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October 15, 2019

Dr. Soraya M. Coley, President
California State Polytechnic University, Pomona
3801 W. Temple Avenue
Pomona, CA 91768

Dear Dr. Coley:

**Subject: Audit Report 19-63, Student Services Building,
California State Polytechnic University, Pomona**

We have completed an audit of the *Student Services Building* 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

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The California State University
Audit and Advisory Services

CONSTRUCTION

**California State Polytechnic University,
Pomona**

Student Services Building

Audit Report 19-63
September 5, 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 Student Services Building project as of July 18, 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. In addition, we noted some issues with the formation of the guaranteed maximum price (GMP) for Construction Manager at Risk (CM at Risk) projects and in the review process for allowance and contingency work.

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 Student Services Building project.

Specifically, we found that the general contractor did not provide sufficient documentation demonstrating that the total cost of the project equaled or exceeded the final GMP construction agreements. 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 require the general contractor to submit a final accounting of project costs for the Student Services Building project and perform a verification of the costs. In the event the total cost of the project was less than the construction agreement, the campus should request that the difference be returned.

MANAGEMENT RESPONSE

We concur. We have required the general contractor to submit a final accounting and cost reconciliation for the Student Services Building project. Initial discovery has resulted in a determination that the contractor's projected cost exceeded the construction base contract. This overage was absorbed by a reduction in the contractor's overhead and profit plans. We will document the final cost of the project.

Expected completion date: December 31, 2019

2. DESIGN-ASSIST FEES

OBSERVATION

General contractor construction fees were applied to subcontractor design-assist costs.

We found that the general contractor classified \$804,200 in subcontractor design-assist costs as direct costs of construction in the GMP, which added \$80,259 in general contractor construction fees to the GMP. Although the design-assist costs were subsequently transferred appropriately to a preconstruction agreement via the change order process, the associated

construction fees remained in the GMP for the construction agreement and were not returned to the campus.

General contractor construction fees (i.e., contingency, site management, and overhead) are applicable to only direct costs of construction. Design-assist costs are preconstruction costs.

RECOMMENDATION

We recommend that the campus:

- a. Provide refresher training to relevant personnel regarding formulation of the GMP for CM at Risk projects, including review of the GMP exemplar on the CPDC website and GMP-related terms and conditions in the CM at Risk RFP template, and emphasize that fees should be based on direct construction costs in the agreement.
- b. Review the construction fees that were charged to subcontractor design-assist costs, and determine whether any part of the \$80,259 for contingency, site management, and overhead and profit should be credited back to the campus.

MANAGEMENT RESPONSE

We concur.

- a. Facilities planning design and construction (FPD&C) will continue to provide refresher training in our ongoing monthly staff meetings and will establish specific focused training regarding the CM at Risk GMP templates and fee structure documentation and monitoring.
- b. FPD&C, in further review of the contract change orders, has determined that the fees associated with the design-assist, site management, contingency, and overhead and profit fees have been credited back to the campus fully as captured through the final settlement change order. We will provide the final document.

Expected completion date: December 31, 2019

3. CONTINGENCY COSTS

OBSERVATION

The campus tracking and review of contingency costs for the Student Services Building project needed improvement.

We found that:

- The log used to track contingency costs did not take into account the additional \$53,933 in contingency costs that were added in Change Order 3 for Parking Lot C. Although the campus indicated that these funds were expended, the use of these funds was not approved in advance by the campus via the change order process.

- In two of four contingency costs we reviewed, the general contractor incorrectly charged overhead and profit totaling \$9,435.

Proper tracking and 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 regarding the review process for contingency costs, including tracking of contingency costs, proper approval of the use of contingency funds, and ensuring that general contractor mark-up is not included in contingency costs.
- b. Review the two contingency items noted above, and determine whether the general contractor overhead and profit charged should be credited back to the campus.

MANAGEMENT RESPONSE

We concur.

- a. FPD&C will continue to provide refresher training in our ongoing monthly staff meetings and will establish specific focused training regarding the CM at Risk GMP templates and fee structure documentation and monitoring.
- b. FPD&C, in further review of the contract change orders, has determined that the fees associated with the contingency have already been credited back to the campus fully as captured through the final settlement change order. We will provide the final document.

