

**CONSTRUCTION**

**CALIFORNIA STATE POLYTECHNIC UNIVERSITY,  
POMONA**

**BUILDING 3 SEISMIC UPGRADE AND RENOVATION**

**Audit Report 09-28  
April 27, 2010**

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## **ABBREVIATIONS**

A/E	Architect/Engineer
BOT	Board of Trustees
Building 3	Building 3 Seismic Upgrade and Renovation
CPDC	Capital Planning, Design and Construction
CRB	Certification Review Board
CSPUP	California State Polytechnic University, Pomona
CSU	California State University
ESA	Extra Service Authorization
EO	Executive Order
FDC	Facilities Design and Construction
OUA	Office of the University Auditor
SUAM	State University Administrative Manual

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## **EXECUTIVE SUMMARY**

At its January 2009 meeting, the Board of Trustees directed the Office of the University Auditor (OUA) to review construction activity. Construction auditing had been performed by KPMG since fiscal year 1997/98 with coordination from the OUA. In fiscal year 2008/09, OUA staff began performing construction audits.

We visited the California State Polytechnic University, Pomona campus and the offices of the general contractor and selected subcontractors from October 12, 2009, through November 10, 2009, and audited the Building 3 Seismic Upgrade and Renovation (Building 3) project, focusing on the construction management policies and procedures and internal controls and processes in effect at that time.

Our study and evaluation did not reveal any significant construction management or internal control problems or weaknesses that would be considered pervasive in their effects on construction activity controls. However, we did identify other reportable weaknesses that are described in the executive summary and body of this report. In our opinion, the operational and administrative controls in effect for the Building 3 project were sufficient to meet the overall audit objective stated below.

As a result of changing conditions and the degree of compliance with procedures, the effectiveness of controls changes over time. Specific limitations that may hinder the effectiveness of an otherwise adequate system of controls include, but are not limited to, resource constraints, faulty judgments, unintentional errors, circumvention by collusion, and management overrides. Establishing controls that would prevent all these limitations would not be cost-effective; moreover, an audit may not always detect these limitations.

The following summary provides management with an overview of conditions requiring attention. Areas of review not mentioned in this section were found to be satisfactory. Numbers in brackets [ ] refer to page numbers in the report.

### **PROJECT DEVELOPMENT AND DESIGN [7]**

The California State University Office of General Counsel did not approve the service agreement between the campus and the Building 3 project architectural firm. In addition, the first Extra Service Authorization letter for additional architectural work, totaling \$25,060, was executed after the specified services were performed.

### **CONSTRUCTION MANAGEMENT AND ACCOUNTING [8]**

Certain contractor monthly payment applications contained minor mathematical errors in the calculation of retention. Two payment applications allowed for the full payment of materials stored on-site by the contractor, instead of the allowed 80 percent payment. In addition, the campus did not ensure that the general contractor included all required trade subcontractors on its expanded list of subcontractors submitted with its bid documents.

## **CHANGE ORDER ADMINISTRATION [10]**

An erroneous labor classification charged by one trade subcontractor and erroneous labor burden components included in the calculation of labor rates by another trade subcontractor inflated labor costs by \$4,454. Further, two trade subcontractors overcharged for material by \$2,663. In addition, payments to second-tier subcontractors, totaling \$6,577 erroneously inflated change orders for two trade subcontractors.

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## INTRODUCTION

### **BACKGROUND**

In 2004, the California State Polytechnic University, Pomona (CSPUP) campus received funding appropriations and began planning for the seismic renovation of one of the oldest buildings on campus, the Science Laboratories Building. In March 2005, the campus executed a contract with the architectural firm of HMC Architects, Inc., for \$1,295,000 to provide services related, and incidental to, design and construction; and in November 2005, Capital Planning, Design and Construction (CPDC) approved schematic plans for the CSPUP Building 3 Seismic Upgrade and Renovation (Building 3) project at a construction cost of \$14,850,000. In December 2005, the State of California Governor's Office of Emergency Services awarded a Federal Emergency Management Agency grant for \$2,166,354 for further seismic mitigations to the Building 3 project.

In June 2006, the campus solicited project bids and selected Kemp Bros. Construction, Inc., as the general contractor. The campus issued the Notice to Proceed on September 20, 2006, and executed an agreement with the general contractor at a construction cost of \$17,450,000. At the time of our audit, construction costs, including approved change orders totaled \$18,533,670. The campus received a Conditional Certificate of Occupancy on June 13, 2008, and filed a Notice of Completion on November 5, 2008.

