

**CALIFORNIA STATE UNIVERSITY,
STANISLAUS**

EDUCATIONAL SERVICES BUILDING

Final Report

October 4, 2002

PROJECT OVERVIEW

KPMG was retained by the California State University’s (CSU) Office of the University Auditor to perform a review of the CSU – Stanislaus (CSUST or the University) Educational Services Building. The project was constructed under the management of the campus.

The project consists of a new Educational Services Building of approximately 131,000 gross square feet and 81,000 assignable square feet of space. The new building contains three stories and a basement and was constructed to house all student services in a single location at the University. The project supports services such as:

- President’s Office
- Provost’s Office
- Several Vice Presidents’ offices
- Enrollment Services
- Academic Advising
- Graduate Studies
- International Studies
- Institutional Research
- Human Resources
- Conference Center
- Reprographics, mail services and storage

KPMG reviewed project records from the following firms involved in the project’s development and execution:

Contractor:	McCarthy Building Companies, Inc. (Newport Beach)
Architect/Engineer (A/E):	RSK Associates (San Francisco)
Project Management (PM) and Inspection (IOR):	Consolidated Construction Management

CONSTRUCTION BID PROCESS

The Notice to Contractors and the General Conditions indicated a construction estimate of \$21,070,000. However, the actual Bid Proposal Form stated a construction estimate of \$20,055,000. This \$1,015,000 difference could have affected the bidding process. The original Notice to Contractors indicated a bid date of October 14, 1999, and was revised to November 2 by Addendum #1.

Prior to bid, three Addendum were issued as follows:

- Addendum #1:* September 28, 1999 - Changed the bid date, modified the Project Manual Table of Contents, and revised drawings and various specification sections.
- Addendum #2:* October 13, 1999 – Revised drawings and edited some specification sections.
- Addendum #3:* October 22, 1999 - Added additional specification clarifications.

Recommendation:

1. The University should check the Bid Proposal Form be against other bid documents for consistency prior to issuance.

Campus Response:

1. The University will make every effort to insure that the bid proposal form information is consistent in the future. The campus will issue a memorandum documenting this procedure. A copy of the memorandum will be provided by January 2003.

The Abstract of Bids listed seven (7) responsive bidders. The low bidder was McCarthy Building Companies, Inc. (McCarthy) with a base bid of \$17,760,000. The initial specifications listed eight (8) deductive alternates. The alternates were as follows:

- Alternate 1:* Delete landscaping
- Alternate 2:* Delete irrigation system
- Alternate 3:* Delete solid polymer windowsills and replace with painted wood
- Alternate 4:* Delete acoustical wall panels and paint to match adjacent wall finishes
- Alternate 5:* Reduce carpet quality and provide four alternate options
- Alternate 6:* Eliminate vertical blinds in offices
- Alternate 7:* Delete worktops at open workstation areas
- Alternate 8:* Delete low height partitions at open workstation areas

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None of the alternates were accepted or incorporated into the original construction contract. McCarthy was awarded a construction contract in the amount of \$17,760,000 on November 8, 1999.

Additional findings include:

- The Abstract of Bids was appropriately completed and signed.
- McCarthy furnished an appropriate Payment and Performance Bond in the original contract amount as required.
- McCarthy Building Companies, Inc. is a California Corporation.
- The original construction period was to cover 669 calendar days.
- Liquidated damages were stated to be \$1,500 per day.
- Notice to Proceed indicated a start date of December 13, 1999.
- Original completion was established as October 13, 2001.
- Notice of Completion was recorded as February 5, 2002 (116 days after the original completion date).
- Extensions totaled 116 days and were included in three Change Orders throughout the project.

CONTRACTOR COMPLIANCE - SUBCONTRACTING PRACTICES

For this project, the "List of Proposed Subcontractors" (CM Form 701.04) identified 23 separate work divisions and subcontractors. The "Expanded List of Subcontractors" (CM Form 701.04 A), included the same 23 subcontractors.

