



April 13, 2023

Auditor Timothy M. O’Brien, CPA
 Office of the Auditor
 City and County of Denver
 201 West Colfax Avenue, Dept. 705
 Denver, Colorado 80202

Dear Mr. O’Brien,

The Office of the Auditor has conducted a performance audit of Denver International Airport Great Hall Construction.

This memorandum provides a written response for each reportable condition noted in the Auditor’s Report final draft that was sent to us on March 17, 2023. This response complies with Section 20-276 (c) of the Denver Revised Municipal Code (D.R.M.C.).

AUDIT FINDING 1

Denver International Airport needs to strengthen its management and oversight of the Great Hall construction project to ensure the best value for the city.

<p>RECOMMENDATION 1.1 Develop and implement a project delivery method selection process: Denver International Airport’s Special Projects Division should develop and implement a process to ensure managers and staff use a risk-based approach to select a construction project’s delivery method. This process should align with leading practices — such as the Colorado Department of Transportation’s “Construction Manager/General Contractor Manual” and the “Airport Owner’s Guide to Project Delivery Systems.” This process should also be thoroughly documented and include primary selection factors as outlined in leading practices, as well as staff members’ rationale for the chosen method.</p>		
<p>Agree or Disagree with Recommendation</p>	<p>Target date to complete implementation activities (Generally expected within 60 to 90 days)</p>	<p>Name and phone number of specific point of contact for implementation</p>
<p>Agree</p>	<p>06/01/23</p>	<p>Michael Sheehan</p>

Narrative for Recommendation 1.1

The program's overall health is excellent - **Phase 1 was completed 45 days ahead of schedule and more than \$25M under budget.** Phase 2 is tracking to be completed ahead of schedule and under budget. Even with this, DEN agrees with this Recommendation and has been evaluating and developing a selection guide after the



Auditor's report regarding DEN's Peña Boulevard project. DEN Special Projects will utilize this tool, as appropriate to its projects.

In addition, regarding the specific findings included with Recommendation 1.1, DEN has the following responses:

Auditor finding (pg. 10): Airport officials could not provide us with any analysis of how they determined in 2019 that the construction manager/general contractor approach was best for the revised renovation plans.

DEN response: DEN's lengthy risk-based analysis on what delivery methodology to deploy on the Great Hall Program was not documented in a tool such as that proposed. However, that analysis did take place through several meetings where the CMGC procurement method was chosen. The project schedule did not allow for the selection of either a design-bid-build (D/B/B) or design-build (DB) delivery methodology. A DB could also be categorically eliminated from consideration because of the lack of confidence in the existing design documents from the previous developer as the basis for the continuing design. First, in order to use the D/B/B method, DEN would have needed to procure a new Architect and then design the entire project prior to issuing 100% Construction Documents and then procuring the construction. The Architect's initial design for the Great Hall began in November 2019. Design of the final bid package was not issued until March 2021. Thus, DEN would not have been able to even issue an Invitation to Bid until March 2021. This would have delayed the work by 16 months and included another 16 months of escalation in construction costs, which during the COVID-19 pandemic were significant. There was simply no path where DEN could subject the already frustrated traveling public, airlines and other stakeholders to the longest possible recovery procurement approach. Beyond the lack of confidence in the developer's design documents, utilizing DB delivery also would have significantly delayed the Project. In order to release a DB RFP package, the City would have had to issue an RFP for an Architecture firm to develop the bridging documents and, once the documents were complete, issue an RFP for a DB firm, interview and select a DB firm, and then begin the design. This process would have taken at least a year as well. In contrast, using the method chosen, the Architect was able to begin immediately, and the Contractor could participate in reviewing the design and initial work under the CMGC method.

Auditor finding (pg. 10): "Two sets of leading practices are especially relevant: A manual developed by the Colorado Department of Transportation that is specific to construction manager/general contractor projects..."

DEN response: The referenced manual (cited as: Colorado Department of Transportation, "Construction Manager/General Contractor Manual" (January 2015)) states that the "CMGC in transportation projects has evolved distinct differences from the CMAR delivery used for vertical construction" (p.1). For



example, "The CM in transportation projects self-performs a majority of the Work...whereas the CM in vertical construction manages multiple Contractors who perform the work". Thus, the manual confirms by its own terms that the CDOT reference is NOT "especially relevant" for a vertical CMGC project like the Great Hall Project. In addition, CDOT created its manual in 2015 in response to changes in Federal law allowing the use of CMGC on federally-funded projects like CDOT's road and bridge projects. The vertical building industry has been utilizing the CMCG delivery method since the late 1980s and uses a different approach.

Auditor finding (pg. 11): *“After our May 2022 audit of the Peña Boulevard improvements construction contract, airport officials agreed to implement our recommendation that they formalize their project delivery method selection process...”*

DEN response: The Great Hall Construction Contract was executed in 2020, over 2 years before the Peña Boulevard audit. DEN Special Projects also will use the selection process tool in the future.

Auditor finding (pg. 12): *“Meanwhile, in August 2022, the airport published its “after-action” report following its termination of the Great Hall Partners contract in 2019. Airport officials meant for this report to provide “an open and transparent summary of what we did well and would do again, the challenges we encountered, what we would do differently next time.” The report said that in retrospect, a different project delivery method may have been better suited for the Great Hall construction project...”*

DEN response: The design and construction of the Great Hall Project by the former developer was pursuant to a Design-Build construction method, not a CMGC. Thus, DEN did select a different delivery method in completing the new Great Hall Project.

RECOMMENDATION 1.2		
Follow construction procurement procedures and document steps:		
Denver International Airport’s Special Projects Division should follow its standard operating procedures for construction procurements and ensure thorough documentation exists for each project to show staff met all required steps in the procurement process.		
Agree or Disagree with Recommendation	Target date to complete implementation activities (Generally expected within 60 to 90 days)	Name and phone number of specific point of contact for implementation
Disagree	NA	NA



Narrative for Recommendation 1.2

DEN followed the requirements in the Charter, Denver Revised Municipal Code, and Executive Order 8 and as much of DEN’s procurement process as was practicable under the circumstances in procuring the contract. DEN did not have a procurement process for expedited procurements or exceptional circumstances like this one, which included potential litigation and a contractual handover of an in-progress project. Further, at the time, DEN’s procurement process was time consuming and was estimated to take more than a year, if DEN had followed its existing SOPs. This was untenable with the exterior walls of the Terminal demolished and existing systems and building being exposed to freezing temperatures. As a result, it would have taken too long to procure the contract through DEN’s then-existing process. Instead, DEN solicited proposals from six potential proposers deemed qualified to perform the work, and three submitted proposals. All proposals were reviewed in regard to the contractors’ qualifications and initial pricing, and all contractors were interviewed. One panel member was from a DEN stakeholder representing the airlines. All panel members were seasoned in the procurement and contractor selection process and, therefore, separate training was not deemed to be necessary. The selection panel was also approved by the DEN CEO. After interviews, the panel convened to discuss the proposals, interviews, and proposed costs. The panel unanimously approved the final selection. All bidders were notified of the results and a meeting was held with the airlines to share the results with them. We are not aware of a directive from Airport Management at that time directing staff to minimize records due to the number of open records requests; rather the focus was on a swift, efficient, fair and competitive selection process to get construction restarted as soon as possible. All procurements overseen by DEN Special Project since the Great Hall procurement in 2019 have followed DEN’s SOPs.