The Building 3 project renovated approximately 72,000 gross square feet of classroom and laboratory space and included installing new electrical, mechanical, plumbing and telecommunication services; new fire/life safety systems; and upgraded energy-efficient lighting. The project also included abatement of hazardous materials, replacement of the existing roofing system, and the installation of two new accessible elevators. In addition, the project included installation of state-of-the-art Learning Centered Technology Initiative equipment in all instructional classrooms and labs. The building's original 1957 constructed exterior façade also underwent rehabilitation, which included the replacement of all glazing and window frames with an energy-efficient window system.

The CSPUP campus managed the Building 3 project, and it chose the Design-Bid-Build delivery method. In this method, the design and construction aspects are contracted for separately, and the project is usually awarded to the lowest bid by a qualified general contractor. The architect/engineer (A/E) develops a schematic design, works with other professionals to complete drawings and specifications, and coordinates the bid documents. The project is advertised and bids are requested from various general contractors, who in turn bid out sub-components of the project to multiple subcontractors and compile a complete bid for submission. The A/E participates in bid review and selection. During the construction phase, the A/E reviews work progress and issues site instructions, change orders, and other documentation necessary to the construction process; and the general contractor manages the construction process and daily activity on the construction site and often provides work with its own forces. The university remains responsible for project inspection and testing, and for generally administering the project.

Executive Order (EO) 672, *Delegation of Capital Outlay Management Authority and Responsibility*, dated July 25, 1997, delegates the authority to directly manage state and non-state funded capital outlay

projects to campus presidents. This delegated authority is issued subject to compliance with the capital outlay certification procedure, whereby a request for Delegation of Capital Outlay Management Authority is submitted by the campus for review by the Certification Review Board (CRB) and approval by the executive vice chancellor and chief financial officer in the chancellor's office. Further, the campus president is responsible for ensuring that delegated authority is exercised in compliance with applicable statutes, regulations, and policies of the Board of Trustees (BOT); the process for management of campus capital projects is consistent with the provisions of the State University Administrative Manual (SUAM); and appropriate internal controls and processes are in place to ensure that responsibilities are carried out in a manner consistent with the campus capital outlay management plan submitted with the request for delegated authority.

The certification procedure required by EO 672 includes submission of a capital outlay management plan, which defines the campus organizational and operational structure and expenditure authority, and serves as the campus policies and procedures for the administration of construction activities. Updated plans are to be submitted when campus operational structure changes are made which impact the plan. Certification is continuous unless a CPDC post project performance review determines that problems existed due to campus negligence, in which case the CRB may recommend that the campus be placed on probation. The CRB may ultimately recommend that certification be withdrawn if identified operational/management deficiencies are not remedied.

For those campuses that are not certified, the chancellor's office may execute a Memorandum of Delegation for a capital outlay project, which delegates administration, including construction management, to the campus. The CPDC construction management unit may also perform construction administration and management.

EO 666, *Delegation of Professional Appointments Related to Capital Outlay Projects and Campus Physical Development*, dated March 7, 1997, delegates the authority to each campus president or designee to make all professional appointments relative to capital outlay projects and campus physical development. Further, the campus president or designee is responsible for ensuring compliance with all applicable statutes and regulations, BOT policies, and SUAM guidelines; and the use of systemwide standardized architectural, engineering, and other professional appointment contract forms.

The SUAM, in part, contains an overview of all CPDC policies and procedures associated with the capital outlay process. SUAM §9700 through §9843, *Construction Management for Public Works Contracts*, describe the requirements for preparing and administering public works contracts under the provisions of Public Contract Code §10700 *et seq.* SUAM §9200 through §9212, *Professional Services for Campus Development*, describe the requirements for developing and administering professional services agreements with service providers such as architects and engineers and for testing services and project-related studies.

The California State University (CSU) *Construction Management Procedures Manual* contains CSU construction management policies and procedures that apply to a project, and each construction administrator, project manager, inspector of record, campus representative, and design professional is required to use this manual as appropriate during the construction administration of a project.

## **PURPOSE**

The overall audit objective was to ascertain the effectiveness of construction management policies and procedures and internal controls and processes related to the administration of construction activities and, specifically, the Building 3 project.

