FOLLOW-UP REPORT

Department of Transportation & Infrastructure

*Denver County Jail Building 24 Buildout Contract*

OCTOBER 2022

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DENVER AUDITOR

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AUDITOR'S LETTER

October 6, 2022

In keeping with generally accepted government auditing standards and Auditor’s Office policy, as authorized by city ordinance, we have a responsibility to monitor and follow up on audit recommendations to ensure city agencies address audit findings through appropriate corrective action and to aid us in planning future audits.

After following up on the “Denver County Jail Building 24 Buildout Contract” examination report completed by CliftonLarsonAllen LLP and issued in June 2021, we determined the Department of Transportation & Infrastructure fully or partially implemented all the recommendations it agreed to.

During the original examination, we found the department did not ensure sufficient documentation was provided to identify and verify billings for work performed by subcontractors. Additionally, the department processes for documenting and approving project changes were not made in a timely fashion and did not include adequate support explaining why additional work was necessary beyond the original project scope.

Based on our follow-up work, we determined the Department of Transportation & Infrastructure did not fully address all the risks associated with our initial findings. Consequently, we may revisit these risk areas in future audits to ensure the city takes appropriate corrective action.

We appreciate the leaders and team members at the Department of Transportation & Infrastructure who shared their time and knowledge with us throughout the examination and the follow-up process. Please contact me at 720-913-5000 with any questions.

Denver Auditor’s Office

Timothy M. O’Brien, CPA
Auditor
CliftonLarsonAllen’s examination identified two significant shortcomings in the Department of Transportation & Infrastructure’s oversight of subcontracted work and the processes around change orders during the construction of Denver County Jail Building 24.

Monitoring of Subcontractor Billings
The department did not request any subcontractor invoices from Bryan Construction as allowed in contract terms. These amounts should have been included in the contractor’s certification of payment but were not properly included. Additionally, nine subcontractors were paid a total of $889,004 for work that did not have documented price quotes. The department did not reconcile amounts paid to subcontractors to quoted prices or amounts billed, resulting in payments of $1.9 million over the quoted price.

Project Management and Timeliness of Change Orders
The “construction manager/general contractor” delivery method is designed to accelerate portions of the scope and optimize construction to ensure the cost and schedule of the final design are settled. However, the project timeline was extended through change orders for 1,001 additional days and construction costs increased 30.2% over the guaranteed maximum price. Additional costs were considered to be unforeseen, but there was not sufficient documentation to support the justification of additional costs.

WHY THIS MATTERS
Lack of oversight in the subcontracting and change order process can lead to significant project delays and additional costs to the city. This is especially critical when the chosen delivery method is designed to avoid these outcomes.
2 recommendations proposed in June 2021

The Department of Transportation & Infrastructure fully implemented one recommendation made in the original examination report. But the department only partially implemented the second recommendation.

As a result, the department is better able to clearly track and monitor billing progress compared with total contracted amounts. It also improved its ability to identify how change orders impact the total work completed by subcontractors. These actions should better equip the department to manage future construction contracts and their related costs and timelines. In addition, the department added a requirement for project managers to justify why a change order is needed and how the costs are appropriate. However, we did not see evidence that the appropriateness of the cost was validated for the change order within our scope that involved added costs.

REMAINING RISKS

The recommendation the department did not fully implement presents several lingering risks. Among them:

- Costs incurred for work performed under a change order are still not evaluated for whether they are reasonable and therefore they may be excessive.
- Project managers are allowed to use their discretion when determining whether to request additional information to support change order costs. This risks inconsistency among project managers and can hinder the department's ability to effectively validate these costs.
FINDING 1 | Monitoring of Subcontractor Billings

FULLY IMPLEMENTED

Recommendation 1

We recommend that DOTI improve the monitoring process over amounts billed by subcontractors, including timely tracking of amounts invoiced by subcontractors. In Construction Manager/General Contractor (CM/GC) arrangements where the contractor is responsible for requesting price quotes for specific portions of project work, we recommend that DOTI perform a reconciliation from the price quotes submitted to the amounts paid to subcontractors to ensure that the City is not overpaying for work performed and that subcontractors are adequately compensated by the contractor.

Agency's original target date for completion: Aug. 1, 2021

We reviewed the Department of Transportation & Infrastructure’s updated procedures and looked at how staff track amounts billed by subcontractors for construction manager/general contractor projects. Construction work performed is billed to the city through pay applications, which are generally invoices that contain extensive details about a project’s status. The pay applications list all subcontractors involved in the project along with the corresponding original and final contracted amount, which indicates the total anticipated payment each subcontractor will receive. The department’s updated guidance — in the form of a pay application checklist — requires project managers to reconcile the original subcontractor bids to the amount paid in each payment application.

To ensure the updated procedures are being followed, we reviewed the final pay application for three construction manager/general contractor projects for which payments had been made after the Aug. 1, 2021, recommendation implementation date:

- The Smiley Library Renovation.
- The Central Library Renovation.
- The Byers Library Renovation.

