July 31, 2019

Dr. Mary A. Papazian, President
San José State University
One Washington Square
San José, CA 95192

Dear Dr. Papazian:

Subject: Audit Report 19-62, Spartan Golf Complex Phase I, San José State University

We have completed an audit of the Spartan Golf Complex Phase I construction project as part of our 2019 Audit Plan, and the final report is attached for your reference. The audit was conducted in accordance with the Institute of Internal Auditors’ International Standards for the Professional Practice of Internal Auditing.

I have reviewed the management response and have concluded that it appropriately addresses our recommendations. The management response has been incorporated into the final audit report, which has been posted to Audit and Advisory Services’ website. We will follow-up on the implementation of corrective actions outlined in the response and determine whether additional action is required.

Any observations not included in this report were discussed with your staff at the informal exit conference and may be subject to follow-up.

I wish to express my appreciation for the cooperation extended by the campus personnel over the course of this review.

Sincerely,

Larry Mandel
Vice Chancellor and Chief Audit Officer

c: Timothy P. White, Chancellor
CONSTRUCTION

San Jose State University

Spartan Golf Complex Phase I

Audit Report 19-62
June 26, 2019
EXECUTIVE SUMMARY

OBJECTIVE

The objectives of the audit were to ascertain the effectiveness of operational, administrative, and financial controls over construction activities; identify cost recovery opportunities; and ensure compliance with relevant governmental regulations, Trustee policy, Office of the Chancellor directives, construction contract general conditions, and campus procedures.

CONCLUSION

Based upon the results of the work performed within the scope of the audit, except for the weaknesses described below, the operational, administrative, and financial controls for the Spartan Golf Complex Phase I project as of May 24, 2019, taken as a whole, provided reasonable assurance that risks were being managed and objectives were met.

In general, the audit did not reveal any significant internal control weaknesses that would be considered pervasive in their effects on construction management. However, the review did indicate that attention is required to ensure that project final reconciliations are completed and reviewed and that the closeout process is completed timely. In addition, we noted some issues with the review process for change order and contingency work and the establishment of delegations of authority for professional services agreements.

Specific observations, recommendations, and management responses are detailed in the remainder of this report.
OBSERVATIONS, RECOMMENDATIONS, AND RESPONSES

1. FINAL ACCOUNTING

OBSERVATION

The campus did not require the general contractor to submit a final accounting of project costs for the Spartan Golf Complex Phase I project.

Specifically, we found that the general contractor did not provide sufficient documentation demonstrating that the total cost of the projects equaled or exceeded the final guaranteed maximum price (GMP) construction agreement. The documentation should include, but not be limited to, all actual subcontractor costs, direct material and labor provided by the general contractor, and a reconciliation of contractual fees paid by the campus.

Submittal of a final accounting of actual project costs by the general contractor decreases the risk that the campus’ payments will exceed actual construction costs (up to the GMP) and that any errors and irregularities will not be detected.

RECOMMENDATION

We recommend that the campus, in conjunction with the Capital Planning, Design and Construction department (CPDC) at the chancellor’s office, require the general contractor to submit a final accounting of project costs for the Spartan Golf Complex Phase I project and perform a verification of the costs. In the event the total actual cost is less than either of the respective construction agreements, the campus should notify CPDC and request that the difference be returned to the campus.

MANAGEMENT RESPONSE

We concur. The campus, in conjunction with the CPDC, will request that the general contractor submit a final accounting of project costs for the Spartan Golf Complex Phase I project. After a verification of the costs, in the event the total actual cost is less than either of the respective construction agreements, the campus would notify CPDC and request that the difference be returned to the campus.

This will be completed by January 31, 2020.

2. CHANGE ORDER ADMINISTRATION

OBSERVATION

The campus review of subcontractor change orders for the Spartan Golf Complex Phase I project needed improvement.

We reviewed nine subcontractor change orders and found that:
In one instance, a subcontractor’s markup was incorrectly calculated. This resulted in an overpayment of $5,188.

In one instance, supporting documentation to substantiate the general contractor’s costs for change order work was not obtained.

In one instance, a credit change order request was incorrectly calculated. Specifically, the campus should have been credited an additional $18,611 for subcontractor costs. We also noted that markup for the general contractor was not returned for the credited costs.

In three instances, the general contractor’s markup was incorrectly calculated.

Certified payroll records and hourly labor rate worksheets were not collected for all trade subcontractors.

Appropriate review of change orders decreases the risk of inappropriate or unsupported project costs.

RECOMMENDATION

We recommend that the campus:

a. Provide refresher training to relevant personnel relating to the review process for change order costs, including ensuring that appropriate supporting documentation is provided, certified payroll records and hourly labor rate worksheets are collected and reviewed, and subcontractor and general contractor markup is appropriate.

b. Review the specified change orders noted above to determine whether the campus should pursue recovery of the incorrectly calculated costs, and document this determination, and the resulting recovery, if applicable.