Within the overall audit objective, specific goals included determining whether:

- ▶ Delegated authority to manage capital outlay projects exists, and the campus capital outlay management plan is current for campus-managed projects.
- ▶ Project development is in accordance with statutory and CSU policy requirements, including required BOT and CPDC approvals.
- ▶ Administration and management of the project provide effective internal controls and processes consistent with the campus capital outlay management plan and the SUAM.
- ▶ Professional appointments are in accordance with statutory requirements, BOT policy, and the SUAM; and systemwide standardized professional appointment contract forms are used, approved by the Office of General Counsel, and fully executed prior to performance of work.
- ▶ Extra services are appropriate, authorized, and separately tracked; and an evaluation is performed for each professional service provided.
- ▶ The bidding process is rigidly controlled, performed in accordance with statutory requirements and the SUAM, and incorporates the contract documents maintained on the CPDC website.
- ▶ Contract documents are complete, routed to the Office of General Counsel as appropriate, and timely executed; required contract bonds and insurance are received; and a Notice to Proceed is issued.
- ▶ Subcontractors are adequately monitored, and requests for subcontractor substitutions are handled in accordance with statutory requirements and the SUAM.
- ▶ Operational and administrative controls ensure maintenance of financial accountability and completion of the project within the approved scope, schedule, and budget.
- ▶ Contract and service agreement payments are adequately supported, appropriately approved, and timely paid; and retention is handled in accordance with statutory requirements and the SUAM.
- ▶ Equipment is procured in the most economical method; purchased materials meet specifications required by construction documents and drawings; and all required inspections and tests are timely and properly performed and adequately documented.

- ▶ Change orders are appropriately approved, supported, accurately priced, and sufficiently tracked; and construction allowances and contingency balances are adequately administered and controlled.
- ▶ Project completion is adequately administered, including completion of pre-final/final inspections, punch list items, project closeout checklist, and Notice of Completion; preservation of project files, equipment manuals/warranties, and spare parts/materials; and resolution of any liquidated damages.

## **SCOPE AND METHODOLOGY**

The scope of audit included, but was not limited to, the review of design budgets and costs; the bid and award process; invoice processing and payment; change orders; construction management, architectural, and engineering services; use of major equipment/materials; the closeout process; administration of liquidated damages; and overall project cost accounting and reporting. This included any transactions or activity performed by the campus, construction management firm, and trade subcontractors.

Our study and evaluation were conducted in accordance with the *International Standards for the Professional Practice of Internal Auditing* issued by the Institute of Internal Auditors, and included the audit tests we considered necessary in determining that operational and administrative controls are in place and operative. This review emphasized, but was not limited to, compliance with state and federal laws, BOT policies, and Office of the Chancellor and campus policies, letters, and directives.

We focused primarily on the operational and administrative controls in effect for the Building 3 project with an emphasis on compliance with the CSU *Construction Management Procedures Manual*, SUAM policies and procedures associated with the capital outlay process, the campus capital outlay management plan, and construction contract general conditions. We evaluated the effectiveness of construction management policies and procedures and adequacy of internal controls and processes, and sought opportunities for improvement to further the success of CSU's capital outlay program.

Specifically, we reviewed and tested:

- ▶ Delegation of construction management authority.
- ▶ Review and approval of project design, budget, and funding.
- ▶ Professional services agreements and any extra services changes.
- ▶ Administration of the bid and award process.
- ▶ Contract execution and required contract bonds and insurance.
- ▶ Subcontractors and subcontractor substitutions.
- ▶ Contract and service agreement payment processing.
- ▶ Procurement of major equipment and materials.
- ▶ Performance of required inspections and tests.
- ▶ Review, approval, and tracking of change orders.
- ▶ Direct labor and associated burden.
- ▶ Construction management and overall project cost accounting and reporting.
- ▶ Construction allowances and contingency balances.
- ▶ Administration of the project closeout process and resolution of any liquidated damages.

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# **OBSERVATIONS, RECOMMENDATIONS, AND CAMPUS RESPONSES**

## **PROJECT DEVELOPMENT AND DESIGN**

### **SERVICE AGREEMENTS**

The California State University (CSU) Office of General Counsel did not approve the service agreement between the campus and the Building 3 Seismic Upgrade and Renovation project architectural firm.

State University Administrative Manual (SUAM) §9210.01 states that agreements for professional services are not in force or effect until approved by the CSU Office of General Counsel.