RECOMMENDATION 1.3		
Develop construction procurement procedures for expedited needs:		
Denver International Airport’s Special Projects Division should work with the airport’s Business Management Services to update its existing standard operating procedures for construction procurement to include necessary steps staff should take for special cases when a procurement needs to be expedited.		
Agree or Disagree with Recommendation	Target date to complete implementation activities (Generally expected within 60 to 90 days)	Name and phone number of specific point of contact for implementation
Agree	12/01/23	Michael Sheehan

Narrative for Recommendation 1.3

DEN agrees with this Recommendation and will develop new construction procurement procedures for circumstances as this, that require expedited procurements. DEN Special



Projects will work with DEN’s Business Management Services group to develop a process that conforms to City and Federal procurement requirements.

<p>RECOMMENDATION 1.4 Develop and implement policies and procedures for the construction manager/general contractor delivery method: Denver International Airport’s Special Projects Division should develop and implement policies and procedures addressing the unique risks of the construction manager/general contractor project delivery method. These policies and procedures should align with leading practices and detail the steps required to effectively manage such projects, beginning with the initial scoping of a project all the way through completion. These should also be sufficiently defined and structured so tasks are performed consistently across projects.</p>		
<p>Agree or Disagree with Recommendation</p>	<p>Target date to complete implementation activities (Generally expected within 60 to 90 days)</p>	<p>Name and phone number of specific point of contact for implementation</p>
<p>Agree</p>	<p>12/01/23</p>	<p>Michael Sheehan</p>

Narrative for Recommendation 1.4

For this CMGC contract, DEN Special Projects will expand upon its current procedures and include more detail that fully documents the primary fact that the Program’s policies and procedures currently being followed.

<p>RECOMMENDATION 1.5 Oversee the subcontracting process: Denver International Airport’s Special Projects Division should oversee the awarding of subcontracted work to ensure the terms of construction manager/general contractor contracts are adhered to. Specifically, the division should develop and implement policies and procedures to ensure subcontracted work is awarded in a fair and reasonable way and, to the greatest extent possible, is based on open competition. At a minimum, the division should:</p> <ul style="list-style-type: none"> • Obtain and review all bid packages submitted by prospective subcontractors to ensure: <ul style="list-style-type: none"> ▪ At least three bids for each trade are received — and if not, that the contractor makes an effort to re-bid or to document why three bids were not received. ▪ The lowest, responsive, and qualified bidder is selected — and if not, document the justification as to why.



<ul style="list-style-type: none"> ▪ The contractor sufficiently documents its rationale when it chooses another bidder instead. • Document the review and approval process for all bid packages for subcontractors chosen by the contractor. • Obtain and review all subcontracts the contractor enters into to ensure proper oversight. 		
Agree or Disagree with Recommendation	Target date to complete implementation activities (Generally expected within 60 to 90 days)	Name and phone number of specific point of contact for implementation
Disagree	NA	NA

Narrative for Recommendation 1.5

As noted in the response to Recommendation 1.4, DEN Special Projects will expand upon its current procedures and include more detail fully documenting that the Great Hall Project’s policies and procedures currently being followed. These will include procedures for strengthening the documentation process for the subcontractors chosen to work on the Program.

DEN Special Projects oversaw the procurement of subcontracted work to ensure the terms of the CMGC contract were satisfied. DEN obtained and reviewed all bid package recommendations and subcontracts. The Contract does not require the Contractor to get three bids for each package. Because the Contractor cannot control which subcontractors bid and cannot interfere in their decision-making, the Contract instead requires "fair and open competition, based upon competitive bids". Fair and open competition does not relate to the number of bids or proposals received; it relates to the method of the solicitation by ensuring that any subcontractor who is qualified is able to bid and that all who participate in the bidding has a fair chance and the competition is open to those who are qualified. To date, the Contractor has held **548** outreach events and ensured fair and open competition for each bid package.

Oversee the subcontracting process:

Denver International Airport’s Special Projects Division should oversee the awarding of subcontracted work to ensure the terms of construction manager/general contractor contracts are adhered to. Specifically, the division should develop and implement policies and procedures to ensure subcontracted work is awarded in a fair and reasonable way and, to the greatest extent possible, is based on open competition. At a minimum, the division should: **Disagree with finding - DEN already performs this requirement.**

- Obtain and review all bid packages submitted by prospective subcontractors to ensure: **DEN already performs this requirement.**



- At least three bids for each trade are received - and if not, that the contractor makes an effort to re-bid or to document why three bids were not received. **Disagree with this finding - a minimum of three bids is not required by industry best practices or this contract.**
- The lowest, responsive, and qualified bidder is selected - and if not, document the justification as to why. **Disagree with this finding - DEN reviews the Contractor's recommendation, and it is the Contractor's risk if the subcontractor can't perform and responsibility to manage them (refer to next item for reference to documentation).**
- The contractor sufficiently documents its rationale when it chooses another bidder instead. **Agree - DEN Special Projects will ensure the CMGC properly documents their evaluation process to support their recommendation.**
- Document the review and approval process for all bid packages for subcontractors chosen by the contractor. **Agree - DEN Special Projects will adopt a consistent documentation process.**
- Obtain and review all subcontracts the contractor enters into to ensure proper oversight. **Disagree with finding - DEN performs this requirement.**

In addition, regarding the specific findings included with Recommendation 1.5, DEN has the following responses:

Auditor finding (pg. 21): ***“DELAYS IN PROVIDING SUBCONTRACTS AND LACK OF KNOWLEDGE OF ALL SUBCONTRACTS - Based on our audit work as of August 2022, we do not believe airport officials had copies of all 34 subcontracts for phase two of the Great Hall project readily available. Airport officials took 33 days to provide us with initial copies of the subcontracts we asked for. After evaluating them, we discovered four subcontracts were missing that should have been included in the response to our request. This led us to conclude airport officials did not have knowledge of all phase two subcontracts in existence.”***

DEN response: This is incorrect. DEN had copies of all subcontracts. The Auditor's original request for project documentation included large volumes of documents including thousands of pages of back-up material. Given the time and personnel resources needed to compile these documents, while the same DEN staff were also fully engaged in advancing the Project and moving 20 airlines within the Terminal. DEN developed a schedule to transmit the requested documents in stages over the course of several weeks. This schedule was shared with the Auditor and the documents were transmitted on the scheduled dates. The referenced subcontracts were included in the last package of documents transmitted 33 days after the request. The four missing subcontracts were simply an error in transmission and were subsequently forwarded when found not to have



been included. Thus, the auditor is erroneously implying the timeline to transmit documents is tantamount to lack of possession or knowledge of the work.

