unaware of the connection between Zimmer and Siesta.</p> <p>At best the PR staff was aware of the high probability that Zimmer and Siesta were controlled by the same people and that their participation in the tenders did not represent a competitive process. Zimmer's founders worked at both Zimmer and Siesta, until Siesta suspended its business activities in July 2011. Both companies submitted bid proposals with identical wording and formatting. Siesta's bid proposal for HIV food vouchers in February 2011, listed Zimmer's founders as its employees. By then, Zimmer had been a food voucher supplier to the PR for at least six months and the PR's tender committee would have noticed Zimmer's founders' names on Siesta's staff list. Moreover, Zimmer's Manager told OIG investigators that although Siesta's Manager conceived of Siesta's business idea, Zimmer's Manager managed and ran the company. <u>ROC of Zimmer's Manager, 19 July 2012</u>. This would include making regular trips to the PR's office for various administrative purposes. This is further corroborated by the fact that the PR's procurement officer even used Zimmer's Manager's phone to send SMS messages to the PR's Senior Manager. This occurred just before the August 2010 tender for food vouchers which both Siesta and Zimmer</p>
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		<p>participated in, which indicates Zimmer’s Manager was already acquainted with PR staff when he was still working at Siesta. Telephone records show the Senior Manager was in contact with Siesta and Zimmer in the days leading up to the August 2010 food voucher tenders. Finally, the PR’s Program Officer also routinely created documents for both companies. Given her close relationship with Zimmer’s Manager and the fact that Zimmer’s Manager ran Siesta’s business, it is likely she knew that both companies were controlled by the same people. The PR’s Program Manager also likely knew of the connection between the two companies because she was on the tender committee and was responsible for overseeing the Program Officer’s work and the TB food voucher program.</p> <p>When the facts are so obvious and substantiated with independent evidence that the parties could not reasonably claim ignorance of wrongdoing, well settled legal principles would allow the fact finder to impute such knowledge on the PR. The PR may not, therefore, consciously and intentionally avoid confirming the fact that Zimmer and Siesta were controlled by the same people and that the tenders were not competitive.</p>
<p>BACKGROUND</p>		
<p>6. The goals of the HIV and TB programs are to obtain universal access to quality diagnosis and treatment of tuberculosis and to reduce HIV mortality and transmission, respectively. The food voucher program was intended to the advance these goals. In order to incentivize patients to comply with their treatment regimens, GPIC provided food parcels and vouchers to</p>	<p>Another false statement stipulated in this section is that GPIC provided food parcels to patients. This was never the case - GPIC arranged only food vouchers. As for food parcels, they were distributed by World Food Program acting in the capacity of SSR of GHSPIC being in contractual relations with National Center for Tuberculosis and Lung Diseases.</p>	<p>The statement is not inaccurate. The distinction between GPIC and GHSPIC is immaterial. As PR, GHSPIC or GPIC (as the case may be) provided food incentives to patients whether in the form of food parcels or food vouchers. Both programs were funded by Global Fund grant funds.</p>

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<p>patients who met their drug treatment requirements. Under the food voucher program, TB and HIV patients who adhered to their drug treatment regimen received vouchers that they could then take to participating stores and exchange for food and toiletries. This investigation concentrates on the food voucher program component of the tuberculosis and HIV grants awarded to GPIC.</p>		
<p>7. According to GPIC, its decision to separate from the GHSPIC, was partly motivated by the fact that some Georgian laws were in conflict with Global Fund rules. For instance, GPIC staff contended that Georgian law requires that bidding fees and contract penalties relating to procurements conducted by a state entity be transferred to the state budget. The Global Fund grant agreements require that any funds earned by PRs or Sub-recipients (SRs) from grant program activities be accounted for and used solely for program purposes. Therefore, these officials explained that procurements conducted with Global Fund grant funds through GHSPIC would be subject to Georgian law given GHSPIC's status as a governmental entity. GPIC staff also stated that by separating from GHSPIC, GPIC had less reporting requirements and restrictions because it is not a governmental entity.</p>	<p>We would like to add a further clarification to OIG's statement - the main legal obstacle connected with the status of a legal entity of public law was that under Georgian legislation, the PR was obliged to maintain relations with SRs only in the framework of State Procurement Law what created significant complications in quality of goods and services, for instance the referred regulation (see details in our comment to paragraph 78) granted priority mainly to the price and not the quality of goods and services, created additional tax liabilities for SRs etc.</p>	<p>This issue was addressed in the Report on page 9, paragraph 25 and on page 58 under Recommendation 8: "That in cases where the state procurement law of the implementing country, if applicable, is silent on whether past experience of the supplier must be considered over price before a contract is awarded – the Secretariat should require that past experience of suppliers be considered as a selection criteria by PRs and SRs alike in their procurement procedures." The State Procurement Law states that selection of the winning tender is based on compliance of the tender proposal with tender requirements and the price. It is silent on whether past experience must be considered. BLC Legal Memorandum, p. 7 (19 July 2012).</p>
<p>8. The transition did not come, however, without any complications. There were delays in the transfer of Global Fund grant funds to GPIC. All Global Fund grants to GHSPIC ended and the balance of remaining funds was returned to the Global Fund. GPIC, therefore, had to wait for the Global Fund to approve disbursements of new</p>	<p>GPIC indeed received the funds with approximately two and half months delay but nevertheless it did not in any manner suspend the duties of the PR during referred time frame, performed its duties without defects even without its employees being able to get respective remuneration in this period.</p>	<p>The Report does not comment on GPIC's performance or duties during the transition period. The purpose of the paragraph on the transition period was to provide a narrative on history of the grants.</p>

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<p>grants to GPIC, which resulted in a delay wherein GPIC did not receive grant funds until late June. The Malaria and HIV grants with GPIC were signed on 28 April 2011, and the Tuberculosis grant with GPIC was signed on 21 April 2011. GPIC stated that it continued working without interruption on certain programs by obtaining agreements from suppliers to accept late payments. One of these programs was the food voucher program for TB and HIV patients.</p>		
<p>9. Siesta's Manager stated to OIG investigators that he did not know anyone at GHSPIC prior to seeing the call for tenders in the newspaper, and that his company was chosen based on its past experience in food distribution. Evidence presented below, however, shows that Siesta had no business activities prior to the award of the food voucher contract by GHSPIC. Electronic evidence also contradicts Siesta's Manager's statement that he did not know anyone at GHSPIC prior to the first tender for food vouchers. The PR's Senior Manager's Outlook address book, created in 2004, contained Siesta's Manager's telephone number, four years before the first tender for food vouchers.</p>	<p>The PR's Senior Manager never argued the fact of personal knowledge of Siesta's Manager, however this knowledge did not imply any business relations or friendship, they are not relatives and the telephone number of Siesta's Manager was indeed saved by PR's Senior Manager, like hundreds of other telephone numbers. Obviously, Siesta's Manager also did not know the position of PR's Senior Manager and its employment details prior to tender, as their acquaintance was purely informal and of a non-business nature.</p>	<p>The purpose of the paragraph was to refute Siesta's Manager's statement that he did not know anyone at GHSPIC. This particular paragraph does not discuss the PR's Senior Management's statements.</p> <p>The PR's Senior Manager created an entry for Siesta's Manager's contact information in his outlook address book in 2004. Siesta did not become a food voucher supplier to the PR until 2008. It is implausible that Siesta's Manager could be acquainted with the PR's Senior Manager for such a long period and at the same time and not know where the PR's Senior Manager worked. The Senior Manager has been the manager of the Global Fund programs since 2003.</p>
<p>10. At the time of the OIG Diagnostic Report in September – October 2011, GPIC did not have an operations manual in place. GPIC has since then formalised an internal procedure for procurement, although at the date of this report GPIC's Operations Manual has not yet been approved by the Global Fund Secretariat. GPIC's draft Operations Manual sets forth several different methods of procurement, depending on the contract amount.</p>	<p>In 29 August 2011 GPIC already sent second revision of the operations manual to Global Fund Secretariat for approval. The procedures in the mentioned period took place in compliance with Global Fund Guidelines for Procurement.</p>	<p>The statement is not inaccurate. At the date of the OIG's Diagnostic Review GPIC's Operations Manual had not yet been finalised and put in place. The Diagnostic Report commented on the gaps in GPIC's procurement policies outlined in the Operations Manual. The Global Fund Secretariat remarked that it continues to work with the PR and LFA to improve significant portions of the Operations Manual.</p>

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<p>11. The PR's Senior Manager was fully informed of the scope of allegations and provided with relevant evidence through three interviews, including his connection to the Suppliers and the PR's involvement in the food voucher procurement exercises. The Senior Manager was also provided with a copy of the draft report for comment. The OIG conducted three interviews with the PR's Senior Manager and during the interviews addressed the matters discussed in this Report. The PR's Senior Manager was also afforded ample opportunity to present relevant documents to investigators.</p>	<p>GPIC explicitly stresses that it did not receive any drafts of any report or other written materials for comments. Neither the Senior Manager nor other officials were presented any other drafts, save for the Report. Hence, GPIC had no factual opportunity to raise any counterarguments and comments as well as provide any documents prior to receipt of the Report.</p>	<p>A copy of the Report was sent to PR and to the CCM on 15 February 2012, for review and comment. On 25 February, the PR asked for and was given an additional week to revert with its comments. (The OIG had originally set 4 March as the deadline for receiving the PR's comments. The PR asked that the deadline be extended to 14 March).</p>
<p>12. The OIG conducted a survey of the stores participating in the food voucher program throughout Georgia in order to verify the program was being carried out as represented by the PR and Suppliers. However, the results of the survey were inconclusive because the OIG could not verify that the patients received the food vouchers, due to patient confidentiality concerns. The OIG has, therefore, made a recommendation in this report to the Global Fund Secretariat to conduct a comprehensive evaluation of the effectiveness of the food voucher program in Georgia.</p>	<p>GPIC repeatedly offered the OIG investigators to contact the patients directly and the survey of the patients could take place with full protection of confidentiality but the OIG investigators did not perform it. The confidentiality was not the obstacle for OIG investigators to examine and collect the confidential database of the patients with their names, contact details and signatures. Nevertheless, when offered to contact the patients for survey, the confidentiality issue was not raised by OIG at all. We deem that is it very regrettable that the OIG avoided contacting the patients directly as their health status and satisfaction with treatment represents one of the primary goals of Global Fund Projects and the information from the patients could provide OIG with more extensive picture of GPIC's factual contribution and effectiveness of the food voucher program in Georgia.</p>	<p>The patient's right to confidentiality belongs to the patient, and cannot be waived by the PR. The acquisition of the database containing patient names was incidental to a larger acquisition of electronic files from the HIV Center. The OIG signed a confidentiality undertaking with the HIV Center on or around 11 July 2012, whereby it agreed to safeguard the sensitive information contained in the database.</p>