The director of facilities design and construction (FDC) stated that the campus procurement office is responsible for routing all agreements to the CSU Office of General Counsel, and the lack of general counsel approval was due to oversight.

The absence of fully executed agreements increases the risk of litigation and implied obligations due to misunderstandings and miscommunication regarding rights and responsibilities.

#### **Recommendation 1**

We recommend that the campus ensure that all future project architect/engineer service agreements are fully executed by all required parties before services are rendered.

#### **Campus Response**

We concur. Additional effort will be placed on training project managers to ensure that contracts are fully executed including securing chancellor office's legal counsel signatures on the agreements prior to beginning any work via the issuance of a Notice to Proceed.

Expected Completion Date: October 29, 2010

### **EXTRA SERVICES**

The first Extra Service Authorization (ESA) letter for additional architectural work, totaling \$25,060, was executed after the specified services were performed.

SUAM §9208.02 states that extra services for professional service agreements call for the provision of services to be authorized in writing in advance.

SUAM §9210.03 states that ESA letters shall define the scope of work, deliverables and time frame for completion of work, and a fee or fee limit, and require a countersignature by the service provider.

The FDC director stated the ESA letter was not timely executed due to oversight.

The absence of complete, written ESA letters increases the risk of misunderstandings and miscommunication regarding rights and responsibilities.

### **Recommendation 2**

We recommend that the campus reiterate to staff that ESA letters are to be executed prior to the performance of the specified services.

### **Campus Response**

We concur. The university has reiterated procedures on the proper execution of ESA letters which will be fully executed and effective prior to any work performed on a project. Our campus is providing additional training to all project managers and project coordinators expanding on the criticality for the issuance of a timely ESA for all changes to a service agreement.

Expected Completion Date: October 29, 2010

## **CONSTRUCTION MANAGEMENT AND ACCOUNTING**

### **PAYMENT APPLICATIONS**

Administration of contractor monthly payment applications required improvement.

The general contractor submitted monthly payment applications requesting payment for construction activities completed to date. We reviewed 20 payment applications and found four payment applications with minor mathematical errors in the calculation of retention. Further, we found two payment applications that allowed for the full payment of materials stored on-site by the contractor, instead of the allowed 80 percent payment.

SUAM §9803 states that the contractor's properly submitted monthly payment request must be approved and signed by the project manager/construction inspector, the design professional, and the construction administrator before payment.

The *Contract General Conditions for Design-Bid-Build Projects* §8.02 states that the partial payment request shall be based on the approved bid breakdown for the cost of work completed plus a maximum of 90 percent of the invoiced value for the acceptable materials delivered to the site or stored subject to the control of the contractor and not yet installed and as allowed on the contractor's payment request form. The contractor's payment request form for this project allowed 80 percent. Further, payment will be processed in accordance with Section 10853 of the Public Contract Code.

Public Contract Code §10853 (b) states that each payment request shall be reviewed by the Trustees as soon as practicable after receipt for the purpose of determining that the payment request is a proper payment request. Any payment request determined not to be a proper request suitable for

payment shall be returned to the contractor as soon as practicable, but no later than seven days after receipt.

The FDC director stated that the department had procedures in place to review monthly payment applications and added that the mathematical errors and the full payment of materials errors were inadvertent.

Inadequate administration of contractor monthly payment applications may result in unwarranted changes and reconciliation issues between campus and construction manager project accounting records, and increases the risk that errors and irregularities will not be detected.

### **Recommendation 3**

We recommend that the campus reiterate to staff that general contractor monthly payment applications should be free of mathematical errors and only the allowed percent of materials stored on-site should be paid to the general contractor. If errors are detected, the campus should return the payment request to the general contractor who should then submit a revised payment application to the campus.

### **Campus Response**

We concur. The campus has provided additional training to all project managers to ensure both the construction manager and the project manager review monthly payment applications to ensure they are free of mathematical errors. Additionally, a review of SUAM and Project Administration Reference Manual regulations pertaining to allowable costs the general contractor can bill for material stored off-site will be reviewed and emphasized to ensure accuracy.

Expected Completion Date: October 29, 2010

## **SUBCONTRACTORS**

The campus did not ensure that the general contractor included all required trade subcontractors on its expanded list of subcontractors submitted with its bid documents.