Auditor finding (pg. 21): “**DELAYS IN PROVIDING SUBCONTRACTS AND LACK OF KNOWLEDGE OF ALL SUBCONTRACTS** - *Meanwhile, we learned airport officials also did not have a complete understanding of all subcontracts Hensel Phelps had issued for phase two. On two occasions, the airport did not know that Hensel Phelps had entered into subcontracts with itself to perform some construction work.*”

DEN response: This is incorrect. The work referenced in this statement was for "concrete" and "Doors, Frames and Hardware". The amounts for both scopes of work were included in the CMGC's GMP proposal which was reviewed, approved, and executed by DEN in a task order change order. DEN had full knowledge and oversight of this work.

Auditor finding (pg. 22): “**NO WRITTEN APPROVAL FOR SOME SUBCONTRACTS** - *The airport’s contract with Hensel Phelps says each subcontractor that Hensel Phelps expects to perform work must be accepted in writing by the airport before the subcontracted work begins.*”

DEN response: The intent of this requirement is that DEN review and approve of the subcontractors performing work under the Contractor. Whether the approval of each subcontract took place via written email, or as documented in the weekly project cost review meeting minutes, each subcontract was reviewed and approved. We acknowledge the documentation process needs to be strengthened, therefore, we will now provide an emailed approval to the contractor once a recommended trade partner subcontract is reviewed and found to be acceptable.

Auditor finding (pg. 22): “**LACK OF COMPETITIVE BIDDING** - *We found that for 20 of the 34 subcontracts for phase two, Hensel Phelps either did not competitively bid the work or Hensel Phelps received less than the recommended three bids. Staff at Hensel Phelps said the company made no attempt to re-bid these 20 subcontracts, which totaled over \$20 million in construction work.*”

DEN response: The Auditor's rationale for stating there was a "Lack of Competitive Bidding" and that 20 of 34 subcontracts were not competitively bid is based on the Auditor’s unilateral requirement that a “competitive bid” require three proposals. The Contract's Special Condition SC-5 states: "The Contractor recognizes and accepts that the subcontractor and supplier selection... is based on fair and open competition...(and) shall be procured based upon competitive bids awarded to the lowest, responsive and qualified bidder...". The Contract does not require that three bids must be received to meet SC-5. Instead, the Contractor is required to create a fair and open competition for all packages, regardless of how many bids are received. To date, the CMGC has held **548** outreach events and ensured fair and open competition for each bid package. As discussed with the



Auditor, the CMGC employed a wide-ranging solicitation program to promote not only fair and open competition, but also to maximize M/WBE participation for the entire project. These efforts included an extensive process for advertising the upcoming solicitation opportunities as part of the Great Hall Project. All solicitations were made public and open to any firm that wanted to submit a bid. Firms had 2 ways of accessing and bidding the Great Hall opportunities. * Option 1 – All opportunities were linked to DEN's "flydenver.com" website page with a direct link that navigates to the advertising page on DEN's website which is maintained for the Subcontracting opportunities with the CMGC on the Great Hall program. This included a direct link on the referenced webpage to navigate a firm to the "Building Connected" website that the CMGC maintains for all bid opportunities. Any firm has the ability to register on Building Connected and bid on the listed opportunities at the Great Hall. * Option 2 – All opportunities are linked directly to the CMGC's website page. This link navigates to the section of the CMGC's website that will allow any firm to register with Building Connected and view/bid on any solicitation opportunities part of the Great Hall Program. In addition to the above public solicitations both via the DEN Airport and the CMGC's websites, the CMGC utilized a variety of strategies to maximize the number of companies interested in bidding. Examples of the additional efforts made by the CMGC include publishing opportunities and solicitations in advance of the Bid Package issuance through the DSBO website, DEN newsletter and the CMGC's newsletter announcements, project specific outreach events, pre-bid meetings, pre-bid site walks, and direct phone calls to the trades.

Auditor finding (pg. 23): ***"LACK OF COMPETITIVE BIDDING - In some cases, airport officials were also unaware that Hensel Phelps had waived the requirement to competitively bid subcontracted work. Although Hensel Phelps' contract with the airport allows for this, airport officials must authorize this waiver with express written approval. We identified four instances when the airport had not given express written approval for the exceptions. In these cases, the subcontracts were for work that Hensel Phelps determined only one subcontractor could do or the subcontract went directly to an airport-preferred vendor."***

DEN response: DEN was aware of and reviewed these proposed scopes of work prior to the execution of the GMP. The Phase 2 Task Order Change Order (TOCO) which established the final GMP included the following scopes of work, which were not competitively bid at the direction of DEN.

- TK Elevator – Scope: elevators and escalators. The products purchased and received (and transferred to DEN for installation) by the former developer were TKE elevators and escalators. Therefore it was most cost efficient to use the same provider and to not reprocur elevators and escalators and determine how to dispose of the ones previously received.
- Powers Products Co. - Scope: vertically folding partitions. This is specialty equipment for security of new checkpoint, and this is the only certified installer for this product in this region.



- Brock Solutions - Scope: Baggage Handling Systems (BHS) Controls and Startup. This contractor provides controls for DEN's BHS systems and therefore was needed for continuity of services.
- Diamastone - Scope: Large Format Tile Supplier. Required for continuity of flooring materials to be installed throughout the Great Hall.

The proposed final GMP from HP was reviewed in detail by DEN including the costs proposed for these four scopes of work. By signing and executing the TOCO, DEN provided written approval for these four subcontracts in accordance with SC-5.