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<p>13. The OIG’s investigation was significantly limited by the Suppliers’ lack of cooperation with requests for the production of documents and relevant materials. On 9 November 2011, members of the OIG requested access to Zimmer’s electronic records relating to work for the food voucher contracts. Zimmer refused this request and subsequently sent a written response dated 18 November 2011, to the OIG setting forth the reasons for its refusal.</p>	<p>As soon as OIG contacted GPIC with the request to get access to the documentation of Zimmer, the GPIC made its best efforts to negotiate with the Supplier in order to permit OIG to examine the documentation of the latter. Despite the fact that OIG investigators demanded to arrange the meeting early in the morning of the very next day before their departure, without any prior appointments being made, OIG received access to all requested materials as well as to personal computers and banking information of Zimmer.</p>	<p>As explained in the Report in detail, the Suppliers did not cooperate with the OIG’s initial requests for information. Incomplete information was provided after several requests were made.</p>
<p>14. OIG investigators also encountered similar challenges from Siesta, the other supplier engaged by GHSPIC, and then later GPIC, to print food vouchers and to contract with stores to accept the food vouchers from patients. Siesta’s Manager delayed meeting OIG investigators for several days following their request for the company’s books and records. Siesta’s Manager also attempted to revoke a power of attorney that he previously granted to the OIG to obtain the company’s bank account statements.</p>	<p>GPIC admits that a certain delay indeed took place in connection with Siesta but later, upon request of the PR it cooperated with investigation to the fullest extent. As for power of attorney, due to departure of investigators it was factually obtained by OIG when the document was already outdated and this was the reason for the bank’s prior refusal. Nevertheless, Siesta reissued the power of attorney and afterwards OIG received full access to supplier’s bank account information.</p>	<p>On 18 May 2012, a bank employee phoned Siesta’s Manager in the presence of the OIG Investigators to ask whether the Power of Attorney was still valid, and Siesta’s Manager instructed the bank employee not to release Siesta’s bank account statements to the OIG investigators. The bank employee informed OIG investigators that the bank account owner rescinded the Power of Attorney.</p>
<p>15. It is noteworthy that GPIC did not believe suppliers were obligated to comply with the OIG’s requests for information and, therefore never communicated the Global Fund’s Code of Conduct for Suppliers to its suppliers, which is required under Article 21(d) of the Standard Terms and Conditions of the Grant Agreement. In fact, when OIG investigators expressed dissatisfaction over the Suppliers’ lack of cooperation, GPIC’s Senior Manager stated that the OIG had no legal basis or grounds to access the Suppliers’ books and records. Although OIG investigators pointed out the relevant sections of the Grant Agreement and the Global Fund’s Code</p>	<p>The statement of OIG does not reflect the factual essence of the issue – GPIC was concerned in respect of investigator’s request to obtain personal and not business information and get access to personal computers of the Suppliers. Moreover, it is noteworthy that the request covered all materials from the period starting from 2008 up to the date of investigators request whereby the Code of Conduct for Suppliers became the part of SSF HIV and RCC TB Grant Agreements only from 2010. Despite these facts, due to the PR’s immense assistance the OIG investigators received full access to requested materials and personal computers.</p>	<p>As explained in the Report, on 9 November 2011, the OIG offered compromise solutions to Zimmer which were refused. The OIG offered to carve out data only relevant to food voucher related activities and to only copy those computer files. Zimmer refused the request, nonetheless. The Report also explains that the electronic files provided by Zimmer were incomplete.</p> <p>The fact that GPIC currently believes that the Code of Conduct for Suppliers does not apply to information predating 2010, confirms the PR’s ill-informed position that the Suppliers were not under any obligation to cooperate with the OIG’s requests</p>

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<p>of Conduct for Suppliers, GPIC’s Senior Manager maintained that he did not believe the Suppliers had any obligation to cooperate with the OIG’s inquiry.</p>		<p>for information.</p>
<p>FINDINGS</p>		
<p>16. OIG’s investigation identified credible and substantive evidence that purportedly competing food voucher suppliers, Zimmer and Siesta, were indeed for all intents and purposes, one and the same. It is also evident that the PR was aware of this circumstance, and actively supported it by providing administrative support to Siesta and Zimmer and by aiding them to win the food voucher contracts.</p>	<p>It remains fully unclear what the OIG implies with the wording: “aiding them to win the food voucher contracts”. Such aid was even theoretically not possible as the tender took place in full accordance with applicable statutory regulations (please see our comments to paragraph 78 of the Report) and no evidence of any aid from the side of PR which could factually facilitate Suppliers to win the contracts is given in the Report.</p>	<p>The Report describes evidence to support the PR aided Zimmer and Siesta to win food voucher contracts in Sections D.3 and D.4.</p>
<p>17. According to Siesta’s Manager, Siesta initially distributed beer, ice cream, food and personal hygiene products. However, Siesta’s bank account statements, which date back to its opening date of 24 April 2006, do not show any transactions to support these claims. In fact, Siesta’s bank account statements do not show any business transactions until June 2008, when it submitted its first bid for a food voucher contract announced by GHSPIC, which it subsequently won.</p>	<p>To the best of PR’s knowledge, provided by the Supplier, as of June 2008 Siesta represented an already experienced distribution company. Upon OIG’s request, Siesta can provide materials reflecting its experience prior to be involved in food voucher contracts. The PR is not aware which particular bank account statements were checked by OIG investigators and whether they reflected the operations of Siesta prior to its contract with GHSPIC.</p>	<p>The bank account statements obtained by the Bank with Siesta’s consent, range in date from 24 April 2006, when the accounts were opened, to present date. These bank account statements do not show any business transactions until June 2008.</p>
<p>18. Siesta’s Manager told OIG Investigators that he only learned of the food voucher program for tuberculosis patients through GHSPIC’s call for tenders placed in a newspaper and that prior to that he was not acquainted with any staff member of GHSPIC. This was not the case, as the evidence demonstrates that Siesta’s Manager knew the head of the Global Fund unit within GHSPIC well before 2008. GPIC’s Senior Manager, who was a senior manager of the Global</p>	<p>The GPIC’s Senior Manager repeatedly confirmed his personal knowledge of Siesta’s Manager but underlines the fact that they first had contact within the scope of business relation only when the Siesta’s Manager took part in tender and meeting of this person at the tender was in no way planned earlier but was rather a surprise for GPIC’s Senior Manager. As noted above, we believe that Siesta’s Manager also stated the truth as prior to tender he was sure that he did not know anyone at GHSPIC due to the fact that he never had business</p>	<p>Please see the OIG’s response to comment 9.</p>

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<p>Fund unit at GHSPIC at the time, had already entered Siesta’s Manager’s contact information into his Outlook address book as early as 2004.</p>	<p>relations with GPIC’s Senior Manager, his acquaintance with him had purely informal background what is common in intensively socialized society like Georgian.</p>	
<p>19. Siesta and Zimmer staff concurrently worked at both companies. Siesta’s bid proposal for GEL 40 HIV food vouchers in July 2010 (a bid Siesta competed against Zimmer for), which was submitted to GHSPIC, listed Zimmer’s managers as staff members. The bid proposal identified Zimmer’s “Manager 2” as Siesta’s manager; and Zimmer’s Manager as Siesta’s chief manager. Siesta’s bid proposal also identified a woman, who is Zimmer’s employee, as an operator for Siesta; and another woman, who is a tax/accounting consultant to Zimmer, as Siesta’s employee.</p>	<p>Due to the fact that the PR arranges about 100 tenders in a year, it seems to be a rather unrealistic requirement towards GPIC’s officers to follow and identify all names of the employees of participants companies if presented.</p>	<p>Zimmer and Siesta were the only two food vendors the PR ever contracted with. It is therefore, reasonable, that the PR would be expected to notice that Siesta and Zimmer staff concurrently worked at both companies and that Siesta’s bid proposal listed Zimmer employees as its employees. (Siesta’s bid proposal for HIV food vouchers in February 2011 listed Zimmer’s founders as its employees).</p>
<p>20. In addition, both Zimmer and Siesta had the same registered address in Tbilisi, Georgia, which is also the principal place of business of the beverage company where Zimmer’s Manager works.</p>	<p>GPIC may demonstrate numerous other companies which have the same registered address, the one of beverage company referred in the Report. As stressed earlier, the similarity of registered addresses is in Georgian practice no indication of any significant connection between the companies, especially when it is a factual address of a third party. The law does not require any factual permanent presence of the company at its registered address and in order to obtain it (principally for formal correspondence purposes with the authorities), a written consent of the owner is sufficient. Thus, we stress that presumably hundreds or thousands of enterprises share the same registered addresses in Georgia. In our opinion that it is not surprising that Siesta’s and Zimmer’s managers, who were involved in distribution of beverages, both choose the address of JSC Kazbegi as their registered address.</p>	<p>Please see OIG’s response to Comment 2.</p>
<p>21. Further, as demonstrated by Figures 1 A and B below, Zimmer and Siesta used the same</p>	<p>The contracts of vehicles rental were never among the bid documents and the PR had no factual opportunity to</p>	<p>The purpose of the paragraph is to show Zimmer’s and Siesta’s connection to one another. The fact</p>