We found that four trade subcontractors paid in excess of one-half of one percent of the base contract were not included on the expanded list of subcontractors provided to the campus with original bid documents. The total value of the four trade subcontracts was \$1,108,000.

Public Contract Code §4104 and §4110 state that the specifications prepared for the work or the general conditions under which bids will be received shall set forth that the prime contractor will provide the name and location of each subcontractor who will perform work or labor or render services to the prime contractor in an amount in excess of one-half of one percent of the prime contractor's total bid. A prime contractor violating any of the provisions of this chapter (the Subletting and Subcontracting Fair Practices Act, Public Contract Code §4100 *et seq.*) violates his or her contract and the awarding authority may exercise options, including cancelling the contract or

assessing the prime contractor a penalty in an amount of not more than ten percent of the amount of the subcontract involved.

The *Contract General Conditions for Design-Bid-Build Projects* §4.04.c states that when requested by the construction administrator, the contractor shall submit a subcontractor status report, which will be compared with the expanded list of subcontractors. If any subcontractors are still outstanding at the time of submittal, a follow-up request will be made. Further, if any firms are substituted without approval of the Trustees in accordance with Section 4107(a) of the Public Contract Code, or if subcontractors are added and perform work in excess of one-half of one percent of base contract, penalties are applicable per Section 4110 of the Public Contract Code.

The FDC director stated that the campus was unaware that the general contractor had paid four trade subcontractors not listed on the expanded list of subcontractors.

Failure to ensure that the general contractor provides a complete expanded list of subcontractors results in non-compliance with the Subletting and Subcontracting Fair Practices Act and increases the risk that violations of the act will not be detected.

#### **Recommendation 4**

We recommend that the campus reiterate to staff and future general contractors that a complete expanded list of subcontractors must be submitted and any additions or substitutions must be communicated and approved. Further, the campus should consider assessing a penalty of not more than \$110,800 to the general contractor for violation of the Contract General Conditions and Public Contract Code.

#### **Campus Response**

We concur. The campus agrees that the list had not been kept updated during the construction phase. We will review our 'contractor substitution' file to compare the subcontractors that were properly substituted by the general contractor during the project against the list of subcontractors our auditor found not to be properly substituted. The campus will evaluate the feasibility of assessing a penalty and will decide on appropriate action after the evaluation.

Expected Completion Date: October 29, 2010

## **CHANGE ORDER ADMINISTRATION**

### **LABOR RATES AND BURDEN**

Administration of labor rates and associated labor burden needed improvement.

We reviewed hourly labor rates and the associated labor burden charged by two trade subcontractors and found excessive and unallowable burden components.

- ▶ One trade subcontractor included an erroneous labor classification on one change order. The classification could not be identified on any certified payrolls submitted to the campus by the trade subcontractor. The inclusion of this erroneous labor classification inflated the labor cost for this trade subcontractor by \$1,591.
- ▶ Another trade subcontractor included erroneous labor burden components in its calculation of labor costs. The inclusion of this erroneous labor burden component inflated the labor cost for this trade subcontractor by \$2,863.

The *Contract General Conditions for Design-Bid-Build Projects* §6.01.b (1) states that the contractor shall submit a fully detailed breakdown of the cost of every labor classification to be utilized on a proposed change on the hourly labor rate worksheet. The unit cost of labor shall be an accurate accounting of actual costs being paid.

The FDC director stated that the campus utilized a third-party construction management firm, which should have been reviewing the labor rates submitted on change orders to the hourly labor rate worksheets before submitting the change orders to the campus.

Failure to review hourly labor rates and the associated labor burden may result in increased project costs.

### **Recommendation 5**

We recommend that the campus:

- a. Pursue recovery of the \$4,454 of inflated labor costs and burden components that were explicitly overhead components for the two subcontractors and determine, as appropriate, if other change order work performed by these trade subcontractors had been cost-inflated in a similar manner.
- b. Conduct staff training to ensure that hourly labor rates and the associated labor burden charged by trade subcontractors are appropriate and accurate in accordance with §6.00, Changes in the Work, of the *Contract General Conditions for Design-Bid-Build Projects*.

### **Campus Response**

We concur. The campus will conduct additional training regarding the calculations of Labor Rates and Burden charged by trade subcontractors, as recommended, and ensure that these costs are appropriate and accurate in accordance with *Contract General Conditions for Design-Bid-Build Projects*. The campus will endeavor to recover the amounts identified from the two subcontractors.