Auditor finding (pg. 23): ***"SOME SUBCONTRACTS MAY NOT HAVE BEEN AWARDED TO THE LOWEST, MOST QUALIFIED BIDDER - Not only does the airport's construction contract with Hensel Phelps require subcontracted work to be based on competitive bids, it requires subcontracts to be awarded to the "lowest, responsive, and qualified bidder. But Hensel Phelps did not adhere to this requirement for all subcontracts. In six instances where Hensel Phelps did not select the lowest bid, the airport could not provide us with documentation justifying the reason for its choice."***

DEN response: As discussed previously with the Auditor, each bid package was organized by an "Instructions to Bidders (ITB)" document that outlined the bidding process to include the scopes of work to be bid (in that particular package) and the selection criteria for award. The outlined selection criteria for award for the more complex scopes (such as Steel, Mechanical, Electrical, Fire Protection, Demolition, Glass & Glazing, Drywall, etc.) included the following evaluation components: pricing, project approach & schedule, relevant project experience / project team, and MWBE participation. For the Phase 2 purchasing, all recommended, approved and awarded subcontracts/purchase agreements made to date have been to the lowest bidder except for a few of these complex scopes where the scoring criteria evaluation and review process outlined in the ITB resulted in award to a subcontractor with the best overall score and qualifications, but not necessarily the lowest price. This evaluation and review process utilized has greatly reduced risk and has increased the MWBE participation on the project. It should be noted that DEN reviews the CMGC's final recommendation, which is the CMGC's risk and responsibility. We acknowledge the documentation process needs to be strengthened in these instances, therefore, we will now provide documentation justifying the reasons for not simply awarding to the lowest bidder.

Auditor finding (pg. 24): ***"SOME SUBCONTRACTS EXCEEDED BID PROPOSAL AMOUNTS - We found the dollar amounts for three of the 34 phase two subcontracts were for more money than the vendor originally proposed. As shown in Table 1, this amounted to the airport paying over \$1 million more than originally proposed across three subcontracts."***



DEN response: The statement that DEN was "paying...more than originally proposed" is incorrect. In a CMGC project, the Contractor is preparing a GMP price that includes all anticipated costs. In the process of interviewing the bidders, the Contractor may identify costs or scope that were not included in the bids because they were missed or the documents were unclear, yet that scope and cost needs to be covered. The Contractor adds those costs to the "original bid" in order to ensure the covered scope costs are as complete as possible. Thus, the final cost might be more than the original bid.

In the case of the building concrete, there were two elements of work that made-up the entire scope of "building concrete" - vertical concrete and horizontal concrete. The CMGC submitted a bid for the vertical concrete for \$1,115,407 as indicated in the report. No other bidder bid on the vertical scope. After analyzing the horizontal concrete bids, the CMGC added the lowest responsive bidder's horizontal concrete proposed amount of \$635,851 to result in a total "building concrete" cost of \$1,751,258 as shown in the Auditor's Table 1. In arriving at this overall price, the CMGC did not mark up the horizontal concrete bidder's proposal and combined both elements of building concrete in their subcontract recommendation to DEN. Had the CMGC recommended to DEN that a subcontract be issued to them for \$1,115,407 and a separate subcontract be issued to the horizontal concrete subcontractor for \$635,851, the result would have been the same.

Drywall - The difference between "bid" and "subcontract" of \$25,574 is the cost of design services the Contractor was required to do for the cold-metal framing that was identified as part of the overall drywall scope, but not included in the initial bid. This was added to the bid amount prior to executing the subcontract to ensure the entire scope was covered. It was identified during the buyout process, to which, DEN was a party to the interview with that subcontractor.

Structural Steel- In regard to the discrepancy between the amount bid and the amount subcontracted, DEN sent the Auditor the Contractor's recommendation letter, dated 7/26/21 which explains \$241,264 of the difference. The balance is indicated in the line items contained in the subcontract and account for small scope items found during buyout, but not covered in the initial bid. The Auditor's Office has been sent all the documentation which supports the additional scope that was added post bid and all of it has been verified as fair and reasonable by DEN.

Auditor finding (pg. 24): "***SUBCONTRACTS NOT SIGNED IN ADVANCE OF WORK PERFORMED*** - *The construction contract between the airport and Hensel Phelps specifies that construction work must begin within 10 days of the airport issuing a task order to Hensel Phelps or its subcontractors. However, we found several subcontractors did not have signed contracts in place at the time the airport signed a task order for phases one and two of the current Great Hall project. Specifically, nine subcontracts were signed after the airport issued a task*



order, none of which were signed within 10 days. This indicates either that work did not begin within the required 10 days of the task order — which would violate the contract requirement — or that work began without a signed contract in place, which risks subcontractors working on-site without a signed agreement in place.”

DEN response: This statement is incorrect. Article III of the agreement between the DEN and CMGC reads, "the Contractor agrees to begin the performance of the work...within ten (10) days after receiving a Task Order Notice to proceed...". The audit report uses the term "construction work" but the Contract states "performance of the work". "Performance of the work" in a CM/GC contract includes both Preconstruction Services as well as Construction Services. Typically, the initial Task Order for a CMGC project is written to cover Preconstruction Services including due diligence and assisting with target pricing to keep the design within the budget. However, under the Contract, there is only one NTP for each task order. Hence, when a Task Order NTP is issued, Contractor’s commencement of "the performance of the work...within ten (10) days...", means that the Contractor must begin Preconstruction services. That does not mean that Construction services begins at the same time. Furthermore, it is to be expected that several subcontracts would have not been executed immediately following the issuance of the task order as the design would not have been completed, making subcontractor buyout impossible.

RECOMMENDATION 1.6		
Oversee multi-tiered subcontracted work:		
Denver International Airport’s Special Projects Division should strengthen its oversight of multi-tiered subcontracted work to ensure markups are calculated in accordance with contract terms.		
Specific to the current Great Hall project, the division should obtain information on all subcontractor work done during phases one and two that used multiple tiers of contractors. The division should recalculate the markup charges and seek credit for any amounts the airport was overcharged.		
Agree or Disagree with Recommendation	Target date to complete implementation activities (Generally expected within 60 to 90 days)	Name and phone number of specific point of contact for implementation
Disagree	NA	NA

Narrative for Recommendation 1.6

Markups on multi-tiered subcontracted work on Change Orders, Allowances and Contingencies specific to the Great Hall Program were calculated correctly and consistently. DEN Special Projects applies Title 1104.2.E(2) of Denver's General



Contract Conditions to all subcontracted work utilizing Allowances and Contingencies. Title 1104.2.E(2) of Denver's General Contract Conditions states that "A supervising Subcontractor (if any) shall be entitled to a three percent (3%) markup on the actual price charged to the Subcontractor by a Subcontractor of a lower tier". The term "actual price charged to the subcontractor" would be inclusive of the 12% markup allowed by Title 1104.2.E(1). As discussed elsewhere, "actual price" is interpreted to mean the invoice price rather than a price calculated as time and materials. While DEN Special Projects acknowledges that other City agencies could interpret this differently, this is DEN Special Projects' consistent interpretation. Therefore, the costs presented and paid for under the Great Hall Program were correct.