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<p>vehicles. Zimmer’s managers and an employee rented their personal vehicles to both Siesta and Zimmer, while they worked at both companies simultaneously. Bid documents submitted by Zimmer and Siesta show Zimmer’s driver rented his vehicle (Mercedes Benz 180, registration number WHW 345) to Siesta on 22 September 2010 for a 12 month period and to Zimmer on 1 August 2011 for a 12 month period.</p>	<p>find out that the two companies shared the same vehicle for some period. Nevertheless, it is a common practice that the companies rent the same vehicle, which can work not only for one enterprise. The priority is given to experienced drivers with vehicles in good condition and if the driver is capable to work for two or more companies, it is in no way prohibited by Georgian legislation.</p>	<p>that they used the same vehicle is one of many factors when considered in its totality, supports the finding that both companies were “one and the same.”</p>
<p>22. The OIG’s investigation found substantive and credible evidence that Zimmer and Siesta worked together to set bid prices for food voucher contracts and to steer contracts to one another. As explained herein, two Siesta employees—Zimmer’s managers—founded Zimmer, but continued to work at Siesta for over two years after having established Zimmer. Both companies share the same registered address, and submitted bid proposals that contained identical wording and formatting. Both companies submitted competing bids for food voucher contracts on two occasions during this period. In fact, Siesta and Zimmer only competed against each other when the World Food Programme participated in food voucher tenders, as described in Section of IV(C) “Improper Procurement Practices” of this report. At other times, when there were no competitors, either Siesta or Zimmer was the sole bidder in food voucher tenders. Six out of nine food voucher contracts were sole-sourced by the PR. Together both Siesta and Zimmer amassed USD 853,804 (GEL 1,434,390) in services fees from the food voucher contracts.</p>	<p>There are absolutely no grounds to allege Zimmer founded in April 2009 that its foundation was in any manner connected with the company’s future competition with World Food Programme which took place only in 2010. In fact, Zimmer, as a newly established company, presumably avoided any tenders with higher bid prices which took place in 2010. Hence, the facts are misinterpreted in the Report as the activity of Zimmer in 2010 tenders was obviously connected with factual financial state of this enterprise - its lower turnovers required issuance of bank guarantees and securities in order to receive advance payments from GHSPIC. The latter, as a legal entity of public law was not allowed to carry out advance payments without these bank guarantees.</p> <p>Due to this fact Zimmer participated only in those lower bid price tenders where it factually had a capacity to implement the projects. As for Siesta, since GPIC became the PR 2011 it did not participate in tenders and in fact, after establishment of GPIC it only once extended a voucher contract with Siesta for two months period. As the tenders took place in full accordance with applicable statutory regulations under strict control of State Procurement Agency, no official complaints or objections have been ever made by any participant or any other party, absolutely embarrassing allegation by the OIG is</p>	<p>The Report accurately describes the facts. As the PR states in its comment, Zimmer had no prior business activities, and after Zimmer secured food voucher contracts from the PR Siesta suspended business activities and no longer participated in tenders. The same people controlled both companies and the companies only competed against each other when the WFP participated in tenders.</p> <p>As the Report states, a formal complaint was made by WFP to the Global Fund concerning the July 2010, GEL 40 HIV food voucher tender, whereby Siesta won the contract by underbidding WFP by GEL 200.</p>

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<p>23. The World Food Programme (“WFP”) was the only organization identified to have competed against Zimmer and Siesta for food voucher contracts. The WFP supplied food packages in partnership with GHSPIC to tuberculosis patients from 2006 to 2009. In 2008, when GHSPIC began using food vouchers, WFP had been winding down its activities in Georgia and was considering pulling out of the country. WFP decided that if it won the food voucher tender it would maintain a presence in Georgia in order to help run the food voucher program for GHSPIC.</p>	<p>based solely on ungrounded suspicions of investigators.</p> <p>It is rather unlikely that the WFP would maintain its presence in Georgia only due to voucher program with relatively low financial value for such organization. Moreover, please note that such profit oriented activity is in no way within the main scope of activities of WFP operated by the UN.</p>	<p>The Report accurately represents WFP officials’ statements to the OIG.</p>
<p>24. As demonstrated by Figure 4 below, a comparison of Zimmer’s and Siesta’s bid proposals reveal striking similarities. These documents were located in the possession of the PR’s Program Officer, who had electronically stored these documents for Zimmer and Siesta in Word format in her GPIC computer. The Program Officer acknowledged creating a description of Siesta’s company history, which was submitted with the company’s bid proposal for several food voucher tenders. In addition, as described herein, the PR was found to have used existing Siesta documents as templates to create Zimmer’s documents.</p>	<p>Please see our comment regarding paragraph 3.</p>	<p>We have modified the paragraph as follows: As demonstrated by Figure 4 below, a comparison of Zimmer’s and shows Siesta’s bid proposals reveal striking similarities company history, which was created by the PR’s Program Officer. These <u>This</u> documents were <u>was</u> located in the possession of the PR’s Program Officer, who had electronically stored these <u>this</u> documents for Zimmer and Siesta in Word format in her GPIC computer. The Program Officer acknowledged creating a description of Siesta’s company history, which was submitted with the company’s bid proposal for several food voucher tenders. In addition, as described herein, the PR was found to have used existing Siesta documents as templates to create Zimmer’s documents.</p>
<p>24. In Zimmer’s description of its prior experience in food voucher distribution, which it submitted with its GEL 15 TB food voucher bid proposal, it conceded that it did not have any experience in food voucher or food package</p>	<p>Zimmer indeed offered significantly lower price and it was the main reason to win the contract what was fully in line with the requirements of State Procurement Law. Please also note that the participant with second lowest price in this tender was Siesta and not the WFP.</p>	<p>Please refer to Recommendation 8 in the Report, which states: “in cases where the state procurement law of the implementing country, if applicable, is silent on whether past experience of the supplier must be considered over price before a contract is</p>

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<p>distribution. Although Zimmer did not provide specific information to support its capacity to provide such services should it win the contract, it did however allude to having certain unspecified experience in this area (“within the limits of our experience”). The contract was awarded to Zimmer on the merit of having solely proposed the lowest price. According to GPIC, GHSPIC was required to award contracts to the supplier with the lowest bid proposal under the government procurement rules, irrespective of experience of the vendor.</p>		<p>awarded – the Secretariat should require that past experience of suppliers be considered as a selection criteria by PRs and SRs alike in their procurement procedures.” The OIG recognizes such state procurement rules are not in line with the Global Fund’s procurement guidelines and has recommended that the Secretariat take the appropriate steps to prevent the exploitation of loopholes in state procurement laws in order favour certain suppliers in future procurements. (e.g. awarding a contract to Zimmer even though it did not have prior experience)</p>
<p>25. The OIG found substantive and credible evidence that the PR through improper procurement exercises steered contracts to favored vendors, Zimmer and Siesta. The PR directly facilitated this scheme by preparing bid submission documents. Further, the pattern of significant irregularities in procurement exercises, including the PR’s willful disregard of patent similarities in bid submissions in multiple procurement exercises, as well as an irregular scoring system that improperly favored Zimmer and Siesta, indicates the PR’s willful knowledge and facilitation of these schemes. Such practices violates the Grant Agreements as the bidders did not genuinely compete against one another, but instead worked together and collaborated with PR program officials.</p>	<p>The PR denies any preparation of bid submission documents and the only evidence thereto referred in the Report is drafting of corporate history of Siesta in the office of GHSPIC. As described below in comments to paragraph 78 the scoring as well as entire procedure of tenders was followed strictly the mandatory requirements of Georgian legislation in respect of State procurement. The subjective suspicions of OIG investigators presented in the Report as “evidences” are not proved by any credible materials.</p>	<p>Both Zimmer and Siesta did not have copies of their bid proposals. In fact, Siesta directed OIG investigators to GPIC for copies of its bid proposals. The PR’s Program Officer admitted to preparing Siesta’s company history, which was used it in bid proposal. A draft letter concerning Zimmer’s bank guarantee was also found in the Program Officer’s possession. This document was related to the bank guarantee letter, which would have been submitted with Zimmer’s bid proposal. Zimmer and Siesta’s bid proposals also contained identical wording and formatting. The totality of these factors indicates that it is more likely than not, Zimmer’s and Siesta’s bid proposals were created by the same person at the PR.</p>
<p>26. The OIG identified multiple tenders in which general principles of fair and competitive procurement were not followed. Article 18 of the Standard Terms and Conditions of the Grant Agreement with the PR states that procurement practices must meet the following criteria: (i)</p>	<p>The scheme or arrangement between two or more bidders to establish bid prices in open tender procedure is factually were unlikely to imagine. Besides it is very strictly controlled by Georgian authorities. GPIC represents that the contracts were awarded in full compliance with the Grant Agreement and Georgian</p>	<p>The facts to support each of the OIG’s findings are set forth in the Report.</p>

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<p>Contracts must be awarded on a transparent and on a competitive basis; (ii) Contracts are awarded to responsible contracts that have the ability to successfully perform the contracts; and (iii) No more than a reasonable price shall be paid for the services. The Grant Agreement also requires that the PR ensure that any person affiliated with the PR does not engage in a “scheme or arrangement between two or more bidders designed to establish bid prices at artificial, non-competitive levels.”</p>	<p>legislation.</p>	
<p>27. In spite of the PR’s Senior Manager’s insistence that the tendering process for the food voucher contracts was competitive and transparent, a comprehensive review of the process and documentation collected reveals that such was not the case.</p>	<p>We certainly argue that the details provided in the Report (those which are based on true facts and not on misrepresentations and false statements) prove that the tendering process for food voucher contracts was uncompetitive and non-transparent (please see our comments to paragraph 78 of the Report). The Report does not focus its attention on the fact that all tenders were openly announced and publicly available, participation was never restricted what means that the tenders were competitive and transparent.</p>	<p>The facts to support each of the OIG’s findings are set forth in the Report.</p>
<p>28. The WFP’s July 2010 tender bid for GEL 40 HIV food vouchers (which the OIG obtained directly from the WFP) consisted of up to 117 pages. They proposed a plan to issue electronic smart cards to patients that could be used at Georgia’s biggest supermarket chain in the cities of Tbilisi, Kutaisi and Batumi. Patients completing their required drug regimens would receive credit on the ‘Smart Card’ each month and would be able to make purchases at any store of a major supermarket chain in Georgia. WFP’s bid proposal also stated the ‘Smart Card’ would be designed to resemble cards issued by the supermarket chain to ordinary customers, in</p>	<p>The factual bid proposal of WFP consisted of four pages. The main volume of bid proposal represented supporting bilingual documents of WFP (English with Georgian translation) such as its Agreement with the State of Georgia etc. which has no direct connection with tender. The main disadvantage of the proposal was the splitting mode and high price of services based on location of patients which could lead to dissatisfaction of the latter. On the other hand WFP’s competitor had slightly lower price, two years of experience in voucher contracts and a well-established and successful system of services.</p>	<p>The Report accurately describes the WFP’s bid proposal.</p>