Expected Completion Date: October 29, 2010

## **MATERIAL COSTS**

Administration of project material costs needed improvement.

We reviewed project material costs charged by two trade subcontractors and found discrepancies between source documents maintained within the trade subcontractors' job files and accounting systems and the amounts charged to the campus. Specifically, we found that:

- ▶ Accounting records at one trade subcontractor indicated that erroneous material costs were submitted to the campus. We compared invoices from the trade subcontractor's material supply vendor to the cost of several items charged to the campus and found that the campus cost exceeded that on the material supply vendor invoices. The inclusion of erroneous material costs inflated material costs for this trade subcontractor by \$563.
- ▶ Another trade subcontractor marked up material cost twice for overhead and sales tax. Further, the same subcontractor marked up the cost of materials by a percentage for consumable materials, although several items directly charged to the change orders appeared to be consumable materials. The inclusion of double charges for overhead and sales tax inflated the material costs for this trade subcontractor by \$2,100.

The *Contract General Conditions for Design-Bid-Build Projects* §6.01.b (2) states, in part, that contractor's costs are allowed for cost of the materials directly required for the performance of the changed work.

The FDC director stated that the campus utilized a third-party construction management firm, which should have been reviewing all material costs submitted on change orders before submitting the change orders to the campus.

Failure to adequately review material costs may result in increased project costs.

### **Recommendation 6**

We recommend that the campus:

- a. Pursue recovery of the \$2,663 in inflated material costs identified by the audit from these two trade subcontractors and determine, as appropriate, if other change order work performed by these trade subcontractors had been cost-inflated in a similar manner.
- b. Conduct staff training to ensure that material costs charged by trade subcontractors are appropriate and accurate in accordance with §6.00, Changes in the Work, of the *Contract General Conditions for Design-Bid-Build Projects*.

### **Campus Response**

We concur. The campus will conduct additional training regarding allowable material cost calculations by trade subcontractors, as recommended, and ensure that these costs are appropriate and accurate in accordance with *Contract General Conditions for Design-Bid-Build Projects*. The campus will endeavor to recover the amounts identified from the two trade subcontractors.

Expected Completion Date: October 29, 2010

### **SECOND-TIER SUBCONTRACTORS**

Administration of payments to second-tier subcontractors needed improvement.

We reviewed payments to second-tier subcontractors charged by two trade subcontractors and found discrepancies between source documents maintained within the trade subcontractors' job files and accounting systems and the amounts charged to the campus. Specifically, we found that:

- ▶ Accounting records at one trade subcontractor indicated that the actual cost of services provided by a second-tier subcontractor was inflated when submitted to the campus. We reviewed invoices from the trade subcontractor's waste disposal vendor and found the cost paid by the trade subcontractor different from the amounts submitted to the campus. The inclusion of erroneous second-tier subcontractor costs inflated change orders for this trade subcontractor by \$5,857.
- ▶ Another trade subcontractor did not reimburse a second-tier subcontractor for costs submitted to the campus. The inclusion of erroneous second-tier subcontractor costs inflated change orders for this trade subcontractor by \$720.

The *Contract General Conditions for Design-Bid-Build Projects* §6.01.b (5) states that for any portion of the work performed by a subcontractor (any tier), the contractor shall furnish to the Trustees a detailed estimate prepared and signed by the subcontractor of the cost to the subcontractor for performing the changed work.

The FDC director stated that the campus utilized a third-party construction management firm, which should have reviewed the payments to second-tier subcontractors before submitting the change orders to the campus.

Failure to adequately review payments to second-tier subcontractors may result in increased project costs.

### **Recommendation 7**

We recommend that the campus:

- a. Pursue recovery of the \$6,577 of the second-tier subcontractor costs that inflated change orders for two trade subcontractors and determine, as appropriate, if other change order work performed by these trade subcontractors had been cost-inflated in a similar manner.
- b. Conduct staff training to ensure that payments to second-tier subcontractors charged by trade subcontractors are appropriate and accurate in accordance with §6.00, Changes in the Work, of the *Contract General Conditions for Design-Bid-Build Projects*.

### **Campus Response**

We concur. The campus will conduct additional training to ensure payments to second-tier subcontractors charged by trade subcontractors are appropriate and accurate in accordance with *Contract General Conditions for Design-Bid-Build Projects*. The campus will endeavor to recover the amounts identified from the second-tier subcontractor in question.