Regarding the Auditor's finding that "Hensel Phelps also exceeded the 15% markup limit by layering markups", we acknowledge this case may occur on limited basis when there are numerous tiers of subcontractors. At a 15% limit, the Denver General Contract Conditions would only allow for two tiers of subcontractors (12% for subcontractor performing the work + 3% for supervising subcontractor). However, on a large complex program such as the Great Hall, there are cases where there are more than two tiers of subcontractors, which would lead to the 15% being exceeded. Fortunately, the Denver General Contract Conditions allows for this situation in Title 1104.2.E(5) which states: "...Written justification and approval shall be required for any percentages exceeding a total of fifteen percent (15%)". In the cases where this occurs, the contractor's proposal details the multiple tiers of subcontractor costs and their markups. Once submitted, DEN reviews them to ensure they're fair and reasonable prior to final approval.

RECOMMENDATION 1.7

Oversee contractors' awards for self-performed work

Denver International Airport's Special Projects Division should ensure its project managers are actively involved when any contractor awards itself subcontracted work to ensure the terms of the primary construction contract are adhered to with regard to awarding self-performed work.

Specifically, project managers should ensure the work is awarded in a fair and reasonable manner and, to the greatest extent possible, is based on open competition.

At a minimum, project managers should:

- Obtain and review all bid packages submitted by prospective subcontractors to ensure at least three bids for each trade are received — and if not, that the



<p>contractor makes an effort to re-bid — and that the lowest, responsive, and qualified bidder is selected.</p> <ul style="list-style-type: none"> • Review all bid packages for reasonableness — such as ensuring a contractor does not bid on self-performed work that they will subsequently subcontract out. • Approve all self-awarded work. • Obtain and review all self-performed work agreements entered into by the contractor so that managers are familiar with the terms and conditions contained within them and can ensure all costs are reasonable. 		
Agree or Disagree with Recommendation	Target date to complete implementation activities (Generally expected within 60 to 90 days)	Name and phone number of specific point of contact for implementation
Disagree	NA	NA

Narrative for Recommendation 1.7

DEN Special Projects performed a detailed review of the Contractor's proposed self-performed work packages. DEN Special Projects has seen no evidence that the CMGC structured the bidding for its self-performed work packages to its advantage and would have required the Contractor to re-do a package if this occurred.

As noted in the response to Recommendation 1.4, DEN will expand upon its current Program guidelines to document the Program's detailed policies and procedures already in place. These will include procedures for strengthening the documentation process for the subcontractors chosen to work on the Program. To illustrate the magnitude of the CMGC's self-performed work on Phases 1 & 2, both were 0.73% of the overall costs.

Regarding each specific Recommendation included within 1.7, DEN has the following responses:

Oversee contractors' awards for self-performed work

Denver International Airport's Special Projects Division should ensure its project managers are actively involved when any contractor awards itself subcontracted work to ensure the terms of the primary construction contract are adhered to with regard to awarding self-performed work.

Specifically, project managers should ensure the work is awarded in a fair and reasonable manner and, to the greatest extent possible, is based on open competition. At a minimum, project managers should:

- Obtain and review all bid packages submitted by prospective subcontractors to ensure at least three bids for each trade are received — and if not, that the contractor makes an effort to re-bid — and that the lowest, responsive, and qualified bidder is selected. **Disagree with this finding – As discussed above,**



the Contract does not require three bids for a bid process to be "fair and open competition, based upon competitive bids". Further, to date, the Contractor has held 548 outreach events and ensured fair and open competition for each bid package.

- Review all bid packages for reasonableness — such as ensuring a contractor does not bid on self-performed work that they will subsequently subcontract out. **Disagree with finding – also as discussed above, this finding relates to one bid package and there was nothing improper about it.**
- Approve all self-awarded work. **Agree – While DEN Special Projects does approve this, it will adopt a consistent documentation process.**
- Obtain and review all self-performed work agreements entered into by the contractor so that managers are familiar with the terms and conditions contained within them and can ensure all costs are reasonable. **Disagree with finding - DEN already performs this requirement.**

In addition, regarding the specific findings included with Recommendation 1.7, DEN has the following responses:

Auditor finding (pg. 30): “Airport officials were unaware subcontracts existed for Hensel Phelps’ self-performed work - Airport officials may not have been actively involved with reviewing, managing, and procuring the contractor’s self-performed work. Specifically, they were not aware of the separate subcontracts that Hensel Phelps entered into that covered its self-performed work for both phase one and phase two of the current Great Hall project. Instead, officials incorrectly believed Hensel Phelps’ subcontracted work was included under the guaranteed maximum price listed in individual task orders. In fact, we found Hensel Phelps entered into a subcontract agreement with itself for both phases.”

DEN response: This is incorrect; DEN was aware of, and reviewed in detail, these proposed scopes of self-performed work that became part the GMPs for both Phase 1 and Phase 2. The Task Order Change Orders (TOCO) which established the final GMP for both phases included all of the CMGC's self-performed scopes of work.

For Phase 1, the CMGC's self-performed work included doors, frames, and hardware (DFH) as well as rough carpentry. The CMGC's proposal for the DFH scope was presented to DEN prior to the execution of the final GMP. DEN's initial Task Order with the CMGC, executed on 3/5/2020, provided the initial \$77,879,000 in funding to allow the initial scopes of work to be developed and bought-out under subcontracts while the design and final GMP were being developed. At the submission of their final GMP proposal, the CMGC included these approved DFH costs in their summary and also submitted new proposed costs for their rough carpentry scope of work. When the final GMP was reviewed and approved by DEN through execution of the TOCO, these rough carpentry costs were approved as well. There was no “incorrect belief” about the cost of the self-performed work.



For Phase 2, the CMGC's self-performed subcontracts included building concrete and doors, frames and hardware (DFH). Both of these scopes of work were reviewed by DEN, approved, and included in the final GMP submission.

Auditor finding (pg. 30): “Airport officials were unaware subcontracts existed for Hensel Phelps’ self-performed work - As discussed on page 21, airport officials needed 33 days to provide us with project subcontracts for the current Great Hall project after we requested them. Copies of subcontracts should have been easily accessible, readily available, and already reviewed by airport officials. The extended time it took the airport to provide us with the subcontracts, coupled with our need to request subcontracts that were not initially provided, indicates airport managers may not have had copies of subcontracts. Not having copies of these documents in their possession further illustrates how airport staff overrelied on Hensel Phelps.”

