



Seattle Public Schools Office of Internal Audit

Internal Audit Follow-Up Report Status of Prior Capital Findings and Recommendations

Issue Date: March 2, 2021



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Status of Prior Findings and Recommendations

In accordance with the fiscal year 2020 capital audit plan, we reviewed the status of the district's implementation of prior capital audit recommendations. This review examined prior corrective action as well as the district's ongoing efforts to implement improvements.

Construction related audits, including construction cost audits, are designed to provide an independent and objective perspective to enhance district accountability and increase taxpayer confidence in Building Excellence (BEX) and Buildings, Technology, and Academics (BTA) capital programs.

This status report describes action taken to date to address prior findings and recommendations. For the following audited areas, this report provides the background and/or facts behind the finding, the specific recommendation made by Internal Audit, and steps taken by management to resolve the issue.

Standard Procedures for Alternative Subcontractor Selection Process
Lincoln High School Project MC/CM Audit
Bagley Elementary School Project EC/CM Audit
Bagley Elementary School Project MC/CM Audit
Certification to Use GC/CM
Verification of Mandatory Bidder Responsibility Criteria
Design Phase Authorizations
Monitoring of Contractor Insurance Coverage
Use of Critical Path Method Schedules

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Standard Procedures for Alternative Subcontractor Selection Process

Background

Washington State’s general contractor/construction manager (GC/CM) contracting procedures allow qualifications-based subcontracting for mechanical and electrical work. The law permits the selection of these trades early in the life of the project, through a process very similar to the process used by public entities to select a GC/CM. Rather than award subcontract packages to the lowest responsible bidder, the public owner and the GC/CM may select these subcontractors based on qualifications, fee, and general conditions. This allows the subcontractors to assist with preconstruction services and enables a team approach to solving problems on the project. Public owners issue the final decision to use an early selection process for mechanical and electrical subcontractors in the form of a written final determination.

The alternative process is referred to as mechanical contractor/construction manager (MC/CM) when it is used to select a mechanical subcontractor and electrical contractor/construction manager (EC/CM) when it is used to select an electrical subcontractor. These methods are available only for mechanical and electrical trades and only for subcontracts that exceed \$3 million.

MC/CM and EC/CM contracts are cost reimbursable with a guaranteed maximum price (GMP). Independent cost audits are required to confirm actual costs incurred. Cost audits verify the contractor’s cost of work, which includes labor, equipment, materials, subcontractors, rentals, and site expenses, as well as agreed-upon fees for the cost of work.

Recommendation

We recommended that Capital establish a set of standard procedures to follow when using MC/CM and EC/CM and maintain within e-Builder documentation that demonstrates compliance with the alternative subcontractor selection process.

Action/Status

Capital created an MC/CM and EC/CM process decision tree which has been documented and is maintained in eBuilder. This process standardizes the practice of issuing final determinations and ensures timely independent cost audits of every MC/CM and EC/CM contract.

Lincoln High School Project MC/CM Audit

Background

The district used the alternative, early selection process to hire the mechanical subcontractor for the Lincoln High School Phase I project. State law requires public owners that use this method to undergo an independent cost audit to confirm the actual accrual of costs.



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Recommendation

We recommended Capital have a cost audit of the \$11.8 million Lincoln mechanical contract before final payment to the GC/CM. This would allow any potential over charges to be deducted before final payment.

Action/Status

The independent audit found that the district was due a credit of \$103,829, an amount eligible to be deducted from a future payment to the GC/CM. Prior to the start of the independent audit, the subcontractor examined its own records and found it had billed the district \$46,623 more than its recorded costs. Auditors verified this overpayment and found an additional \$57,206 the district had been overbilled. The audit credit of \$103,829 has been deducted from the GC/CM's final pay application. The cost of the audit was \$10,000.

Bagley Elementary School Project EC/CM Audit

Background

The district used the alternative subcontractor selection process to procure electrical work on the Daniel Bagley Elementary School project. A cost audit is required to verify that only allowable costs were billed to the district.

Recommendation

We recommended an independent cost audit of this \$4.9 million contract in accordance with alternative subcontractor selection process statutes.

Action/Status

The original contract was subsequently converted from GMP to lump sum. At that time, an incentive clause was inserted that guaranteed the district savings of \$404,873 from the original estimated maximum allowable subcontract cost. Any savings above this amount would accrue to the subcontractor, and the subcontractor could bill 100 percent of the contract value. The cost for this audit was \$14,000.

Bagley Elementary School Project MC/CM Audit

Background

The mechanical work on the Daniel Bagley Elementary School project was completed using the mechanical contractor/construction manager delivery method. An independent cost audit is required to substantiate the actual accrual of the subcontractor's costs.

Recommendation

We recommend an independent cost audit of the \$4.4 million Bagley mechanical contract to comply with state law.