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<p>order to mitigate the risk of stigma among HIV patients.</p>		
<p>29. Its bid proposal stated that it pre-assessed and selected shops in 66 cities and district centers in Georgia. The Program Manager of GPIC confirmed that the stores selected by the WFP were the same stores used by Zimmer and Siesta.</p>	<p>The statement was misinterpreted by OIG investigators as it was made in regards to 66 shops concerning the Tuberculosis Program and not HIV program. The referred Program Manager did not attend GEL 40 HIV Program tender at all. Besides, the PR itself supported WFP to obtain information regarding these shops in various locations of Georgia.</p>	<p>The “misinterpretation” is immaterial, especially because the PR has claimed in its comment that it had in fact provided the WFP with information on the participating shops in Georgia.</p>
<p>30. Although the OIG Investigation obtained a copy of WFP’s bid proposal for the GEL 40 HIV food voucher tender directly from the WFP, OIG investigators could not locate any of the participants’ bid proposals for this particular tender in neither GPIC’s files, nor Zimmer’s and Siesta’s files for analysis. The only documents identified in GPIC’s files were the tender committee’s minutes and individual score sheets, which provide limited information on how the committee members arrived at the awarded scores for the GEL 40 HIV food voucher tender. The minutes, however, document the results of the bid which show the final bid prices of the bidders. These price proposals were scored after the technical evaluation and were considered together with the technical scores.</p>	<p>This statement of OIG in the referred contradicts with the essence of paragraph 57 of its own Report where OIG makes reference to these documents. Moreover, GPIC was not aware that the investigators were not able to obtain mentioned documents.</p>	<p>Paragraph 57 (now paragraph 59) has been corrected as follows: Siesta and Zimmer staff concurrently worked at both companies. Siesta’s bid proposal documents for GEL 40 HIV food vouchers in July 2010 February 2011 (a bid Siesta competed against Zimmer for), which was submitted to GHSPIC electronically, listed Zimmer’s managers as staff members. The bid proposal identified Zimmer’s “Manager 2” as Siesta’s manager; and Zimmer’s Manager as Siesta’s chief manager. Siesta’s bid proposal also identified a woman, who is Zimmer’s employee, as an operator for Siesta; and another woman, who is a tax/accounting consultant to Zimmer, as Siesta’s employee.</p>
<p>31. Figure 8 shows that GPIC's tender committee placed Siesta in an advantageous last bidder's position ahead of the reverse auction bidding. Thus, Siesta was able to underbid the WFP by GEL 200 (USD 120).</p>	<p>In order to argue the statement of OIG in referred section of the Report and its representations in paragraphs 79-82, we would like to draw your attention to provisions of Georgian legislation in respect of state procurement, applicable to GHSPIC tenders. Pursuant to Article 14 (which was effective until 10 December 2010) of 2005 Law on State Procurement, the verbal trade had to take place in accordance with Regulations on Conduction of State Procurements, a bylaw issued by the</p>	<p>The Report accurately describes the evidence to support the finding. The PR’s comment does not offer a reasonable explanation for the irregular scoring system it used to favour Siesta.</p>

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	<p>chairman of the State Procurement Agency on 3 January 2006. According to Article 15 (1) of this normative act, the tender participants may change the bid three times decreasing the price. The change of price takes place starting with the participant which offered the highest price and continues with those with offered lower prices respectively. The verbal auction ends when all participants change/state their price three times and/or final price is fixed. The procedure of verbal trade shall be signed by all members of tender commission and participants. The evaluation criteria are:</p> <ul style="list-style-type: none"> a) The price of tender offer; b) The terms of providing goods/services; c) The quality/experience and functional aspects of goods/services; d) The form and conditions of payment; e) Additional costs and other criteria considered by tender commission as essential. <p>The Report does not provide any evidence that these rules were violated by tender commission. All tenders followed the strict regulations of the mentioned bylaw and were not subject to any dispute. Moreover, the State Procurement Agency carries out the harsh control of all tenders and it is very unlikely that it omitted any breaches of the procedure. Besides, GPIC explicitly states that in tender referred in section 79 of the Report during reverse auction none of the participants offered a new price, the starting bid remained unchanged and therefore, the lowest price was fixed as the final price. As a result the initial placement of bidders remained as it was listed in tender registry (see annex 2). Consequently no underbidding or advantageous placements of any of the participants are proved to any extent.</p>	
<p>32. WFP's bid proposals for the GEL 15 TB food voucher contract described how it would implement a paper voucher program across 66</p>	<p>The winner of the tender, Zimmer, in contrary to WFP presented direct contracts with shops across Georgia whereby WFP delivered solely the potential list of</p>	<p>The statement as it appears in the Report is factually accurate. The Report summarizes the OIG's review of the WFP's bid proposals for the TB</p>

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<p>cities and towns in Georgia. In addition, its proposals detailed past experience with food distribution with other partners.</p>	<p>contractor shops. Upon OIG’s request we can provided the copies of the referred contracts (due to the volume of materials we do not attach them to this document). As for past experience of WFP, it was limited to food distribution and not participation in voucher programs.</p>	<p>food vouchers, which was provided by the PR to the OIG.</p>
<p>33. This is the last tender in which Zimmer participated, where there were other suppliers competing for the same contract. In 2010 and 2011, the PR routinely included the anticipated budget for each contract in the call for tenders. As the PR explained, this number was the ceiling of what the PR could accept for a winning bid. After the August 2010 tender Zimmer never submitted a bid proposal that was below GPIC’s proposed budget. When asked to explain why Zimmer consistently submitted proposals at the maximum contract price for the subsequent tenders, Zimmer’s “Manager 2” stated that there were no competitors in these tenders so Zimmer could propose the maximum amount budgeted for by GHSPIC or GPIC. However, under a proper procurement exercise, when it submitted its proposal, Zimmer should not have known whether or not there would be competing bidders.</p>	<p>The fact is that the tenders were openly announced and participation was free to all companies which met respective requirements. Therefore, neither the PR nor Zimmer could to any extent know the number and identities of bidders before the factual deadline. As for budgeted amounts, the Zimmer could offer lower prices in case of competition, however as no other participants took part in tender, this was not the case.</p>	<p>The fact remains that in all tenders where Zimmer was the sole bidder it proposed the PR’s anticipated budget for the contract. As the Report stated, in a proper tender exercise the participants would not have known whether there would be any competing tenders prior to submitting their bid proposals. Zimmer stated that they consistently proposed the maximum contract price because there were no competitors. <u>ROC of Zimmer’s Manager 2, 19 July 2012.</u></p>
<p>34. Zimmer won the contract by offering the lowest price of GEL 66,300. This food voucher contract was the first ever to be awarded to Zimmer, a company with no prior operating experience or documented resources to carry out the contract. Zimmer’s bid proposal listed just two employees (director and partner) as the company’s staff and a BMW as the company’s vehicle. Zimmer did not demonstrate that it had contracts with stores and that it had the capacity to manage a service contract requiring a high-</p>	<p>This is another false statement (!) as Zimmer did have operating experience, demonstrated a number of contracts with shops across Georgia and offered significantly lower price. Consequently, without any doubt Zimmer successfully performed its obligations under respective voucher contracts.</p>	<p>During interviews with the OIG, Zimmer’s managers stated that Zimmer was formed in 2009, but that they did not have any business activities until 2010, when the company started working for GPIC. <u>ROC of Zimmer’s Manager 2, 19 July 2012 and ROC of Zimmer’s Manager, 19 July 2012.</u> With respect to the stores with which Zimmer had contracts, Zimmer’s Manager 2 told the OIG that Zimmer established contracts with the stores based on their prior experience with Siesta. According to Zimmer’s Manager 2, Zimmer used most of the</p>

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<p>level of organisation and logistical coordination with the participating stores.</p>		<p>same stores Siesta had contracts with.</p> <p>The PR's claim in its comment that Zimmer's staff had prior operating experience with food voucher contracts appears to imply the PR had knowledge that Zimmer's founders worked at Siesta. This directly contradicts the PR's assertion of ignorance of the connection between Siesta and Zimmer.</p>
<p>35. In parallel to the GEL 15 food voucher contract, GHSPIC announced a call for tenders for a GEL 25 TB food voucher contract in August 2010. Siesta and WFP submitted bids in August 2010. Zimmer did not submit a bid proposal for this contract. Zimmer's "Manager 2" stated that Zimmer did not submit a bid for GEL 25 TB food vouchers because he wanted to "start small", even though he acknowledged that the work would be the same because Zimmer would collect both types of vouchers from the same stores. Zimmer's "Manager 2" also stated that Zimmer did not have enough funds to advance to the stores for the GEL 25 vouchers, although he did not offer an explanation as to why he could not ask GHSPIC for an advance to cover the initial costs, as Zimmer had done for the GEL 15 voucher contract.</p>	<p>As already explained by us above, Zimmer in 2010 had relatively low turnovers and its participation in higher bid tenders required issuance of bank guarantees and securities in order to receive advance payments from GHSPIC – this was statutorily governed by Georgian legislation, namely required by Subarticle 27.4. of the Annex to Regulations on Conduction of State Procurement (Purchase of Services through tenders) The latter, as a legal entity of public law was not allowed to carry out advance payments without these bank guarantees.</p>	<p>The OIG's review and analysis of the bank guarantees show the guarantee is based on the pre-payment amount paid by the PR. It is not based on the total value of the contract. For example, Zimmer paid the bank GEL 1,295 for an advance of GEL 35,000 from GHSPIC for its first food voucher contract. The PR's claim that the higher value of the GEL 25 TB food voucher contract precluded Zimmer from participation is not entirely valid. In fact, it appears from a bank guarantee document dated 17 August 2010, Siesta requested a guarantee for the advance payment of GEL 3,450 for the GEL 25 TB food voucher contract.</p>
<p>36. For this particular tender, the OIG Investigation was provided a full set of documentation which enabled a full evaluation of the tender process. WFP's proposed price was GEL 175,500 and Siesta's proposed was GEL 172,500. Neither party lowered their bid price during the bidding. Siesta, therefore, won the contract by GEL 3,000, an amount less than 2% of the contract value.</p>	<p>Naturally, GHSPIC granted the contracts to the company which offered lower price and besides, had two years of experience in successful implementation of similar voucher contracts.</p>	<p>The paragraph is factually correct.</p>