MANAGEMENT RESPONSE

We concur. The campus will:

a. Provide refresher training to relevant personnel relating to the review process as described in the above audit recommendation.

b. Review the specified change orders noted above to determine whether the campus should pursue recovery of the incorrectly calculated costs, and document this determination and any resulting recovery.

This will be completed by November 30, 2019.
3. CONTINGENCY COSTS

OBSERVATION

The campus review of contingency costs for the Spartan Golf Complex Phase I project needed improvement.

We reviewed five contingency costs and found that:

- In three instances, the general contractor inappropriately claimed markup on the costs. This resulted in an overpayment of $3,693.

- In one instance, supporting documentation to substantiate the contingency costs was not obtained.

- A credit change order was not processed to return unused contingency costs to the campus. The unused contingency costs amounted to $7,907.

Appropriate review of contingency costs decreases the risk of inappropriate or unsupported project costs.

RECOMMENDATION

We recommend that the campus:

a. Provide refresher training to relevant personnel relating to the review process for contingency costs, including ensuring that appropriate supporting documentation is provided and general contractor markup is appropriate.

b. Review the specified contingency costs noted above to determine whether the campus should pursue recovery of the identified costs, and document this determination, and the resulting recovery, if applicable.

MANAGEMENT RESPONSE

We concur. The campus will:

a. Provide refresher training to relevant personnel relating to the review process for contingency costs as described in the above audit recommendation.

b. Review the specified contingency costs noted above to determine whether the campus should pursue recovery of the identified costs, and document this determination and the resulting recovery, if applicable.

This will be completed by November 30, 2019.
4. CLOSEOUT PROCESS

OBSERVATION

The closeout process for the Spartan Golf Complex Phase I project was not completed timely.

We found that although the notice of completion for the project was filed on May 9, 2017, the campus did not complete the project closeout checklist and the certification of completion until March 2019.

Filing the notice of completion before completing the certificate of completion and project closeout checklist increases the risk of misunderstandings and miscommunication regarding rights and responsibilities.

RECOMMENDATION

We recommend that the campus reiterate to staff that the certificate of completion and applicable portions of the project closeout checklist should be finalized before the notice of completion is filed.

MANAGEMENT RESPONSE

We concur. The campus will reiterate to staff that the certificate of completion and applicable portions of the project closeout checklist should be finalized before the notice of completion is filed.

This will be completed by November 30, 2019.

5. DELEGATION OF AUTHORITY

OBSERVATION

The delegation of authority process for signing professional services agreements needed improvement.

Specifically, the campus delegation of authority to sign contractual documents did not include an authorizing signature delegating the authority down to sub-delegates or indicate dollar value thresholds for authorized signers.

Proper delegations of authority provide assurance that significant transactions affecting California State University (CSU) assets are administered in accordance with policy and best practices.

RECOMMENDATION

We recommend that the campus document delegations of authority for signing professional service agreements that include an authorizing signature and any applicable dollar thresholds.
MANAGEMENT RESPONSE

We concur. The campus will document delegations of authority for signing professional service agreements that include an authorizing signature and any applicable dollar thresholds.

This will be completed by August 30, 2019.
GENERAL INFORMATION

BACKGROUND

In November 2015, the Board of Trustees (BOT) approved schematic plans for the Spartan Golf Complex project at a cost of $24,197,000, with 100 percent of the funding to be provided by donors.

In March 2016, the campus executed an agreement with the architectural firm Gensler & Associates, Inc. for services related and incidental to the design and construction of the Spartan Golf Complex project. It also executed an agreement with the construction manager (CM), Blach Construction Company, for preconstruction services that included design and bid phase services. In August 2016, the campus executed a GMP agreement with the CM for construction phase services at a construction cost of $8,281,282 for Phase I of the project, and issued a Notice to Proceed on August 31, 2016, with a completion date of January 3, 2017. The campus filed a Notice of Completion on May 9, 2017. An agreement for Phase II of the project was never executed, and Phase II of the project was not completed, due to a lack of funding.

The Spartan Golf Complex Phase I is a privately funded project located on the south campus of the university. The complex offers two grass tee areas providing hitting positions for 80 golfers. In addition, the complex has two large tour-quality putting greens, three bunkers, and two chipping greens. Three target greens were positioned in a 400-yard-long driving range for distance-hitting practice. The complex was built to prepare student-athletes for competition at the highest level while supporting the university’s efforts in recruiting student-athletes. The facility also serves students enrolled in physical education courses and strengthens ties with alumni and neighbors through memberships and learning opportunities. The project was designed to achieve Leadership in Energy and Environmental Design (LEED) silver certification. LEED is a third-party certification program begun in 1999 by the United States Green Building Council and is a nationally accepted benchmark for the sustainable “green” design, construction, and operation of buildings.