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Action/Status

At the time of the audit, the mechanical contractor had not submitted its final pay application. Auditors substantiated costs to date; no unallowable costs were billed to the district. Auditors calculated the amount of the final bill and determined that after the final bill, there will be \$356,855 remaining on the contract (unbilled). The district will submit a deductive change order to reduce the GMP by this amount. The cost for this audit was \$14,000.

Certification to Use GC/CM

Background

The legislature first authorized the use of alternative project delivery methods in 1991. Public bodies in Washington state that wish to use GC/CM must either go before the Capital Projects Advisory Review Board's (CPARB) Project Review Committee for approval of each individual project or apply for a three-year certification, if the public body has demonstrated the ability to successfully deliver GC/CM projects. The district has successfully used GC/CM for many of its public works projects over the years.

Recommendation

We recommended the district apply for the three-year certification to use GC/CM contracting procedures. The Project Review Committee would determine, based on the district's experience and qualifications, whether the district has the capacity to decide when GC/CM is appropriate and to effectively discharge this alternative contracting method.

Action/Status

District staff performed an analysis of the advantages of certification, based on the district's experience using GC/CM for seven BEX IV projects. That analysis found that the current cost of \$20,000 - \$25,000 for each project application could be avoided if the district obtained certification. Former board directors indicated they appreciated the third-party determination concerning utilization of GC/CM construction as the third party is comprised of subject matter experts. For this reason, the analysis was not forwarded from the Operations Committee for consideration by the full board.

The district has extensive experience with the GC/CM project delivery method and has been encouraged by the project review committee to apply for certification. Additionally, the BEX/BTA Oversight Committee has recommended to the school board that the district apply for certification to use GC/CM. Under this plan, BEX Oversight would evaluate proposed projects and make a recommendation to the school board.

Verification of Mandatory Bidder Responsibility Criteria

Background

Before being awarded a public works contract, a bidder must meet certain criteria to be considered responsible. Bidders submit documentation to demonstrate mandatory bidder responsibility, but the public owner must verify the information prior to award.



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Recommendation

The district should verify that the contractor is registered; has a current unified business identifier (UBI) number; is not disqualified from bidding; has industrial insurance coverage, an Employment Security Department account, and a state excise tax registration number; meets apprenticeship utilization compliance requirements; meets public works and prevailing wage training requirements; and complies with labor laws.

Action/Status

Project managers now use the CPARB checklist to confirm that bidders meet responsibility criteria. Project managers should ensure they are using the most up-to-date checklist, as it is updated when laws change.

Design Phase Authorizations

Background

The architect's standard contract requires that the district give written authorization to proceed to the architect once schematic design documents have been accepted. The district should also have documentation to demonstrate that the architect was authorized to proceed to design development. This is important in evaluating whether cost controls are effective and working as intended.

Recommendation

We recommended the district provide written approval of design documents and authorization to proceed to the next phase of design for all projects and ensure project estimates are reconciled to the budget before allowing the design process to continue.

Action/Status

Capital created a template that is designed to provide written authorization to proceed to each phase of design and confirm that the project estimate was reconciled to the budget.

Monitoring of Contractor Insurance Coverage

Background

The district requires that its construction contractors maintain liability and builder's risk insurance at all times. A certificate of liability insurance with an additional insured endorsement should be provided to the district before work commences and 45 days prior to renewal, termination, cancellation, expiration, or alteration of the policy. The district should have procedures to ensure it obtains new certificates and endorsements when coverage expires.



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Recommendation

We recommended that project managers monitor liability insurance policy expiration dates and obtain renewal certificates with endorsements throughout the project and for one year after the contractor's obligations have been fully performed. For builder's risk insurance, we recommended project managers obtain renewal certificates until the work has been accepted by the district.

Action/Status

For contractors and consultants, project assistants maintain a log to track insurance expiration dates and document renewals obtained.

Use of Critical Path Method Schedules

Background

A construction project schedule allows the owner and contractor to properly coordinate the work and resources that are needed to timely complete a project. During construction, monthly updated schedules indicating the status of each activity are critical in understanding delays and which events are impacting the substantial completion date. An analysis of the schedule can assist in calculating time extensions, compensability, concurrency, liquidated damages, and actual damages.

The district required two commonly used scheduling methods from its construction contractors, bar chart and critical path method (CPM). Bar chart schedules primarily indicate when activities start, their duration, and finish date. CPM schedules, however, show interrelationships between activities, making it more conducive to assessing delay impacts. CPM schedules have become a standard tool for project control and for assigning responsibility for delays.

Recommendation

Internal Audit recommended that the district require CPM schedules for all major construction projects.

Action/Status

The district now requires CPM for schedules for all BEX and BTA projects that exceed \$5,000,000 and six months in duration.



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Management Response

Kim,

I have reviewed the attached report, made minor punctuation edits and agree with contents. Please note that I did add one sentence at the end of the GC/CM Certification Action status.