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<p>37. The OIG identified evidence that when viewed in its aggregate and its totality, indicates that it is more likely than not that the PR helped Zimmer and Siesta to secure Global Fund grant funded food voucher contracts. First, the telephone records of a Senior Manager of GPIC show that he received calls from, and made calls to, Zimmer and Siesta executives in the days leading up to the August 2010 tenders for GEL 15 and GEL 25 TB food voucher contracts. Further, the PR's Program Officer routinely created documents, such as invoices and correspondence, for both Zimmer and Siesta. Notably, the PR's Program Officer was not only in possession of Zimmer's and Siesta's bid related documents, but forensic examination revealed that the Program Officer had created these documents herself. Such evidence not only indicates a less than arms-length relationship between GPIC's Senior Manager and Program Officer with the founders of Zimmer and Siesta, but also that the PR facilitated Zimmer and Siesta's scheme to secure Global Fund grant funded contracts. Under the food voucher contracts Siesta and Zimmer collected services fees which amounted to USD 482,881 (GEL 811,240) and USD 370,923 (GEL 623,150), respectively, and USD 853,804 (GEL 1,434,390) in the aggregate.</p>	<p>The telephone conversations with representatives of the participants are a common practice and not prohibited by applicable regulations. The tender documentation directly provides the contact details and telephone numbers of the entity that placed the announcement and the participants may contact them with respective queries. Besides, the investigation does not indicate any information which could be confidential and could be revealed during telephone conversations with Zimmer and Siesta representatives. We would like to point out that telephone conversations as well as email communication took place not only with Zimmer and Siesta, but also with WFP officers. The Report which should pretend to provide the objective picture of the case in question is silent regarding these facts.</p>	<p>The OIG's review of the tender announcements in question show these tenders listed landline numbers +995 388210 and +995 3888220 as GHSPIC's contact numbers. The calls referred to in this particular paragraph were to the PR's Senior Manager's blackberry phone number, which was not listed in the tender announcements as a telephone number bidders could call to ask questions about the tender.</p> <p>With respect to email communications with WFP, the PR appeared less responsive. The OIG located emails between WFP and the PR's Senior Manager regarding the tender for HIV food vouchers in 2009. The WFP representative wrote on 30 December 2009, that she checked the newspaper 24 Hours and discovered that the deadline for the tender for the HIV food vouchers was on 24 December. The WFP also stated that she hoped they had not been "misinformed" because the Senior Manager had told her in November that the tender would not be announced until January. Not having received an answer on 21 January 2010, the WFP representative forwarded the same email message to the PR's Senior Manager, and asked for a response.</p>
<p>38. Given the fact that the PR's Program Officer created extensive documentation for Zimmer, that Zimmer did not maintain an office outside of its employee's personal residence (as detailed below), and that the key staff members of Zimmer each held other full time jobs - the totality of the circumstances calls into question Zimmer's ability to perform the contracts which it</p>	<p>We would like to point out that GPHSIC indeed choose responsible contractors that possessed the ability to perform the contracts successfully. The fact of successful performance of contracts is evidenced by the fact that there were no complaints from the side of patients and OIG did not provide any prove of the contrary.</p>	<p>Creating its own business documentation without substantial assistance from the PR is part of Zimmer's contractual responsibilities. The fact that there is evidence to indicate Zimmer did not perform this function, calls into question the company's ability to perform its contractual duties.</p>

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<p>had been awarded. Under Article 18(a)(v) of the Grant Agreement, the PR is required to reward contracts to “responsible contractors that possess the ability to successfully perform contracts. By not selecting a supplier with the requisite capacity to perform all tasks required under the food voucher contract, such as creating invoices and correspondence, GPIC is in breach of the Grant Agreement. A similar finding cannot be made in the case of Siesta because that company had ceased operations by the time of the OIG’s mission, thus rendering it impossible to conduct an investigation of its office premises.</p>		
<p>39. Phone Calls from the PR's Senior Manager's home phone number to Zimmer during the OIG's in-country mission</p>	<p>As noted above, PR’s Senior Manager indeed made calls to Zimmer during OIG’s mission and it was the only way and served the sole purpose to convince the Supplier to cooperate with the investigators and provide them with respective materials. As a result, OIG got a full access to requested documents. Moreover, we would like to stress the fact that GPIC’s Senior Manager strongly doubts the authenticity of data given in figure 11. He himself was not able to receive the detailed breakdown of calls for the referred period because the telephone number is registered on behalf of the PR’s Senior Manager’s late father. Therefore the source and authenticity of this data seems very suspicious. The only document PR’s Senior Manager was able to obtain from the telephone company is the invoice for the referred period indicated under annex 3 which confirms that there were no calls made on mobile phones in May 2012 from home telephone number of PR’s Senior Manager.</p>	<p>As the Report states, the calls were made leading up to and after the OIG’s interview with Zimmer staff. Cooperation from Zimmer was not at issue during the time frame the phone calls were made. The phone number referenced in the report is 32290919 (registered to the Senior Manager’s domestic partner), and was recovered from the Senior Manager’s computer. The PR’s comment refers to an entirely different telephone number: 322292311, which is indeed registered to a person with the initials V.L.</p>
<p>40. When questioned by OIG investigators, senior management at GPIC stated that they did not know that prior to founding Zimmer, Zimmer’s Manager was working at Siesta.</p>	<p>GHSPIC employed about 40 persons and it is impossible to follow who made telephone calls to Zimmer’s manager, was it an individual connected with Global Funds projects or not. Thus, the contacts among Zimmer</p>	<p>The telephone records in question came from a telephone bill of the Global Fund unit within GHSPIC. This document was recovered from the one of the computers used by the PR.</p>

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<p>Similarly, GPIC senior management stated that prior to Zimmer’s first contract with GHSPIC for food vouchers in August 2010, they did not have contact with Zimmer’s Manager. However, GHSPIC’s telephone bill for April 2009—over a year prior to Zimmer’s first contract award—indicates 15 outgoing calls made to Zimmer’s Manager. Indeed, during this time period Zimmer’s Manager was working at Siesta.</p>	<p>and one of GHSPIC employees or a person who simply visited their office and made the call cannot be evaluated as a misrepresentation from the side of GPIC’s senior management.</p>	
<p>41. Similarly, GPIC’s Senior Manager insisted on several occasions to the OIG that he was not aware either that Zimmer’s Manager had ever worked at Siesta or that the latter was working at Siesta when that company, as well as Zimmer, submitted competing bids in August 2010 for the Global Fund grant funded food voucher contract. Nonetheless, GPIC’s Senior Manager’s telephone records indicate that there were five missed calls from Zimmer’s Manager on 7 July 2010. GPIC’s Senior Manager’s phone records also show that several non-business SMS messages were exchanged between Zimmer’s Manager and GPIC’s Senior Manager between 16 July 2010 and 4 August 2010. Given that there was significant contact between the two, common sense dictates that GPIC’s Senior Manager was aware of Zimmer’s Manager’s employment at Siesta.</p>	<p>Without any doubt, non-business SMS messages do not to any manner demonstrate the extent of GPIC’s Senior Manager’s acquaintance with Zimmer’s Manager’s employment matters.</p>	<p>The SMS messages were sent by the PR’s procurement officer from Zimmer’s Manager’s phone. The messages concerned the procurement of a vehicle by the PR. <u>See Figure 12 of the Report.</u> This indicates a close relationship between Zimmer and the PR’s staff. This occurred prior to Zimmer winning its first food voucher contract in August 2010.</p>
<p>42. Further, GPIC’s Senior Manager had numerous telephone exchanges with Zimmer’s Manager during the time period of the tender invitation call for the GEL 15 and GEL 25 TB food voucher contracts, both of which were announced on 16 July and closed on 6 August 2010. Zimmer was awarded the first contract and Siesta was awarded the second of these contracts.</p>	<p>As underlined above, the telephone communication with tender participants, responses to their technical queries is a common practice in Georgia and not prohibited by any regulation. The contact details of respective officers are indicated to participants and they can address the party which announced the tender without any restrictions.</p>	<p>As stated in the OIG’s response to comment 37, the tender announcements listed landline numbers +995 388210 and +995 3888220 as GHSPIC’s contact numbers. The calls referred to in this particular paragraph were to the PR’s Senior Manager’s blackberry phone number, which was not listed in the tender announcements as a telephone number bidders could call to ask</p>