Our review of the Contractor's records disclosed that B. G. Pipeline, the site utilities subcontractor, was substituted due to failure to agree to the terms and conditions of their subcontract. Allen A. Waggoner Construction, Inc. was the substituted subcontractor.

As part of the bid process review, McCarthy provided "Scoping Spreadsheets" with supporting documentation. We sampled bids for four trades, in detail, and found that McCarthy solicited 28 subcontractor bids for these particular trades. We found the bid practices employed on the project to be appropriate and in conformance with industry standards. The following trade bids were examined:

- **Glass and Glazing:** Five bids were received ranging from \$754,000 to \$1,275,000. The low bidder, Engineered Glass Walls, was issued a subcontract in the amount of \$754,000.
- **Fireproofing, Drywall, Lath and Plaster:** Eight bids were received ranging from \$1,447,000 to \$2,217,000. The low bidder, Sierra Plastering, was issued a contract in the amount of \$1,306,583 (excluding Fireproofing in the amount of \$140,417, which was separately subcontracted).
- **Plumbing and HVAC:** Ten bids were received ranging from \$2,731,000 to \$3,239,500. The low bidder, Champion Industries, Inc., was issued a subcontract in the amount of \$2,731,000.
- **Electrical:** Five bids were received ranging from \$1,950,000 to \$2,127,247. The low bidder, Collins Electric, was issued a subcontract in the amount of \$1,950,000.

Recommendation:

None

CONSTRUCTION CHANGE ORDERS

The construction contract incorporated 177 Change Order Requests (COR) totaling \$1,259,910 in 177 Change Orders. The changes added 7.09% to the original contract amount of \$17,760,000. The majority of changes can be attributed to University changes and settlements for time extensions.

Review of Contractor Documentation

In our standard review we evaluated change orders and traced subcontractor estimates to the actual subcontractor change orders. The Contractor furnished all subcontract files and a subcontractor change order report. In a review of approximately 82% of the total change orders, all subcontractor quotes and backup to change orders issued were traced and confirmed at the contractor level.

Change Order Markup

The General Conditions for this project allowed the following markup for overhead and profit as follows:

- 15% on the first \$50,000 of the general contractor's self performed work
- 10% on the general contractor's self performed work over \$50,000
- 10% on the first \$50,000 of direct costs for subcontracted work
- 7% on direct costs for subcontracted work in excess of \$50,000
- 6% credit fee on deductive changes

Labor Burden & Fringe

KPMG reviewed all change orders and found that McCarthy was paid a total of \$43,205 in labor costs that represents 4.2% of the total dollar amount of the change orders sampled.

McCarthy charged hourly labor rates on change orders that included all burden costs. We found their method for calculations included mark-ups for retirement and bonuses in the amount of 18.5%, which seem excessive and are not allowable by contract. Based on our experience, the actual amount should only include retirement benefits of approximately 5%. Since bonuses are discretionary, the inclusion of this cost is in violation of the General Conditions that allows for only direct costs for payroll taxes, unemployment tax assessments, benefits, workman's compensation, etc. While the impact of this overcharge was not material due to the relatively small amount of labor provided by the Contractor on this project¹, we note that such practices, if not monitored or reviewed, can result in significant non-allowable payments in cases where substantial labor charges are incurred.

McCarthy's payroll system posted actual costs to each payroll period. For example, once an employee's wages exceeded the State Unemployment Insurance (SUI) limit, the system would discontinue charging that cost. Additionally, it was obvious from the payroll data that only

¹ We calculate that the overcharge of 13.5% cost the University approximately \$2,255 on the total labor charge of \$43,205.