DEN response: As stated in a previous comment, this assumption is incorrect. DEN had copies of all subcontracts. The Auditor's original request for project documentation included large volumes of documents made up of thousands of pages of back-up material. Given the time and personnel resources needed to compile these documents, while DEN was also fully engaged in moving 20 airlines within the Terminal, DEN developed a schedule to transmit the requested documents in stages over the course of several weeks. This schedule was shared with the auditor and the documents were transmitted on the scheduled dates. The referenced subcontracts were included in the last package of documents transmitted, which happened to be 33 days.

Auditor finding (pg. 30): “The airport paid Hensel Phelps nearly \$242,000 more than what was authorized for subcontracted work - Because the airport was not actively involved in how Hensel Phelps hired itself as a subcontractor, the airport paid Hensel Phelps \$241,565 more than the guaranteed maximum price authorized by a task order for phase one of the current Great Hall project. There also was no written approval for the excess work that Hensel Phelps self-performed nor was that work competitively bid out to ensure a fair procurement.”

DEN response: This is incorrect, DEN was actively involved with all subcontracting, including self-performed work by the Contractor. The Auditor was provided with a subcontract change order log indicating all of the additional costs proposed by the CMGC for their Phase 1 self-performed work, as well as DEN's review documents of those proposals. Each proposal was reviewed by DEN to ensure the costs were fair and reasonable and the CMGC was not overpaid. The majority of these requests were under \$10k, so competitively bidding such small miscellaneous scopes of work is unreasonable given the fast-track nature of this project and effort to bid such small scopes.



In regard to the statement made regarding "using unrelated allowances" to fund some of these small costs, the Auditor disagrees with DEN's use of available allowances. DEN's management of Allowances is consistent with the Contract language and general project accounting principles. The Contract stipulates that "Whenever costs are more than or less than the allowances, overruns and underruns in allowances will first come from owner's contingency and if insufficient owner's contingency remains, the Task Order shall be adjusted accordingly by change order." In these cases, DEN may reallocate allowances with underruns/overruns appropriately to other areas of work to avoid the need for a Task Order Change Order and to stay within the Project's overall budget. This is a common risk-mitigation and budgeting technique in construction. Therefore, the Auditor's statement of misuse of allowances is unfounded.

Auditor finding (pg. 32): ***"Subcontracted work Hensel Phelps awarded to itself was not procured in a fair and reasonable manner – Managers of the Special Projects Division who are responsible for overseeing the Great Hall project did not ensure Hensel Phelps followed a fair and reasonable bidding process when awarding itself a subcontract for self-performed work."***

DEN response: As stated previously, the CMGC has held 548 outreach events and ensured fair and open competition for each bid package, including self-performed work. The CMGC employed a wide-ranging solicitation program to promote not only fair and open competition, but one that maximized M/WBE participation for the entire project.

Auditor finding (pg. 32): ***"Hensel Phelps structured the bidding for concrete work to its advantage, potentially reducing submissions by other prospective subcontractors – Leading practices in construction say project owners must be aware that contractors can use their inside knowledge to obtain self-performed work. For example, a contractor might do this by combining two types of subcontracted work into a single bid, knowing no subcontractor can perform both. One bid package for phase two of the Great Hall project solicited subcontractors for concrete work that included both specialized work with vertical concrete columns and routine work with horizontal concrete. Airport officials said Hensel Phelps intended to perform the vertical concrete work from the beginning because the company had a lot of experience with this skilled labor. Vertical concrete work is complex and high risk, while horizontal concrete work is what any concrete construction company is more accustomed to performing. Therefore, grouping together the horizontal and vertical portions of the work in a single bid package limited the competition, fairness, and transparency required by the contract."***

DEN response: Thirty different subcontractors were solicited to bid on Phase 2's concrete work. As discussed above, the CMGC received two bids, and both of those bids were only for the horizontal concrete portion of work. As stated in previous comments, there were two elements of work that made-up the entire



scope of "building concrete": vertical concrete and horizontal concrete. The CMGC bid the vertical concrete the day for \$1,115,407. The CMGC then added the lowest responsive bidder's horizontal concrete proposed amount of \$635,851, resulting in a total "building concrete" amount of \$1,751,258. The CMGC did not markup the horizontal concrete bidder's proposal, and combined both elements of building concrete into their subcontract recommendation to DEN. The CMGC also could have recommended to DEN that a subcontract be issued to them for vertical concrete in the amount of \$1,115,407 and a separate subcontract be issued to the horizontal concrete subcontractor for \$635,851, but they did not. As they did not include any markup on the horizontal work, the result would have been exactly the same regardless of which contract approach the Contractor used. DEN Special Projects has seen no evidence that the CMGC structured the bidding for their self-performed work packages to its advantage and the amount of self-performed work is limited.

Auditor finding (pg. 33): “Airport managers allowed Hensel Phelps to self-award some work, which the company then subcontracted out to another subcontractor - Hensel Phelps was self-awarded the concrete work for phase two for \$1,751,258. Hensel Phelps’ bidding documents make clear the company intended to perform only the vertical portion of the work, although it was awarded both the horizontal and vertical concrete work. We learned from the contractor that Coloscapes Concrete was hired as a second-tier subcontractor, working to perform the horizontal concrete work that was originally awarded to Hensel Phelps. This goes against leading practices, which say a contractor should not bid on self-performing work and then subcontract that work out, because the contractor could increase costs this way.⁶⁰ Hensel Phelps staff told us they charged no markups as the supervising subcontractor — but neither Hensel Phelps nor the airport provided documentation to confirm that. Therefore, we cannot determine whether the airport was overcharged. The risk exists that this could happen on subsequent projects if airport officials do not provide more adequate oversight of subcontractor awards.”

DEN response: Restated again from a previous comment: In the case of building concrete, there were two elements of work that made-up the entire scope of "building concrete"; vertical concrete and horizontal concrete. The CMGC bid the vertical concrete the day before bids were due from other subcontractors. The CMGC's vertical concrete bid was \$1,115,407 as indicated in the report. After analyzing the other bids, the CMGC added the lowest responsive bidder's horizontal concrete proposed amount of \$635,851. This resulted in a total "building concrete" amount of \$1,751,258. The CMGC did not markup the horizontal concrete bidder's proposal, and combined both elements of building concrete into their subcontract recommendation to DEN. Had the CMGC recommended to DEN that a subcontract be issued to them for vertical concrete in the amount of \$1,115,407 and a separate subcontract be issued to the horizontal concrete subcontractor for \$635,851, the result would have been exactly the same.