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<p>43. On 16 July 2010, a GHSPIC procurement officer used Zimmer’s Manager’s phone to send an SMS message to the PR’s Senior Manager. The SMS messages sent from Zimmer’s Manager’s phone by the PR’s procurement officer concerned the procurement of a vehicle. This interaction is significant because it demonstrates that the PR staff, including the PR’s Senior Manager, and Zimmer’s Manager were well-acquainted with each other prior to the food voucher contract tender.</p>	<p>This pure coincidental matter that a GHSPIC’s officer asked the person visiting PR’s office to send an SMS is certainly no indication of any unpermitted interaction or corrupt practice between the PR and Zimmer.</p>	<p>questions about the tender. As the Report stated, the interaction indicates familiarity between PR staff and Zimmer’s Manager. The procurement office would not ask a business acquaintance whether he could use the latter’s mobile phone to send SMS messages to the PR’s Senior Manager, if all three were not well-acquainted with each other.</p>
<p>44. GPIC’s senior management and staff repeatedly made false statements to OIG investigators regarding Siesta’s connection to Zimmer. In an email to the OIG’s auditor dated 12 October 2011, GPIC’s Senior Manager insisted there was no connection between Siesta and Zimmer. Similarly, in interviews with the OIG, a GPIC Program Manager repeatedly claimed ignorance of Siesta’s connection to Zimmer.</p>	<p>In his correspondence with [Name Redacted] the GPIC’s Senior Manager presumed that there might be certain interconnection between the two companies but he also stated that his was not aware of any specific facts. The details of e-mail communication are referred above in comment to paragraph 5. The GPIC’s Program Manager explicitly stresses that she received information of certain connection between Siesta and Zimmer only during OIG’s investigation.</p>	<p>The email chain dated 12 October 2011, which the Report refers to, contains correspondence between an OIG auditor and the Senior Manager. The OIG auditor states: “If you believe there is a connection [between Siesta and Zimmer], you must bring this to our attention so we can assess if this puts both companies in a position to bid against each other, etc. That’s the only reasons I’m asking. To me, there is on obvious connection apart from the fact that both companies never seem to bid together” The PR’s Senior Manager responded: “As discussed I checked with the procurement team and confirmed that Zimmer and Siesta bided together in July and August 2010. Regarding connection between the 2 companies my answer is NO.” Please also refer to the OIG’s response to comment 5.</p>
<p>45. Additionally, in an interview which was conducted at an early stage of the OIG’s investigation, the PR’s Program Manager claimed</p>	<p>Due to the high number of tenders, volume of materials and a heavy workload in the scope of her primary duties the PR’s Program Manager it is unlikely that she would</p>	<p>The PR’s Program Manager was on the tender committee for the GEL 15 TB food voucher in July 2010, in which Zimmer, Siesta and WPF</p>

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<p>that she could not recall the names of the founders of both companies, even though she was on the tender committee and would have reviewed Siesta's and Zimmer's bid proposals for the three food voucher contracts and seen Siesta's staff list. In subsequent interviews, the PR's Program Manager retracted her prior statement, and acknowledged that she knew the founders of both companies. Nevertheless, she denied having been aware of the companies' connection to one another.</p>	<p>be able to remember the names of the founders of various tender participants. Although being the member of tender committee she was not in Georgia during tender process itself and has not seen Siesta's and Zimmer's bid proposals for three food voucher contracts (see annex 4). Please note that the second interview took place after more than two months when she was already aware of the details connected with the Suppliers due to ongoing OIG investigation.</p>	<p>participated. The Program Manager also signed the tender committee minutes for the February 2011 tender for HIV food vouchers, in which Siesta had listed Zimmer's founders as its employees in its bid proposal. Zimmer and Siesta are the only two companies to have been awarded food voucher contracts. The PR's Program Manager is also responsible for overseeing the TB food voucher program, a major component of the PR's TB program. It is implausible that the Program Manager would be unable to recall the names of Siesta's and Zimmer's owners.</p> <p>Please also refer to the OIG's response to comment 5.</p>
<p>46. The large quantity of incomplete drafts for Zimmer and Siesta found in the Program Officer's possession and the frequency at which she created or modified documents for the companies support the conclusion that the Program Officer performed this function with, at the very least, the knowledge and implied consent of the PR. Indeed, the OIG found that the Program Officer regularly sent drafts of documents she had created for Zimmer and Siesta to GPIC's Program Manager. These emails did not include any text; but rather only contain draft Word documents for either Zimmer or Siesta as attachments. The figures 14 and 15 below are examples of such email messages.</p>	<p>The PR staff never argued the existence of such e-mail correspondence which were circulated in order to print out the attached MS Word documents (totally seven documents for print out).</p>	<p>The attachments were incomplete draft Word files for Siesta and Zimmer. There should not be any reason for the PR to store and print out incomplete draft documents from Suppliers.</p>
<p>47. The investigation identified evidence that the PR prepared multiple bid-related documents for both Zimmer and Siesta. The OIG found that GPIC's Program Officer created and was in possession of an electronic document with a</p>	<p>The PR wants to stress that factually only one document (repeatedly mentioned corporate history) was drafted with the assistance of GPHSIC Program Officer for Siesta. Presumably the same company used the same draft for</p>	<p>This is incorrect. The PR also prepared a letter for Zimmer regarding the bank guarantee. As paragraph 118 of the Report states, the letter prepared by the PR's Program Officer for Zimmer requests the return of a letter from the bank</p>

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<p>description of Siesta’s company history. This identical document was used in Siesta’s bid proposals for GEL 25 and GEL 15 TB food voucher contracts dated 6 August 2010, as well as its bid proposal for a GEL 25 TB food voucher contract dated 24 February 2010.</p>	<p>other bid proposals what does not mean that multiple bid-related documents were prepared by GHSPIC. Besides, this corporate history refers only to Siesta and OIG provides no evidence of preparation of bid-related materials for Zimmer.</p>	<p>granting Zimmer a collateral guarantee of 1% of the value of the contract for GEL 40 HIV vouchers. <u>See Figure 16 of the Report</u>. This letter would have been submitted together with Zimmer’s bid proposal. Zimmer did not win this tender.</p> <p>Please also refer to the OIG’s response to comment 25.</p>
<p>48. When the OIG presented this document to the Program Officer, she stated that Siesta had asked her to create it and that she “did not understand what was wrong with it.” The Program Officer stated that if the WFP had asked her to help prepare their bid proposal she would have helped them. However, there is no evidence that WFP solicited such assistance. WFP had already been an established supplier, providing food packages to the PR for several years and it was already experienced in preparing comprehensive bid proposals.</p>	<p>Indeed, the WFP did not need any secretarial assistance. However, it received even more significant help from GPHSIC, for instance:</p> <ol style="list-style-type: none"> 1. PR provided several consultations to WFP staff regarding the procurement procedure; 2. PR provided detailed information in connection with requested services; 3. As WFP never participated in such tenders GHSPIC delivered other forms of assistance to WFP and persuaded them to take part in the tender; 4. PR Arranged the meeting between Siesta and WFP so the latter could receive more sufficient information; 5. PR Provided WFP with the list of potential contractor shops etc. <p>Taking into consideration OIG’s obvious intention to demonstrate the PR’s activities in the negative light, it is not surprising that such sufficient facts were not examined by the investigators at all. The above clearly demonstrates that Siesta and Zimmer were not to any extent in favor and all participants which could potentially contribute to Global Funds Projects were welcome and received maximum assistance from the PR.</p>	<p>The PR preparing a document for a supplier to submit with its bid proposal is inappropriate under all circumstances. The Program Officer’s explanation was illogical. Whether the PR ever rendered other forms of arms-length assistance to WFP is immaterial here.</p>
<p>49. When asked by the OIG whether she had ever been asked to prepare documents for Siesta or Zimmer, the Program Officer initially denied having ever created documents for either company, stating that she had only corrected</p>	<p>The reason for initial assistance provided to the Suppliers was the fact that they were not aware of PR’s formal requirements. PR’s Program Officer indeed helped them with preparation of initial drafts. She also rectified certain mistakes in the drafts what is a usual</p>	<p>Draft documents for Zimmer found in the Program Officer’s possession could not be located in Zimmer’s electronic files. (The OIG could not locate electronic evidence indicating that Zimmer prepared these documents). A significant number</p>

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<p>mistakes on Siesta’s and Zimmer’s invoices on five or six occasions. Nevertheless, she later directly contradicted this statement, conceding that she helped create documents for both companies. Although the Program Officer routinely created documents for both Zimmer and Siesta, she claimed to have had little interaction with the founders of both companies and to having no knowledge of the companies’ connection to one another.</p>	<p>practice in relations with SRs or suppliers.</p>	<p>of incomplete draft documents found for Siesta were found in the Program Officer’s possession and the identical documents were found signed and stamped in Siesta’s files. The Program Officer also admitted to having created documents for both companies. The totality of these factors indicates, the Program Officer performed a substantial administrative function for Siesta and Zimmer.</p>
<p>50. After the August 2010 tender for the GEL 15 food voucher contract, Zimmer became, and continues to be, the sole food voucher supplier to the PR. Following this date, all contracts have been sole-sourced to Zimmer, which has proposed the highest service fee to be budgeted for by the PR in every tender for food voucher contracts.</p>	<p>This is a factual state is fully misinterpreted what is evidenced by the tables and chart below. Zimmer is sole sourced only after April 2011 when no competitors took part in tenders, as for period before, the service fee decreased from year to year.</p>	<p>The statements in the paragraph are factually correct. The Report states that Zimmer proposed the highest service fee budgeted for by the PR in every food voucher contract.</p> <p>The Report does not state the service fees increased, only that the PR awarded concurrent contracts to Zimmer, allowing Zimmer to collect multiple fees. According to Figure 1 (p. 34) of the PR’s comments, the Zimmer’s service fee decreased by GEL 6,778. The PR fails to take into account that in 2012, the PR awarded three contracts to Zimmer: GEL 15 TB food voucher; GEL 25 TB food voucher and GEL 40 HIV food voucher. Figure 19 of the OIG’s Report illustrates the overlapping contracts.</p>
<p>51. In interviews with the OIG, GPIC conceded that there was no programmatic reason for separating the two contracts. Moreover, if the OIG recommended that the contracts be combined, GPIC would implement the recommendation.</p>	<p>The two programs were initially separated because the program activities were covered from different grants and they started in different periods.</p>	<p>The contracts at issue were awarded in 2012. There were no programmatic reasons for separating the two contracts in 2012, when concurrent contracts were awarded to Zimmer.</p>
<p>52. Zimmer’s books and records show significant increases to Zimmer’s profit margin after it began securing food voucher contracts from the PR without having to compete against</p>	<p>Zimmer’s Manager’s salary indeed increased due to implementation of Global Funds Projects by the company in proportion with the number and volume of contracts. We assume that due to two payments made to</p>	<p>The facts represent the OIG’s findings following a comprehensive review of Zimmer’s books and financial records. As the PR is not privy to this information, its comment cannot be regarded</p>