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employees entitled to benefits were charged for them. Labor burden and fringes charged to the project were as follows:

Management Employees Labor Burden Analysis	Burden Charged	To	Burden Charged	Average
Payroll Taxes – FICA	7.65%		7.65%	7.65%
Payroll Taxes - FUTA up to \$7,000	0.08%		0.08%	0.08%
Payroll Taxes - State Unemployment up to \$7,000	5.40%		5.40%	5.40%
Worker's Comp.	.77%		11.62%	2.10%
Health Benefits (management)	10.73%		12.06%	11.66%
Vacation (management)	5.77%		16.77%	11.99%
Overhead (401(k) and bonus accrual for mgmt., dental)	18.50%		18.50%	18.50%
Total	48.13%		72.08%	57.38%

Union Employees Labor Burden & Fringe Analysis	Burden Charged	To	Burden Charged	Average
Payroll Taxes – FICA	7.65%		7.65%	7.65%
Payroll Taxes – FUTA	0.08%		0.08%	0.08%
Payroll Taxes - State Unemployment	5.40%		5.40%	5.40%
Worker's Comp & Liability	4.07%		8.41%	6.24%
Union Fringe	20.59%		34.74%	26.35%
Total	37.79%		56.28%	45.72%

Change Order Report Analysis

The University provided a change order log that accurately reflected the source of each of the 177 changes. The following is the result of that report:

Type of Change	C.O. Totals	% of CO	% of Contract
4.1 Errors/Omissions from the Contract Documents	464,807	36.89%	2.62%
4.2 Unforeseeable job site conditions	5,210	0.41%	0.03%
4.3 Regulatory agency, bldg. code, safety, health	66,582	5.28%	0.37%
4.4 Originated by the University	717,392	56.94%	4.04%
4.5 Unavailability of specified materials	5,919	0.47%	0.03%
4.6 Other	-	0.00%	0.00%
CP's Not Coded	-	0.00%	0.00%
Total Change Orders	1,259,910	100.00%	7.09%
Original Contract Amount	17,760,000		
Total	19,019,910		

We found that the change order log was accurately prepared and properly presented.

Recommendation:

None

DESIGN COSTS

RSK Associates of San Francisco designed the CSU Stanislaus Educational Services Building. Their contract dated January 5, 1999, in the amount of \$855,000 was altered by the inclusion of 17 additional services totaling \$418,320. We performed a detailed review of the base contract and additional services. At the time of our review all phases of the base contract had been paid in full with the exception of the final 5% (or \$19,900) for Construction Administration. Of the 17 additional services, eight had not been paid in full and two appeared to have been overpaid. The following amendments were issued against the contract:

ESA No.	Description	Approved Amount	Paid Amount	Balance
1	Add'l 15% of square footage	20,000	19,825	175
2	Access compliance	4,406	4,406	0
3	Structural deficiencies	15,000	-	15,000
4	Add'l blueines/project manuals	1,052	1,541	(489)
5	Ground water/soil bearing capacity	69,010	63,588	5,422
6	Modify offices	7,500	1,488	6,012
7	Shingles	24,000	23,700	300
8	Reimbursable expenses	2,500	2,500	-
9	Interior design services	99,000	94,050	4,950
10	Non-compliance issues	34,128	34,128	0
11	Building upgrades	41,250	41,250	-
12	Landscape concept design	10,200	10,200	-
13	Design services	3,138	5,316	(2,178)
14	Security system/telecom revisions	5,450	5,450	-
15	Delete landscaping/hardscaping	2,700	2,700	-
16	Landscape redesign	59,980	47,984	11,996
17	Dry fire suppression/security system	19,005	17,105	1,900
Total		418,320	375,231	43,089

Recommendation:

- When additional service authorizations are issued, and it is later determined that the not-to-exceed prices are not billed to the maximum, a deductive change should be issued to close out the amendment. Conversely, the University should confirm whether or not two extra service agreements were overpaid and pursue recovery of the overpayments. (Currently, guidelines related to this issue are being added to SUAM for service agreements. Once published, refer to SUAM section 9786.03.)