Auditor finding (pg. 34): *“No evidence exists that Hensel Phelps’ bid for subcontracted work was submitted before other bids for phase two - To ensure a fair and competitive bidding process, as required by the contract, Hensel Phelps’ bids for subcontracted work should have been submitted before any other potential subcontractors’ bids. Doing so would eliminate the opportunity for Hensel Phelps to adjust its bid after seeing the bids of potential competitors. However, we found that Hensel Phelps submitted its bid for door and hardware installation on the same day another prospective subcontractor — Metro Doors LLC — submitted its bid. Because both bids were submitted on the same day, Hensel Phelps’ self-performed work for the door and hardware installation may not have been procured in a fair and reasonable manner that ensured open competition to the greatest extent possible.”*

DEN response: The Auditor references SC-5 in their statement "as required by contract". However, SC-5 does not state that the GC needs to provide their self-perform bid before a subcontractor’s. In any case, the CMGC did provide their self-performed concrete bid the day before any other bids were due. In the case of the \$18,614 DFH bid, the CMGC provided it at the same time as the other bidder. This was irrelevant because the other bidder was deemed nonresponsive as they excluded certain work requirements from their bid.

Auditor finding (pg. 34): *“The airport did not provide a written review of pricing for some self-performed work before Hensel Phelps awarded itself a subcontract - Lastly, airport managers failed to provide a written review of pricing for Hensel Phelps’ door and hardware installation bid for phase two of the project, as they had done for the concrete work. When we asked airport officials about this, they said they did not perform the same level of review because the bid was for only \$18,614 in work — a significantly lower amount than for the \$1.7 million concrete bid.”*

DEN response: This is correct. The amount of the DFH proposal for Phase 2 was \$18,614 and given the minimal scope, it was reviewed in our weekly cost review meeting. After review and discussion, it was found to be fair and reasonable and approved. We acknowledge there could have been better documentation of the process in this instance, therefore, written documentation of the reviews will be provided in the future.

RECOMMENDATION 1.8

Validate and reconcile project allowances:

Denver International Airport’s Special Projects Division should:

- Ensure division staff understand how construction allowances are defined by industry standards and that they understand how allowances should be tracked, reconciled, and used.



<ul style="list-style-type: none"> Require contractors to track and reconcile actual costs incurred and compare them against the estimated allowance amount to ensure they do not overcharge the airport. Require contractors to submit supporting documentation, such as vendor invoices and time sheets, to allow the airport to verify actual costs incurred — that is, that the actual costs are accurate and allowable under the contract terms. 		
Agree or Disagree with Recommendation	Target date to complete implementation activities (Generally expected within 60 to 90 days)	Name and phone number of specific point of contact for implementation
Disagree	NA	NA

Narrative for Recommendation 1.8

Contract Article IV.B.iv stipulates that "Whenever costs are more than or less than the allowances, overruns and underruns in allowances will first come from owner’s contingency and if insufficient owner’s contingency remains, the Task Order shall be adjusted accordingly by change order." Therefore, per the contract, reallocation of allowances with overruns or underruns to other areas of work is allowed. DEN Special Projects is properly managing allowances, the Auditor’s recommendation is not practical and is contradictory to the Contract. Using allowances in this way allows the project to address unanticipated costs, items that were not fully known or designed, or a scope that was not fully known when the Contractor's proposal was done. Moving funds to other allowances or to contingency allows an owner like DEN to manage overall project costs and risks within one overall budget.

DEN is diligent in actively managing allowances throughout all phases, including their initial development, tracking (and updating balances) at weekly cost meetings, and at the final reconciliation. DEN reviewed each request for allowance usage from the contractor, which included the appropriate supporting documentation, and ensured they were fair and reasonable.

Validate and reconcile project allowances:

Denver International Airport’s Special Projects Division should:

- Ensure division staff understand how construction allowances are defined by industry standards and that they understand how allowances should be tracked, reconciled, and used. **Disagree with finding - DEN Special Projects staff involved in managing Allowances understand what the Contract requires and how Allowances are to be managed.**
- Require contractors to track and reconcile actual costs incurred and compare them against the estimated allowance amount to ensure they do not overcharge the airport. **Disagree with this finding – the contract does not require the CMGC**



or DEN to expend allowance funds only on a time and material basis. Allowances can be expended through any method of pricing permitted by the contract, including time and material, lump sum, or any other basis as DEN deems appropriate.

- Require contractors to submit supporting documentation, such as vendor invoices and time sheets, to allow the airport to verify actual costs incurred — that is, that the actual costs are accurate and allowable under the contract terms. **Disagree with this finding - the contract does not require the CMGC or DEN to expend allowance funds only on a time and material basis. Allowances can be expended through any method of pricing permitted by the contract, including time and material, lump sum, or any other basis as DEN deems appropriate.**

In addition, regarding the specific findings included with Recommendation 1.8, DEN has the following responses:

Auditor finding (pg. 36): "...If the flooring cost more than the allowance, Hensel Phelps would adjust the construction contract and the airport would pay the difference. If the actual costs were less, Hensel Phelps would again adjust the contract..."

DEN response: This statement is in conflict with the Contract. Article IV.B.iv reads, "Whenever costs are more than or less than allowances, overruns and underruns in allowances will first come from owner's contingency and if insufficient owner's contingency remains, the Task Order shall be adjusted accordingly by change order." In a case such as the flooring example the Auditor uses, DEN may reallocate funds from allowances with underruns to cover the costs and avoid the need for a change order to amend to the task order's GMP.

Auditor finding (pg. 37): "However, we found airport staff...did not properly verify and use allowances for either phase one or phase two of the current Great Hall Project. Specifically:

- 1. Once the airport and Hensel Phelps established an allowance for a specific portion of the project- such as drywall, for example - airport staff did not later require Hensel Phelps to submit documentation that could be used to validate and reconcile the actual costs against the allowance to see what adjustment were needed. Rather, the airport over relied on Hensel Phelps by allowing the company to adjust allowance amounts without any verification.*
- 2. On numerous occasions, the airport moved allowance amounts that were established for one particular scope of work and transferred them to other areas of the project where an allowance was either not set up at all or where an allowance was set up but was too low to cover actual costs."*



DEN response: (1) The statement that "airport staff did not later require Hensel Phelps to submit documentation that could be used to validate and reconcile the actual costs against the allowance" is incorrect. Each request for allowance usage was submitted by the CMGC with a detailed proposal (PCO) which was then reviewed by DEN to determine if it was fair and reasonable. Approved PCO's were then logged and tracked in their appropriate Allowance Log. DEN provided the summary Allowance Logs for P1 and P2 to the auditors on multiple occasions. These thoroughly document every individual PCO cost expending Allowance funds. These PCOs are the actual cost "documentation that was used to validate and reconcile actual cost against the allowance". DEN was diligent throughout the project in actively managing Allowances through the following stages: their initial development for GMP, at weekly cost meetings where cost requests were assigned to appropriate funding sources such as Allowances, reallocation of allowances (as necessary), and final reconciliation of allowances.