Expected completion date: December 31, 2019

4. ALLOWANCES

OBSERVATION

Administration of allowances for the Student Services Building project needed improvement.

We found that:

- Although the general contractor identified three allowances in its GMP narrative, the costs were not identifiable or broken out in the detailed GMP listing of costs.
- A temporary man lift for \$300,000 was not bid, and should have been classified as an allowance in the GMP.
- Allowances are required to be used for a specific and discrete purpose identified in the GMP and tracked accordingly. However, the allowance log aggregated all allowance costs

instead of tracking individual costs charged to each allowance category. Additionally, the allowance costs charged did not appear to correspond to the specific scopes of work identified in the GMP.

- The documentation submitted to support allowance costs did not include advance approval from the campus and did not always sufficiently support the costs incurred.

Proper administration of allowance costs decreases the risk that allowances will not be used for their intended purpose, and of inappropriate or unsupported project costs.

RECOMMENDATION

We recommend that the campus provide refresher training to relevant personnel regarding the review process for allowance costs, including the proper identification and appropriate use of allowances.

MANAGEMENT RESPONSE

We concur. FPD&C will continue to provide refresher training in our ongoing monthly staff meetings and will establish specific focused training regarding the CM at Risk GMP templates regarding allowance costs, including the proper identification and appropriate use of allowances.

Expected completion date: December 31, 2019

5. BIDDING AND CONTRACTING PROCESS

OBSERVATION

The construction agreement for the Student Services Building did not reflect the appropriate percentage of Disabled Veteran Business Enterprise (DVBE) participation.

We found that the general contractor for the Student Services Building proposed and was awarded the construction agreement based on 11 percent DVBE participation. However, the construction agreement only stipulated an 8 percent participation rate.

Ensuring that the construction agreement includes the appropriate terms and conditions for DVBE participation decreases the risk of bid protests and supports campus efforts to meet DVBE participation goals.

RECOMMENDATION

We recommend that the campus remind relevant procurement and construction administration staff that contract stipulations based on contractor proposals and award documents should be captured within the construction agreement.

MANAGEMENT RESPONSE

We concur. The associate vice president for finance and administration will prepare a memo to relevant procurement and construction administration staff that contract stipulations based on contractor proposals and award documents should be captured within the construction agreement.

Expected completion date: December 31, 2019

GENERAL INFORMATION

BACKGROUND

In March 2015, the Board of Trustees (BOT) approved schematic plans for the Student Services Building project at a cost of \$105,391,000, with funding from systemwide revenue bonds.

In April 2011, the campus executed an agreement with the architectural firm CO Architects for services related and incidental to the design and construction of the Student Services Building project. It also executed an agreement with the construction manager (CM), C.W. Driver LLC, for preconstruction services that included design and bid phase services. In June 2016, the campus executed a GMP agreement with the CM for construction phase services at a construction cost of \$62,963,643 and issued a Notice to Proceed on June 15, 2016, with a completion date of February 5, 2018. The campus filed a Notice of Completion on January 15, 2019.

The Student Services Building project is a new 140,000-square-foot, three-story structure that replaced the Classroom, Lab, Administration (CLA) Tower and registration buildings. The building consolidates all student services, including registration, tuition, financial aid, and related administrative departments. The service centers are mostly located on the ground level to facilitate access, increase visibility, and streamline operations for students and staff. Related offices for academic, student, and administrative affairs are arranged on the second level, and offices for the university president, provost, and university advancement are located on the third floor. A smaller two-story wing on the other side of a shaded pedestrian passageway houses testing, conference, and training rooms on the ground level and the human resources department on the second level. The project achieved Leadership in Energy and Environmental Design (LEED) platinum 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 California State Polytechnic University, Pomona (CPP) campus managed the Student Services Building project, and it chose the 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 CPP campus and the offices of the CM and selected subcontractors from June 10, 2019, through July 18, 2019. Our audit and evaluation included the audit tests we considered necessary in determining whether operational, administrative, and financial controls for the Student Services Building 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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