Campus Response:

2. The University has developed a tracking system for extra service agreements. We are currently working with RSK Associates to reconcile their contract. If needed, changes will be issued against the extra service agreements by January of 2003. A reconciliation of any changes made will be provided by January 2003. The University will follow new SUAM guidelines when they are published.

PROJECT MANAGEMENT/INSPECTION SERVICES

CSU Stanislaus project files included a list of five project management firms that indicated a brief assessment of the services the firms typically provide. However, the University did not specifically receive Requests for Qualifications (RFQ) for the project. The list had been prepared from general qualification submittals previously received by the University.

Recommendation:

3. CSU Stanislaus should issue project specific Requests for Qualifications (RFQ) for consulting services on major capital outlay projects in accordance with the State University Administration Manual (SUAM) Section 9700.

Campus Response:

3. The University has been conforming to the practice of issuing project specific RFQ's. The recently issued Telecommunications Infrastructure project and RLV III project were in compliance with SUAM Section 9700. Copies of these RFQ's will be provided by January 2003.

The University selected Consolidated CM as the most qualified firm and awarded a service agreement in the amount of \$750,390. One additional service authorization, dated July 11, 2001, was issued in the amount of \$262,850.48. The authorization provided for additional services through December 30, 2001, material testing, and "other direct costs." The inclusion of materials testing in a PM contract is somewhat unusual and, in our experience, does not conform to best business practices.

Recommendation:

4. Wherever practical, the University should contract testing services separately from project management firms as suggested in SUAM Section 9785.

Campus Response:

4. SUAM Section 9785 is a new SUAM section since the inception of Project 98-722 contracts. The University has been conforming to this practice on the following current projects: Telecommunications Infrastructure and John Stuart Rogers Faculty Development Center, and will continue to do so for future projects. Documentation of this compliance will be provided by January 2003.

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Although the total payments did not exceed the total agreement, we found the totals paid varied significantly among the service discipline amounts approved. The following is an analysis of the agreement and expenditures:

Services Paid	Hrly Rate	Base Agreement	Additional Service	Approved Amount	Amount Paid	Balance
Scheduling/Claims Avoidance	95	23,180	13,680	36,860	64,600	(27,740)
Civil Engineering	85	3,400	-	3,400	7,735	(4,335)
Structural Engineer	90	3,600	-	3,600	2,423	1,177
MEP Engineer	80	3,200	-	3,200	1,600	1,600
General Conditions	95	3,800	-	3,800	3,800	-
Senior Project Manager	85	271,150	95,200	366,350	352,580	13,770
IOR	62	198,400	67,952	266,352	250,635	15,717
Scheduler	80	29,760	22,400	52,160	66,920	(14,760)
Estimator	80	4,800	-	4,800	7,440	(2,640)
Admin	35	98,100	33,600	131,700	117,935	13,765
Testing/Lab – CCM	N/A	86,000	15,000	101,000	102,411	(1,411)
Testing/Lab - Outside Vendors	N/A	-	-	-	14,392	(14,392)
Other Direct Costs	N/A	25,000	5,000	30,000	10,835	19,165
Expenses	N/A	-	10,018	10,018	-	10,018
Total Amounts Paid		750,390	262,850	1,013,240	1,003,306	9,934

Total fees paid for inspection, scheduling and cost consulting services totaled \$886,503 (excluding testing), representing 4.66% of total construction costs. This is higher than industry standards of 2.5% to 3.5%. The hourly rates paid by the University were substantially higher than the ranges suggested in SUAM (9785.02). However, the service agreement included a wider range of services than typically found on normal projects due to limited in-house staff resources.

Recommendation:

None

ACCOUNTING

As part of our work, KPMG reviewed CSU Stanislaus cost accounting reporting system and invoice processing practices. The University's current general accounting system does not specifically support capital outlay tracking. Facilities Planning and Operations utilize spreadsheet software to track construction expenditures, however these are all individual spreadsheets that do not automatically link or consolidate by project. We have found that most campuses are struggling with developing an appropriate cost reporting system that would also be useful as a project management tool.