The contract does not require the CMGC or DEN to expend allowance funds only on a time and material basis. The Auditor's report is defining "Actual Costs" to be the actual time and material expended to complete the work. Allowances can be expended through any method of pricing permitted by the contract, including time and material, lump sum, or any other basis as DEN deems appropriate for the PCO. The "Actual Cost" is the cost paid by the CMGC based on the billing method determined by DEN. If a method other than time and material is chosen, DEN would not review the time and material costs for the work as that is not the basis for payment to the Contractor. The Allowance usage here was submitted and approved on a lump sum basis. Therefore, the actual costs incurred by the CMGC or its subcontractors are not reviewed on a time and material basis - DEN pays a lump sum for each unit or type of work specified in the approval regardless of the time and material cost paid by the CMGC.

DEN response: (2) Allowance funding sources were reconciled periodically throughout the project. IBT stands for "Internal Budget Transfers." IBTs are designed to keep track of any movement between Allowance items. As the project progressed, DEN was able to reconcile Allowances and then to remove Allowances that were no longer necessary, were drawn down, or completely closed to simplify the overall Allowance and GMP reconciliations.

Auditor finding (pg. 37): "Airport staff misunderstand how project allowances are defined, should be tracked, and accounted for."

DEN response: DEN staff are fully aware of the definition of Allowances and have shared the proper Contract reference with the Auditor to refer to. Defining Allowance usage by external reference to AIA documents or auditing manuals in lieu of the actual Contract is inappropriate. Note that the Contingency and



Allowance Log that is being utilized for P1 and P2 is a very detailed spreadsheet that tracks individual cost entries as well as summarized all the individual accounts in separate tabs (Allowance, Construction Contingency, Owner Contingency, etc.).

Auditor finding (pg. 37): “When the airport and Hensel Phelps agree on an allowance estimate for a particular portion of work, the airport pays Hensel Phelps the entire allowance regardless of what the actual cost was.”

DEN response: This statement is incorrect. As described to the auditors and demonstrated by the individual Allowance logs submitted to them, each and every incremental allowance usage was charged with individual Potential Change Orders (PCOs) that represented actual costs. All PCO cost transactions were properly recorded in the appropriate log for each Allowance. In no case was an Allowance wholly paid as a lump sum or without proper cost documentation. All PCOs were reviewed by DEN to confirm pricing was fair and reasonable.

Auditor finding (pg. 37): “In addition to airport staff misunderstanding how allowances should work, there could be a failure with how the airport develops its initial allowance estimates. By moving allowance amounts...it indicates that the airport...may have overestimated an allowance in one area and under estimated it in another.”

DEN response: DEN has previously explained to the auditors how the original allowances are established; through a collaborative effort between the CMGC and DEN. Any member from the integrated team (DEN, Architect, or CMGC) may provide input regarding what scope items may be included as an allowance. Allowance amounts are typically established through a rough order of magnitude (ROM) budget amount using institutional knowledge of the airport and historical cost databases. The CMGC establishes an initial amount, which is then presented for DEN's review. Ultimately, the DEN SVP approves all allowance amounts included in the GMP through execution of the task order.

Allowances are for “known unknowns” meaning that the items of work is known but the exact scope or cost is unknown. This is in comparison to contingency, which is designed to provide budget for “unknown unknowns” or unanticipated things that arise during construction. Given that most allowances are developed with very little or no detailed information with which to develop a more specific or accurate estimate, allowances will typically either be above, or below the initial value. Thus, it is unreasonable to say that this is a “failure with how the airport develops its initial allowance estimates” if those allowances are over or under those initial amounts. That is why they are allowances and not more specific estimates or actual costs for a scope of work or item.



Auditor finding (pg. 37): *“Because of this, the airport exposes itself to overpaying...by: Not requiring Hensel Phelps to submit documentation that the airport could then use to validate actual costs against the amount set aside.”*

DEN response: This statement is incorrect. See above for responses for explanations regarding the submission of PCOs for each request, proper charging of same to individual Allowance accounts, and DEN's review of each request to determine that it's fair and reasonable.

<p>RECOMMENDATION 1.9 Appropriately use project allowances: In conjunction with Recommendation 1.4, Denver International Airport’s Special Projects Division should include in its policies and procedures specific guidance on how allowances are to be estimated and used in a construction project. At a minimum, this should include prohibiting the use of allowances for any other costs of work except for the specific scope of work an allowance was initially created for.</p>		
Agree or Disagree with Recommendation	Target date to complete implementation activities (Generally expected within 60 to 90 days)	Name and phone number of specific point of contact for implementation
Disagree	NA	NA

Narrative for Recommendation 1.9

Allowances are a tool to mitigate risk and manage the budget for large complex infrastructure projects. Per the Contract, DEN Special Projects is properly managing Allowances. As stated in the response to Recommendation 1.8, DEN has appropriately used project allowances on the Great Hall Program. See the discussion above.

<p>RECOMMENDATION 1.10 Verify general conditions billing rates: Denver International Airport’s Special Projects Division should require contractors to provide a detailed breakdown of the components making up general conditions costs on all future projects. Staff should document their review of this schedule to include allowable and unallowable items and the reasonableness of individual items.</p>		
Agree or Disagree with Recommendation	Target date to complete implementation activities (Generally expected within 60 to 90 days)	Name and phone number of specific point of contact for implementation
Disagree	NA	NA



Narrative for Recommendation 1.10

Contract Article IV.G indicates that "The City and the Contractor agree that the wages and burden for the personnel shall be charged at stipulated fixed rates set forth which will be agreed to in the Task Order(s)."

During the procurement, proposers competed on price in addition to other factors. During the evaluation and selection phase of the project, DEN reviewed proposed billing rates from the three proposers and determined that the selected CMGC proposed the lowest rates for a majority of the DEN requested positions. DEN also reviewed the rates to determine if they were reasonable based on panel members' knowledge of the Denver construction market and the costs of other contractors for the City. This was a factor in DEN determining that the CMGC's staff billing rates were competitive, fair and reasonable.

The purpose of executing a task order or contract with set rates or percent general conditions costs is so that DEN does not have to take the significant amount of time required to validate those costs before contracting or to monitor those costs after contracting. Once the contract is executed, the rates or % are simply a specified cost within the contract. This is easier to manage and places the risk on the contractor that they can manage the general conditions within the amount specified in the contract. Further, having contractors propose on these costs allows for competition between them on rates, or in the event that DEN is limited by legal requirements, DEN can set a percent or rate and the proposers must accept the required rate.

Please contact Michael Sheehan at 303-342-2139 with any questions.

Sincerely,

Michael Sheehan, PE
SVP – Special Projects

cc: Valerie Walling, CPA, Deputy Auditor
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