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<p>any other supplier. The company’s managers’ compensation increased from GEL 700 - 1,000 (USD 420 – 600) per month in August 2010 to GEL 4,500 (USD 2,680) in August 2011 and finally to GEL 9,000 (USD 5,360) in December 2011. (Zimmer’s only source of revenue is from GPIC.)</p>	<p>Zimmer the figure (GEL 9,000) shows the total revenue of Zimmer’s manager for November and December 2011 (covers the two months period).</p>	<p>reliable.</p>
<p>53. The steep increases in managers’ compensation were not in proportion to any increase in Zimmer’s work load. Any increase to Zimmer’s workload from 2010 to 2011 would have been negligible. As demonstrated in the preceding section on “Waste and Mismanagement” of this report, Zimmer’s responsibilities under the GEL 15 and GEL 25 voucher contracts were the same. Zimmer’s “Manager 2” conceded that the collection times for the redeemed GEL 15, GEL 25, and GEL 40 vouchers occurred at the same time and from the same stores. The only additional work would have been caused by the increased paperwork, of which a substantial amount was already being performed by the PR’s Program Officer.</p>	<p>We presume that the workload indeed increased and this was connected not only to paperwork but to regional coverage, required higher amount of financial sources and rather risky advance payments to shops Moreover, certain assistance in drafting or revision of some deliverable documents by PR’s officer does not mean that Supplier’s paperwork connected with hundreds of documents did not increase at all. The volume of contracts also depended on workload and was never the same.</p>	<p>Please see the OIG’s response to comment 49 regarding the PR’s involvement in performing Zimmer’s paperwork.</p> <p>With respect to Zimmer’s workload, Zimmer’s Manager 2 confirmed that the company collected GEL 15, GEL 25 and GEL 40 vouchers from the same stores, during the same trips and maintained the same staff and overhead. Zimmer’s Manager 2 also told the OIG that “operating costs were not high so the salaries are reasonable.” <u>See ROC of Zimmer’s Manager 2, 19 July 2012.</u></p>
<p>54. Notably, both Zimmer and Siesta paid staff salaries in cash. When questioned as to why salaries were paid in cash, Zimmer’s employee and managers told OIG investigators that it was “too complicated to make salary payments by bank wire transfer to its six staff members.” However, Zimmer representatives had previously told OIG investigators that it advanced funds to the 66 stores it contracted with in different regions by bank wire transfer, and that such transfers were sometimes conducted several times a week depending on the rate at which</p>	<p>The cash payments are common practice in smaller enterprises and we can see no evidence of any improper practice based solely on this fact.</p>	<p>Zimmer’s explanation that it was too complicated to pay staff salaries in cash was illogical, given the fact that it made frequent advances of funds to stores using bank wire transfer.</p>

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patients redeemed the vouchers.		
55. The PR Made Improper Salary Payments to Senior Manager's Domestic Partner	Please see our comments regarding paragraph 4.	Please refer to the OIG's response to comment 4.
FINDINGS		
56. Zimmer and Siesta were alter egos of one another: (i) Zimmer was created by Siesta employees who concurrently worked at both companies even when they were competing against one another for food voucher contracts; (ii) both companies used the same registered address and vehicles; (iii) Zimmer and Siesta were operated by the same staff; and (iv) Siesta's Manager appeared on Zimmer's payroll.	We strongly doubt the fact that Zimmer and Siesta were one and the same entity – Zimmer was indeed founded by Siesta employees but this is certainly a globally common practice that the former employees of an enterprise establish a competitor company. The registered address of Zimmer and Siesta may be the same, but this is also the case in regards to many other business vehicles involved in distribution activities - they are registered at the address of the beverage company JSC Kazbegi. Under Georgian Law, the registration of an address is a purely formal matter connected with initial incorporation of a company. The similarity of registered addresses does not mean that Zimmer and Siesta have the same factual addresses and we repeatedly state that it is usual for many companies to have one and the same registered address. GHSPIC demonstrating reasonable prudence had no possibility to find out the identities of operating staff and Siesta's Manager's alleged payroll issue.	Please refer to the OIG's response to comment 2.
57. Zimmer and Siesta worked together to set bid prices and to steer contracts to one another: (i) Both companies' bid proposals contained identical wording and the same spelling errors, indicating that they were prepared by the same person; and (ii) Zimmer and Siesta only competed against one another in tenders when a third company participated; at all other times, either, but not both companies participated in tenders.	Certain coincidental details and especially template wordings used in such documents were no indication for the PR for any unpermitted practice. Moreover, as noted above, the complicated, strictly regulated and controlled state procurement regulations make the referred practice factually impossible. The participation of the Suppliers in specific tenders could be explained with commercial reasons and the PR believed then and believes now that no corrupt practice took place in tenders.	Each of the OIG's findings is substantiated by the facts described in the Report.
58. GPIC grossly mismanaged Global Fund grant funds by helping Zimmer and Siesta to secure food voucher contracts: (i) GPIC's Program	No mismanagement of Global funds has ever taken place as: (i) The PR's officer assisted only with drafting of one of	Each of the OIG's findings is substantiated by the facts described in the Report.

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<p>Officer prepared bid related documents for both Zimmer and Siesta; (ii) the PR's Senior Manager received calls from and made calls to Zimmer and Siesta leading up to the August 2010 tenders for GEL 15 and GEL 25 TB food voucher contracts; and (iii) the PR's tender committee disproportionately awarded the highest scores to Siesta in a July 2010 tender for an HIV food voucher contract, which placed the company in the most advantageous position in the reverse auction bidding exercise.</p>	<p>many bid-related documents and assisted only Siesta and not both referred Suppliers and it had absolutely no affect on the results of tenders; (ii) The telephone calls referred were in no way unpermitted and were made in connection with routine tender issues alike telephone and e-mail communication with WFP officers when applicable; (iii) The scores awarded by tender committee based on the requirements of then applicable regulations and neither of the participants was placed in advantageous position.</p>	
<p>59. The PR had a less than arms-length relationship with Zimmer and Siesta, which constitutes a conflict of interest: (i) phone records show GPIC's Senior Manager and GPIC staff were connected to the founders of Siesta and Zimmer; (ii) the PR's procurement officer used Zimmer's Manager's phone to communicate with the PR's Senior Manager through text messaging at a time when Zimmer was not yet a supplier; (iii) the PR's Program Officer routinely prepared business documents for Zimmer and Siesta; and (iv) the PR's Senior Manager made several phone calls on the weekend and evening to Zimmer's Manager during the OIG's in-country mission in May 2012.</p>	<p>The PR's relationship with Suppliers aimed maximal benefit of the Global Funds Projects and informal acquaintances of specific officers of the referred entities, assistance to OIG's investigation through telephone calls as well as revision of electronic versions of deliverables of the Suppliers are no evidences of any unpermitted interconnections.</p>	<p>Each of the OIG's findings is substantiated by the facts described in the Report.</p>
<p>60. GPIC's staff, including the Senior Manager, Program Manager and the Program Officer made misrepresentations of material fact to the OIG by claiming that they did not know that Siesta and Zimmer were operated and run by the same people and that Zimmer's founders were working for Siesta.</p>	<p>The official records from the Registry reveal that the founders and managers of Siesta and Zimmer were different people. Due to the high number of tenders, volume of materials and a heavy workload in the scope of primary duties the members of tender committee could easily omit the names of the founders of various tender participants.</p>	<p>Given the high-level of involvement the Program Officer had in creating documents for Zimmer and Siesta, the Program Manager's responsibility for overseeing the Program Officer's work and the TB voucher program in general, as well as the contacts the Senior Manager had with the owners of both companies – it is implausible that GPIC staff would be unaware that Siesta and Zimmer were operated by the same people and that the founders of Zimmer worked for Siesta.</p>

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		Please also refer to the OIG’s response to comment 5.
61. GPIC mismanaged Global Fund grant funds by awarding two concurrent contracts for food vouchers to Zimmer, which enabled the company to collect a windfall for performing essentially the same work, which one contract alone would have required.	The reference to mismanagement of funds is fully inappropriate – the contracts indeed implemented by the same company as it had no competitors in specific tenders whereby the value of contracts complied with factual requirements for due provision of services.	Zimmer’s Manager 2 confirmed that the vouchers, whether GEL 15 or GEL 25, were collected during the same trips. Zimmer also maintained the same number of employees and staff. <u>See ROC of Zimmer’s Manager 2, 19 July 2012.</u> Moreover, the PR told the OIG that there was no programmatic reason for separating the two contracts and stated that if the OIG recommended that the contracts be combined, the PR would implement the recommendation. <u>See ROC of Program Manager, 20 July 2012.</u> Awarding concurrent contracts for food vouchers, which entitled Zimmer to collect multiple service fees for performing little extra work, represents waste of grant funds.
62. The LFA failed to perform its fiduciary function with objectivity and independence, where it did not give the WFP’s concerns of procurement irregularities due consideration regarding a tender in which Zimmer and Siesta, two companies with the same registered address competed against one another, and the PR used a disproportionate scoring system to favour Siesta.	Omitting the OIG’s claim against LFA we would like to stress that no official claims were made by WFP in accordance with applicable statutory regulations against tender procedure and results and the PR used in no way disproportionate scoring system but lawfully established evaluation criteria.	As described in the Report, the WFP made a complaint to the Global Fund.
63. GPIC made improper salary payments to the Senior Manager’s domestic partner. The absence of electronic communications and work product created by the Senior Manager’s domestic partner together with her inability to answer basic questions about work she purportedly performed for the PR indicate she was a fictive employee and received monthly salary payments from Global	GPIC’s senior manager’s former domestic partner of GPIC’s was one of GHSPIC’s managers well before she got involved in any personal relations with GPIC’s senior manager. Due to her health condition she was the only employee which got lower position in GPIC (the officer) than she had in GHSPIC (the manager). As a time given her for recovery did not bring the aimed results, GPIC’s former domestic partner was not granted the extension	Please refer to the OIG’s response to comment 4.