Recommendation:

None

LIQUIDATED DAMAGES

The original construction contract provided for a 669-day construction schedule with an original completion date of October 13, 2001. Notice of Completion was dated February 5, 2002, 116 days after the original completion date. The delays were covered in the following three change orders:

CO No.	University Negotiated		McCarthy's Request	
	Amount	Days	Amount	Days
14	\$0	4	\$0	4
82	\$147,652	64	\$260,000	69
163	\$175,246	48	\$318,538	48
Totals	\$322,898	116	\$578,538	121

Changer Order No.14 was issued by the University and included a 4-day extension revising the completion date to October 16, 2001.

On March 28, 2001, McCarthy issued a letter to the CSU Stanislaus requesting a time extension of 69 days. On May 4, 1002 a 64-day extension was granted in Change Order No. 82. The University participated in numerous negotiations with McCarthy in evaluating time extensions and related costs pursuant to an equitable settlement. The following list of documented meeting notes and letters support the negotiations for Change Order No. 82 in the amount of \$147,652:

- February 8, 2001 - Time Extension Meeting - Attendees: McCarthy, CSU Stanislaus, RSK, and Consolidated CM.
- February 22, 1002 – Schedule/Time Extension/Acceleration Meeting - Proposed 67 day time extension - 15 non-compensable days and 52 compensable days at \$5,000/day or \$260,000 including subcontractor delays.
- March 9, 2001 - Letter from Consolidated CM to the University detailing recommendations per their review of the McCarthy time extension request.
- March 28, 2001 - Letter from McCarthy to Consolidated CM in response to March 9, 2001, recommendations that revised the request to a 69-day extension of which 45 days would be treated as compensable ($\$1,887/\text{day} \times 45 \text{ days} = \$84,915$ total compensation, excluding subcontractors) and 24 additional calendar days excusable yet not compensable.
- April 5, 2001 - Letter from McCarthy to CSU Stanislaus; discussed issues related to the McCarthy letter dated March 28, 2001.
- April 12, 2001 - Letter from Consolidated CM to CSU Stanislaus that further clarified issues relating to the March 28, 2001, letter from McCarthy and recommended several negotiation positions.

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- April 26, 2001 - Global Settlement Meeting – Attendees: McCarthy, CSU Stanislaus, CPDC (Chancellors office), and Consolidated CM. A 64-day extension was granted of which: 1) 35 calendar days would be considered as compensable and 2) 29 calendar days would be excusable yet not compensable. Compensation was made in the amount \$147,652 (\$4,219/day x 35 days) and the contract completion date was extended to December 19, 2001.

Based on the above, it appears the University was proactive and diligent in negotiating a fair settlement for the time extension issued in Change Order 82.

A 48-day extension was included in Change Order No. 163. A Global Settlement Meeting was held on November 16, 2001 to negotiate a settlement. Attendees included McCarthy, CSU Stanislaus, RSK and Consolidated CM. Of the 48-day extension granted, 22 days were treated as compensable and 26 would be treated as excusable yet not compensable. Compensation was in the amount of \$175,246 and the project completion date was extended to February 5, 2002 (116 days beyond the original completion date of October 13, 2001).

Recommendation:

None

MAJOR EQUIPMENT REVIEW

The initial review of Contract Documents and Specification was performed at the University during the week of February 18, 2001. The Contractor was on site and furnished the University with a Submittal Log, from which a sample was selected. Submittal records were provided and reviewed at the campus.

Of the submittals reviewed, all were traced from Project Specifications through submittal data and final acceptance. The equipment specified in Project Specifications was supported with required acceptance documentation. A project walk-through was conducted with representatives from McCarthy personnel in order to verify that specified and approved equipment had been provided and installed during construction.