We evaluated whether:
1. All active subcontractors were included along with their contract amount.

2. The pay applications included additional documentation that allowed the department to reconcile the contract amounts to the subcontractor’s bid.

We found all active subcontractors were included on these pay applications along with the subcontractor’s contracted amount, and the application for payment was reconciled by the assigned project manager to the subcontractor’s bid for each project. We also reviewed the reconciliations in detail and confirmed they correctly resulted in the total contracted amount matching the total amount quoted in the original bid.

We also noted the department’s project managers reviewed the subcontractor’s contracted amounts on a line-by-line basis to ensure the amount for each subcontractor agrees with the bid package. This practice should allow them to easily identify any individual contract discrepancies.

Based on the documentation we reviewed, we conclude the department fully implemented this recommendation.
FINDING 2 | Project Management and Timeliness of Change Orders

PARTIALLY IMPLEMENTED

Recommendation 2

We recommend that the change order approval process be completed timely to ensure timely completion of projects or maintain documentation of why change orders were unable to be approved timely if it causes significant project delays. In addition, we recommend that DOTI improve the documentation included in change orders to add context to support why the costs included in the change orders are considered to be outside of the scope of the guaranteed maximum price within the contract. The additional context in the change order should also document consideration of costs being truly unforeseen, that changes in construction relating to regulatory requirements and inspections could not have been anticipated, or that the costs relate to services outside of the original scope of the project. Since the project cost is based on negotiations with the contractor rather than a comparison of proposed costs from multiple qualified contractors, requiring documentation of this context can improve DOTI’s monitoring of the financial risks surrounding the contractor’s use of subcontractors, the contractor’s bidding process with subcontractors, and adherence to the negotiated total project cost. The documentation of context can assist DOTI in continual improvement in project management for future CM/GC projects and improve transparency to the general public to ensure that the City is fiscally responsible for construction projects.

In addition, we recommend that management of DOTI continue to monitor and assess the workload of project managers assigned to CM/GC projects to ensure that project managers can adequately manage and monitor the CM/GC project.

AGENCY ACTION

Agency’s original target date for completion: Aug. 1, 2021

The department revised its internal guidance — a change order checklist — by adding a requirement for project managers to provide justification for why a change order is needed and how the costs are appropriate. The checklist also provides several examples project managers can use to validate these costs, including:
• Comparing costs for the change order work against costs of similar scope items provided at the time of the bid.
• Comparing costs for the work to other recent similar projects within the department.
• Validating the cost of work through expertise of the project design team such as the architect, cost estimator, or others as appropriate.
• Validating costs of work by relevant industry guidelines.

To determine the extent to which the department implemented this recommendation, we reviewed change orders from construction manager/general contractor construction projects that were approved after the recommendation implementation date of Aug. 1, 2021. Only two change orders were approved after that date, and they were both associated with the Denver Central Library renovation.

We saw no evidence the change order approval process was completed late or impacted project completion.

The first change order for this project was approved Dec. 2, 2021, and added $70,315 to the original scope of work. The change order included details about the additional costs that were associated with replacing pipes and other critical sewer infrastructure and repairing leak-related damage. This additional information demonstrates the work was reasonably justified outside the original project scope because of the nature of these leaks, which were only discovered once the renovations began.

However, we found the costs of the repair work were not justified in this change order documentation as required by the newly revised checklist. Department personnel said the checklist is intended to provide guidance to project managers in justifying a change order and that project managers have the ability to request and review additional backup for the pricing if they have questions. After we concluded our review, department personnel provided additional documents listing the costs of the repair work and several signatures, including the contractor and architect. However, this documentation does not sufficiently demonstrate why the costs are appropriate and what method was used to make that determination.

Even though project managers can request and review additional supporting documentation for costs, the original examination report noted the project manager did not do so. Adhering to the revised checklist, which requires this cost validation, would ensure all project change order costs are validated consistently, across all construction manager/general contractor projects.

The second change order we reviewed did not add costs or time to the project but simply added time to individual phases of the project. As such, this change order presented no risks related to the original audit.

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recommendation.

Overall, we found the department took steps to revise its process and added measures for increased monitoring that should, when properly followed, address the recommendation. However, one of the two change orders we reviewed lacked validation to support that the quoted cost was reasonable. Therefore, based on the department’s revised process and the two change orders available for our review, we conclude this recommendation is partially implemented.

Because the second recommendation included a final statement that the department should continue to monitor and assess the workload of project managers assigned to these types of projects, we requested an update on the department’s approach to monitoring construction manager/general contractor project managers’ workloads. In response, a department staff member said project managers assigned to these types of projects are only considered for additional work when that project concludes or moves to a less demanding phase. Furthermore, staff workload is continuously monitored and supervisors use check-in meetings and project- and staff-specific considerations when making assignments.
Office of the Auditor

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