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<p>Fund grant funds for work she did not perform.</p>	<p>of employment contract. In the referred period the duties of the referred lady were distributed among other staff members, they were performed without defects and GPIC did not hire any additional personnel and respectively did not incur any additional costs.</p>	
<p>64. GPIC's Senior Manager misappropriated Global Fund grant funds by fabricating an employment contract and authorising monthly bank wire transfers in order to facilitate improper salary payments to his domestic partner for work she did not perform.</p>	<p>As stated above, the employment contract was not fabricated; the irregular presence in GPIC's office of referred lady was due to her health condition whereby her duties were properly performed by GPIC's Senior Manager.</p>	<p>Please refer to the OIG's response to comment 4.</p>
<p>Additional Comments Made by PR's Senior Manager in Email Dated 4 April 2013 to the OIG</p>		
<p>65. Prior to the OIG's 7 to 22 May 2012 mission, the OIG sent a letter via email on 4 May 2012 to GPIC's Senior Manager so as to formally inform the PR of the OIG's upcoming visit. GPIC's Senior Manager's phone records show that on the weekend of 5-6 May 2012, four telephone calls were placed from the his home telephone number to a Zimmer Manager's mobile number. From 3-14 May 2012, another eleven calls from PR's Senior Manager's home phone were made to Zimmer's Manager's mobile phone. Eight of the calls were made after business hours between the hours of 20:00 and 22:47. The duration of the GPIC's Senior Manager's calls to Zimmer's Manager was, on average, 20 minutes.</p>	<p>In its response submitted on 11 March 2013, PR provided document stating that there were no outgoing mobile calls made from Senior manager's home land line at all. Furthermore we would like to pay your attention to the fact that Senior manager was on his duty trip to TGF Board meeting in Geneva from 8th until 14th of May. This fact was very well known to OIG team and it is very strange that despite this knowledge the Draft report states that in this period, Senior manager made phone calls from his home land line to Zimmer's manager. Even more, PR requested detailed phone calls information for the Senior manager's office land line. It is very interesting that before 8 May, when Senior Manager was in Georgia, date and time of the phone calls listed in the OIG report, considered to be made by Senior manager from his home land line to Zimmer's manager, absolutely coincides with the dates and timing of the phone calls that are made by him from his Office land line. It is obvious that a person cannot be in two different locations at the same time. See attached files: (i) annex 1, where you will find Senior</p>	<p>The PR's Senior Manager provided a table of phone calls purportedly made from his GPIC office phone to an unknown number together with a Turkish Airlines flight record showing the Senior Manager was in Geneva from 8 to 12 May 2012 to refute the OIG's findings. The Senior Manager's purpose for sending the OIG the table of phone calls and flight record is to establish he could not have placed the calls from his home landline phone to Zimmer. (The table of phone calls submitted by the PR is not authenticated as being part of an official telephone record).</p> <p>The Report, however, states that calls were made to Zimmer from the Senior Manager's home landline phone and does not necessarily assert that the Senior Manager made all of the calls in question. See Section D.4.1.1. of the Report.</p> <p>The OIG has studied the table together with the flight itinerary and found that just one of the calls</p>

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	<p>manager’s travel evidence; (ii) Annex 2, phone call statement from Senior manager’s office land line.</p>	<p>could not have been made by the PR’s Senior Manager. The Senior Manager was in Geneva on 10 May 2012, nevertheless the landline telephone bill of the Senior Manager shows a call from his home landline was placed to the mobile telephone number of Zimmer’s Manager on 10 May 2012 at 22:47. This indicates that someone, other than the Senior Manager, placed the call from his home landline because he was in Geneva at the time.</p> <p>Further, the calls on the table provided by the PR’s Senior Manager purportedly to have originated from GPIC’s office does not exclude the possibility that someone other than the PR’s Senior Manager placed those calls. Please refer to Annex A1, which shows the telephone bill for the Senior Manager’s home landline. This telephone record was the basis for the OIG’s finding that calls from the Senior Manager’s home landline telephone were placed to Zimmer during the OIG’s May 2012 mission.</p> <p>The Senior Manager did not provide official telephone records to authenticate the table of phone calls attached to his email to the OIG, dated 4 April 2013. The OIG would like to thereforerequest the Senior Manager to produce the official telephone records from his GPIC office phone extension.</p>
<p>66. Although the exact substance of these calls is unknown, the timing of these calls, as well as the fact that they were outside of business hours and made on personal telephones, constitutes circumstantial evidence of collaboration and an exchange of information between the PR’s Senior Manager and Zimmer’s Manager regarding the OIG’s investigation. It is</p>	<p>Based on our comments to paragraphs 96-98 and attached materials we can clearly state that the substance of paragraph 99 represents a false statement and misrepresentation by OIG’s officers.</p>	<p>Please refer to the OIG’s response to comment 65.</p>

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<p>important to note that in analyzing evidence, it is axiomatic that a single piece of evidence is never viewed in isolation from other evidence. Rather, evidence is viewed in the aggregate, and in its totality. Findings of facts can therefore be made when the accumulation of mutually corroborating evidence leads to one reasonable inference over all other alternative explanations.</p>		
<p>67. Siesta and Zimmer staff concurrently worked at both companies. Siesta’s bid proposal for GEL 40 HIV food vouchers in July 2010 (a bid Siesta competed against Zimmer for), which was submitted to GHSPIC, listed Zimmer’s managers as staff members. The bid proposal identified Zimmer’s “Manager 2” as Siesta’s manager; and Zimmer’s Manager as Siesta’s chief manager. Siesta’s bid proposal also identified a woman, who is Zimmer’s employee, as an operator for Siesta; and another woman, who is a tax/accounting consultant to Zimmer, as Siesta’s employee.</p>	<p>PR provides documented evidence that Siesta's bid proposal for GEL 40 HIV food vouchers in July 2010, has never provided identification of employed staff and used vehicles (see attached file annex 3).</p>	<p>The OIG has corrected this sentence in the Report. The sentence should refer to Siesta’s bid proposal for GEL 40 HIV food vouchers in February 2011 and not to the July 2010 bid proposal. See the OIG’s response to comment 30.</p> <p>The PR attached a copy of Siesta’s bid proposal for the July 2010 GEL 40 HIV food voucher tender to its email to the OIG in support of its comment. The OIG has reviewed this document and has determined that this document had never before been provided to the OIG by either the PR or Siesta, although the OIG has made requests to both parties for copies of all the bid proposals for the food voucher tenders. The OIG specifically requested copies of bid proposals for this particular food voucher tender because it was one where Siesta won the contract by underbidding WFP by GEL 200 – the same food voucher tender which prompted the WFP to send an email to the Global Fund to raise concerns about the transparency of the tender process.</p> <p>Upon further examination of the electronic files obtained from the PR, the OIG located four Word files of the identical tender document, each bearing Siesta’s name even though the document was supposed to serve as a standard form to be filled out</p>

		<p>by bidders. The location of the documents are described as follows:</p> <ul style="list-style-type: none"> (1) As an attachment to an email message with neither a subject heading and nor message text sent from a procurement officer to the Program Officer’s private email address on 1 June 2010. Computer forensic analysis determined the document was created on 30 June 2008 and last saved on 5 August 2009 by the procurement officer. (2) As an attachment to an email with the subject heading “Tender_Vaucher” but no message text, sent by the PR’s Program Officer to the Program Manager on 1 January 2010. Computer forensic analysis determined the document was created on 30 June 2008 and last saved on 6 January 2010 by the Program Officer. (3) In the possession of the procurement officer. Computer forensic analysis determined the document was created on 30 June 2008, and last modified by the procurement officer on 16 September 2011. (4) In the possession of the Program Officer. Computer forensic analysis showed the document was created on 30 June 2008, and modified by the Program Manager on 17 August 2011. <p>Moreover, the copy of Siesta’s bid proposal recently provided by the PR contained the same spelling error as contained in Zimmer’s bid proposals, as described in Figures 6a and 6b of the Report.</p> <p>It is important to note that the first food voucher contract was awarded to Siesta on 4 August 2008,</p>
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		<p>and that the bid proposal document form described above was created on 30 June 2008 on the PR's computer. These facts together with the fact that the PR has never before provided a copy of Siesta's bid proposal for the July 2010 GEL 40 HIV food voucher tender, calls into question the authenticity of Siesta's bid proposal provided by the PR on 4 April 2013.</p>
<p>68. As demonstrated by Figure 4 below, a comparison of Zimmer's and Siesta's bid proposals reveal striking similarities. These documents were located in the possession of the PR's Program Officer, who had electronically stored these documents for Zimmer and Siesta in Word format in her GPIC computer. The Program Officer acknowledged creating a description of Siesta's company history, which was submitted with the company's bid proposal for several food voucher tenders. In addition, as described herein, the PR was found to have used existing Siesta documents as templates to create Zimmer's documents.</p>	<p>As it is clear from the report, the only bidding document was found in possession of the PR's program Officer. It is very important to underline the fact that this is the period when Siesta was the only bidder, hence no competition took place and it is very likely that the PR did its best in order not to lose the chance to implement the program.</p> <p>In relation to the preparation of bidding documentation by the PR staff, OIG report continuously states that "The investigation identified evidence that the PR prepared multiple bid-related documents for both Zimmer and Siesta", which does not correspond to reality. This is proved by the bidding documentation submitted in following years by both companies (in 2010 and onwards). Please see attachment annex 4, which is the Siesta's history submitted along with the bidding documentation in July 2010. This document differs from the company's history found in possession of the PR's Program Officer. (Additional comment made by PR in email dated 4 April 2013 to the OIG).</p>	<p>The PR attached a copy of Siesta's company history, which was purportedly submitted with its bid proposal for the July 2010 GEL 40 HIV food voucher tender to its email to the OIG in support of its comment.</p> <p>As stated above in our response to comment 67, a copy of Siesta's bid proposal for the July 2010 GEL 40 HIV food voucher tender had never before been provided to the OIG by either the PR or Siesta, although the OIG has made requests to both parties for copies of all the bid proposals for the food voucher tenders.</p> <p>The PR's Senior Manager asserted that the copy of the Siesta's company history, which he attached to his email to the OIG, is different from the one the PR's Program Officer admitted to having created for Siesta. The OIG has compared this document against the one found in the Program Officer's possession and has determined that it is in fact 100% identical.</p> <p>The same company history was used, though slightly altered, in Siesta's bid proposals for three subsequent tenders: 24 February 2010 TB GEL 25 Food Vouchers, 6 August 2010 TB GEL 15 and GEL 25 Food Vouchers.</p>