The San Jose State University (SJSU) campus managed the Spartan Golf Complex Phase I project, and it chose the Construction Manager at Risk (CM at Risk) with GMP delivery method. In this method, a construction management firm chosen by a competitive bidding process provides all or significant portions of design and construction administrative services and takes part in establishing the GMP. The CM at Risk acts as the general contractor during construction, assumes the risk of subcontracting the work, and guarantees completion of the project. The liability for the success in completing the project on time and in budget lies with the construction manager, and not with the university. Further, there is a potential for cost savings should the project be completed below the GMP.

Campus presidents have been delegated the authority to directly manage state and non-state funded capital outlay projects. The chancellor’s office issues this delegated authority to the campus subject to its compliance with the capital outlay certification procedure. To comply, the campus submits a request for Delegation of Capital Outlay Management Authority to the Certification Review Board (CRB) for review. Then the executive vice chancellor and chief financial officer in the chancellor’s office must approve the request. The campus president is responsible for ensuring that he or she exercises delegated authority in compliance with
applicable statutes, regulations, and BOT policies; the campus manages capital projects via a process consistent with the provisions of the Integrated California State University Administrative Manual (ICSUAM); and the campus has in place appropriate internal controls and processes to ensure that responsibilities are carried out in a manner consistent with the campus capital outlay management plan submitted with the request for delegated authority.

The campus capital outlay management plan defines the campus organizational and operational structure and expenditure authority and serves as the campus policies and procedures for the administration of construction activities. Updated plans are to be submitted when campus operational structure changes are made that impact the plan. Certification is continuous unless a Capital Planning, Design and Construction (CPDC) post-project performance review determines that problems were caused by campus negligence, in which case the CRB may recommend that the campus be placed on probation. The CRB may ultimately recommend that certification be withdrawn if identified operational/management deficiencies are not remedied.

Each campus president (or designee) also has been delegated authority to make all professional appointments relative to capital outlay projects and campus physical development in accordance with applicable statutes, regulations, BOT policies, and ICSUAM provisions; and must ensure the use of systemwide standardized architectural, engineering, and other professional appointment contract forms. Further, each construction administrator, project manager, inspector of record, campus representative, and design professional is required to use the CSU *Construction Management Project Administration Reference Manual*, which contains the CSU construction management policies and procedures that apply to a project.

**SCOPE**

We visited the SJSU campus and the offices of the CM and selected subcontractors from April 2, 2019, through May 24, 2019. Our audit and evaluation included the audit tests we considered necessary in determining whether operational, administrative, and financial controls for the Spartan Golf Complex Phase I project were in place and operative. The audit focused on procedures in effect during the planning and construction of the project.

Specifically, we reviewed and tested:

- Delegation of construction management authority.
- Review and approval of project design, budget, and funding.
- Professional services agreements and any extra services changes.
- Administration of the bid and award process.
- Contract execution and required contract bonds and insurance.
- Construction management and accounting, including allowance and contingency tracking and invoicing and payment applications.
- Review, approval, pricing, and tracking of change orders.
- Subcontractor administration.
• Close-out processes, including completion of required inspections and certifications.

As a result of changing conditions and the degree of compliance with procedures, the effectiveness of controls changes over time. Specific limitations that may hinder the effectiveness of an otherwise adequate system of controls include, but are not limited to, resource constraints, faulty judgments, unintentional errors, circumvention by collusion, and management overrides. Establishing controls that would prevent all these limitations would not be cost-effective; moreover, an audit may not always detect these limitations.

Our testing and methodology was designed to provide a review of key operational, administrative, and financial controls, including interviews, walkthroughs, and detailed testing on a limited number of CM and selected subcontractor transactions. Our review did not examine all aspects of financial controls or encompass all financial transactions for every contractor and subcontractor.

CRITERIA

Our audit was based upon standards as set forth in federal and state regulations and guidance; Trustee policy; Office of the Chancellor directives; and campus procedures; as well as sound administrative practices and consideration of the potential impact of significant risks. This audit was conducted in conformance with the Institute of Internal Auditors’ International Standards for the Professional Practice of Internal Auditing.

This review emphasized, but was not limited to, compliance with:

• Public Contract Code Chapter 2.5, CSU Contract Law
• Public Contract Code §4100 et seq., Subletting and Subcontracting Fair Practices Act
• Government Code §13402 and §13403
• Executive Order (EO) 666, Delegation of Professional Appointments Related to Capital Outlay Projects and Campus Physical Development
• EO 672, Delegation of Capital Outlay Management Authority and Responsibility
• ICSUAM §9000 through §9005, Capital Outlay and Public Works Contracts
• ICSUAM §9200 through §9212, Professional Services for Campus Development
• ICSUAM §9230 through §9237, Project Plan Development for Major Capital Construction Projects
• ICSUAM §9700 through §9843, Construction Management for Public Works Contracts
• CSU Construction Management Project Administration Reference Manual
• Contract General Conditions for CM at Risk with Guaranteed Maximum Price Projects

AUDIT TEAM

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