Expected Completion Date: October 29, 2010

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## APPENDIX A: PERSONNEL CONTACTED

### Name

### Title

#### Office of the Chancellor

Elvyra San Juan

Assistant Vice Chancellor,  
Capital Planning, Design and Construction

#### California State Polytechnic University, Pomona

J. Michael Ortiz

President

Edwin Barnes, III

Vice President, Administrative Affairs and Chief Financial Officer

Bruyn Bevans

Director, Facilities Design and Construction

Darwin Labordo

Associate Vice President, Finance and Administrative Services

Darrick Lackey

Capital Outlay Accountant

Walter Marquez

Director, Administrative and Energy Services for  
Facilities Planning and Management

Michael Sylvester

Associate Vice President, Facilities Planning and Management

Morris Taylor

Senior Project Manager, Facilities Design and Construction

Joyce Xiong

University Auditor



Office of the Vice President  
for Administrative Affairs

RECEIVED  
UNIVERSITY AUDITOR

JUN 21 2010

THE CALIFORNIA STATE  
UNIVERSITY

June 18, 2010

Mr. Larry Mandel, University Auditor  
Office of the Auditor  
The California State University  
400 Golden Shore, Suite 210  
Long Beach, CA 90802

Dear Mr. Mandel:

**Subject: Campus Response to Recommendations – Bldg 3 Seismic Upgrade and Renovation 09-28**

Enclosed is California State Polytechnic's campus response to the Bldg 3 Seismic Upgrade and Renovation 09-28 audit. We appreciate the effort you and your staff have made to indicate areas where our procedures or internal controls could be strengthened. We will take the necessary actions to address the report's recommendations.

Please direct questions concerning the response to Darwin Labordo, Associate Vice President of Finance and Administrative Services and Associate Chief Financial Officer at 909-869-2008 or [dlaborado@csupomona.edu](mailto:dlaborado@csupomona.edu).

Sincerely,

Edwin A. Barnes, III, Vice President  
Administrative Affairs

Cc: J. Michael Ortiz, President  
Darwin Labordo, Associate Vice President, Finance & Administrative Services  
Michael J. Sylvester, Associate Vice President, Finance Planning & Management  
Joice Xiong, University Auditor

Enclosure

## CONSTRUCTION

### CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA

#### BUILDING 3 SEISMIC UPGRADE AND RENOVATION

#### Audit Report 09-28

### PROJECT DEVELOPMENT AND DESIGN

#### SERVICE AGREEMENTS

##### Recommendation 1

We recommend that the campus ensure that all future project architect/engineer service agreements are fully executed by all required parties before services are rendered.

##### Campus Response

We concur. Additional effort will be placed on training project managers to ensure that contracts are fully executed including securing chancellor office's legal counsel signatures on the agreements prior to beginning any work via the issuance of a Notice to Proceed.

Expected Completion Date: October 29, 2010.

#### EXTRA SERVICES

##### Recommendation 2

We recommend that the campus reiterate to staff that ESA letters are to be executed prior to the performance of the specified services.

##### Campus Response

We concur. The University has reiterated procedures on the proper execution of ESA letters which will be fully executed and effective prior to any work performed on a project. Our campus is providing additional training to all project managers and project coordinators expanding on the criticality for the issuance of a timely ESA for all changes to a service agreement.

Expected Completion Date: October 29, 2010.

## CONSTRUCTION MANAGEMENT AND ACCOUNTING

### PAYMENT APPLICATIONS

#### Recommendation 3

We recommend that the campus reiterate to staff that general contractor monthly payment applications should be free of mathematical errors and only the allowed percent of materials stored on-site should be paid to the general contractor. If errors are detected, the campus should return the payment request to the general contractor who should then submit a revised payment application to the campus.

#### Campus Response

We concur. The campus has provided additional training to all project managers to ensure both the construction manager and the PM review monthly payment applications to ensure they are free of mathematical errors. Additionally, a review of SUAM and project administration reference manual regulations pertaining to allowable costs the general contractor can bill for material stored off-site will be reviewed and emphasized to ensure accuracy.

Expected Completion Date: October 29, 2010.

### SUBCONTRACTORS

#### Recommendation 4

We recommend that the campus reiterate to staff and future general contractors that a complete expanded list of subcontractors must be submitted and any additions or substitutions must be communicated and approved. Further, the campus should consider assessing a penalty of not more than \$110,800 to the general contractor for violation of the Contract General Conditions and Public Contract Code.