The following equipment items and specific model data were approved and visually confirmed as installed at the campus:

Div. #	Brand	Model #	Description
10500	Republic Storage System	"Quiet" Single Tier 12 x 18	Metal Lockers
11450	ASKO USA	Model D1706	Dishwasher
14400	Pflow Industries	21-5, Load 5000#	Material Lift
15000	Rheem-Rudd universal	G100-200	Water Heater
15130	Weiss Series RBM and VBM	5VBM4	Veri-Angle Thermometers
15160	Bell & Gossett	2BC Series 1510	Centrifugal Pump
15440	Elkay	ENO-8-C	Electric Water Fountain (Basement)
15440	Elkay	ERP2-8-C	Electric Water Fountain (Flrs. 1, 2 & 3)
16614	Koehler Decision Maker 3+	G6-30	Controller

Recommendation:

None



CALIFORNIA STATE UNIVERSITY, STANISLAUS

801 West Monte Vista Avenue • Turlock, California 95382
(209) 667-3077 • FAX (209) 667-3350

Vice President for Business and Finance

RECEIVED
UNIVERSITY AUDITOR

NOV 15 2002

THE CALIFORNIA STATE
UNIVERSITY

DATE: November 15, 2002

TO: Larry Mandel
University Auditor

FROM: Mary Stephens, Vice President
Business and Finance

A handwritten signature in black ink, appearing to read 'Mary Stephens', written over the printed name in the 'FROM' field.

SUBJECT: CSU Stanislaus Response to Recommendations -
KPMG Audit Report on Construction Project 98-722
Educational Services Building

Enclosed, please find the campus response to audit recommendations 1 – 4 for Construction Project Number 98-722, Educational Services Building. We've enclosed a hard copy as well as the diskette with responses.

Please let me know if you have any questions.

cc: Marvalene Hughes, President
J. Patrick Drohan, Assistant Vice Chancellor
Robert Gallegos, Interim Associate Vice President for Facilities Services
Becka Paulsen, Assistant Vice President for Financial Services

THE CALIFORNIA STATE UNIVERSITY

CONSTRUCTION BID PROCESS

Recommendation:

The University should check the Bid Proposal Form against other bid documents for consistency prior to issuance.

Response: The University will make every effort to insure that the bid proposal form information is consistent in the future. The campus will issue a memorandum documenting this procedure. A copy of the memorandum will be provided by January 2003.

DESIGN COSTS

Recommendation:

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PROJECT MANAGEMENT/INSPECTION SERVICES

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Recommendation:

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THE CALIFORNIA STATE UNIVERSITY
OFFICE OF THE CHANCELLOR

BAKERSFIELD

CHANNEL ISLANDS

CHICO

DOMINGUEZ HILLS

FRESNO

FULLERTON

HAYWARD

HUMBOLDT

LONG BEACH

LOS ANGELES

MARITIME ACADEMY

MONTEREY BAY

NORTHRIDGE

POMONA

SACRAMENTO

SAN BERNARDINE

SAN DIEGO

SAN FRANCISCO

SAN JOSE

SAN LUIS OBISPO

SAN MARCOS

SONOMA

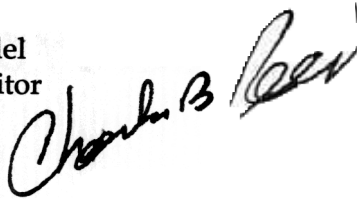
STANISLAUS

December 3, 2002

MEMORANDUM

TO: Mr. Larry Mandel
University Auditor

FROM: Charles B. Reed
Chancellor



SUBJECT: KPMG Draft Final Report on the *Educational Services Building*
(Project No. 98-722) at California State University, Stanislaus

In response to your memorandum of December 3, 2002, I accept the response as submitted with the draft final report on the *Educational Services Building* project at California State University, Stanislaus.

CBR/amd

Enclosure

cc: Marvalene Hughes, President
Richard P. West, Executive Vice Chancellor and
Chief Financial Officer