#### Campus Response

We concur. The campus agrees that the list had not been kept updated during the construction phase. We will review our 'contractor substitution' file to compare the subcontractors that were properly substituted by the general contractor during the project against the list of subcontractors our auditor found not to be properly substituted. The campus will evaluate the feasibility of assessing a penalty and will decide on appropriate action after the evaluation.

Expected Completion Date: October 29, 2010.

## CHANGE ORDER ADMINISTRATION

### LABOR RATES AND BURDEN

#### Recommendation 5

We recommend that the campus:

- a. Pursue recovery of the \$4,454 of inflated labor costs and burden components that were explicitly overhead components for the two subcontractors and determine, as appropriate, if other change order work performed by these trade subcontractors had been cost-inflated in a similar manner.
- b. Conduct staff training to ensure that hourly labor rates and the associated labor burden charged by trade subcontractors are appropriate and accurate in accordance with §6.00, Changes in the Work, of the *Contract General Conditions for Design-Bid-Build Projects*.

#### Campus Response

We concur. The campus will conduct additional training regarding the calculations of Labor Rates and Burden charged by trade subcontractors, as recommended, and ensure that these costs are appropriate and accurate in accordance with *Contract General Conditions for Design-Bid-Build Projects*. The campus will endeavor to recover the amounts identified from the two subcontractors.

Expected Completion Date: October 29, 2010.

### MATERIAL COSTS

#### Recommendation 6

We recommend that the campus:

- a. Pursue recovery of the \$2,663 in inflated material costs identified by the audit from these two trade subcontractors and determine, as appropriate, if other change order work performed by these trade subcontractors had been cost-inflated in a similar manner.
- b. Conduct staff training to ensure that material costs charged by trade subcontractors are appropriate and accurate in accordance with §6.00, Changes in the Work, of the *Contract General Conditions for Design-Bid-Build Projects*.

#### Campus Response

We concur. The Campus will conduct additional training regarding allowable material cost calculations by trade subcontractors, as recommended, and ensure that these costs are appropriate and accurate in accordance with *Contract General Conditions for Design-Bid-Build Projects*. The campus will endeavor to recover the amounts identified from the two trade subcontractors.

Expected Completion Date: October 29, 2010.

## SECOND-TIER SUBCONTRACTORS

### Recommendation 7

We recommend that the campus:

- a. Pursue recovery of the \$6,577 of the second-tier subcontractor costs that inflated change orders for two trade subcontractors and determine, as appropriate, if other change order work performed by these trade subcontractors had been cost-inflated in a similar manner.
- b. Conduct staff training to ensure that payments to second-tier subcontractors charged by trade subcontractors are appropriate and accurate in accordance with §6.00, Changes in the Work, of the *Contract General Conditions for Design-Bid-Build Projects*.

### Campus Response

We concur. The campus will conduct additional training to ensure payments to second-tier subcontractors charged by trade subcontractors are appropriate and accurate in accordance with *Contract General Conditions for Design-Bid-Build Projects*. The campus will endeavor to recover the amounts identified from the second-tier subcontractor in question.

Expected Completion Date: October 29, 2010.

THE CALIFORNIA STATE UNIVERSITY  
OFFICE OF THE CHANCELLOR



BAKERSFIELD

CHANNEL ISLANDS

July 6, 2010

CHICO

**MEMORANDUM**

DOMINGUEZ HILLS

EAST BAY

TO: Mr. Larry Mandel  
University Auditor

FRESNO

FULLERTON

FROM: Charles B. Reed  
Chancellor

HUMBOLDT

SUBJECT: Draft Final Report 09-28 on the  
*Building 3 Seismic Upgrade and Renovation,*  
California State Polytechnic University, Pomona

LONG BEACH

LOS ANGELES

MARITIME ACADEMY

In response to your memorandum of July 6, 2010, I accept the response as submitted with the draft final report on the *Building 3 Seismic Upgrade and Renovation*, California State Polytechnic University, Pomona.

MONTEREY BAY

NORTHRIDGE

POMONA

CBR/amd

SACRAMENTO

SAN BERNARDINO

SAN DIEGO

SAN FRANCISCO

SAN JOSÉ

SAN LUIS OBISPO

SAN MARCOS

SONOMA

STANISLAUS