

Audit and Advisory Services
401 Golden Shore
Long Beach, CA 90802-4210

March 11, 2024

Dr. Cathy A. Sandeen, President
California State University, East Bay
25800 Carlos Bee Boulevard
Hayward, CA 94542

Dear Dr. Sandeen:

Subject: Audit Report 23-52, Construction – Library Replacement, California State University, East Bay

We have completed an audit of the *Library Replacement* construction project as part of our 2023-2024 Audit Plan, and the final report is attached for your reference. The audit was conducted in accordance with the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing*.

I have reviewed the management response and have concluded that it appropriately addresses our recommendations. The management response has been incorporated into the final audit report, which will be posted to Audit and Advisory Services' website. We will follow-up on the implementation of corrective actions outlined in the response and determine whether additional action is required.

Any observations not included in this report were discussed with your staff at the informal exit conference and may be subject to follow-up.

I wish to express my appreciation for the cooperation extended by the campus personnel over the course of this review.

Sincerely,



Vlad Marinescu
Vice Chancellor and Chief Audit Officer

c: Mildred García, Chancellor
Yammilette Rodriguez, Chair, Committee on Audit
Jean Picker Firstenberg, Vice Chair, Committee on Audit

CSU Campuses

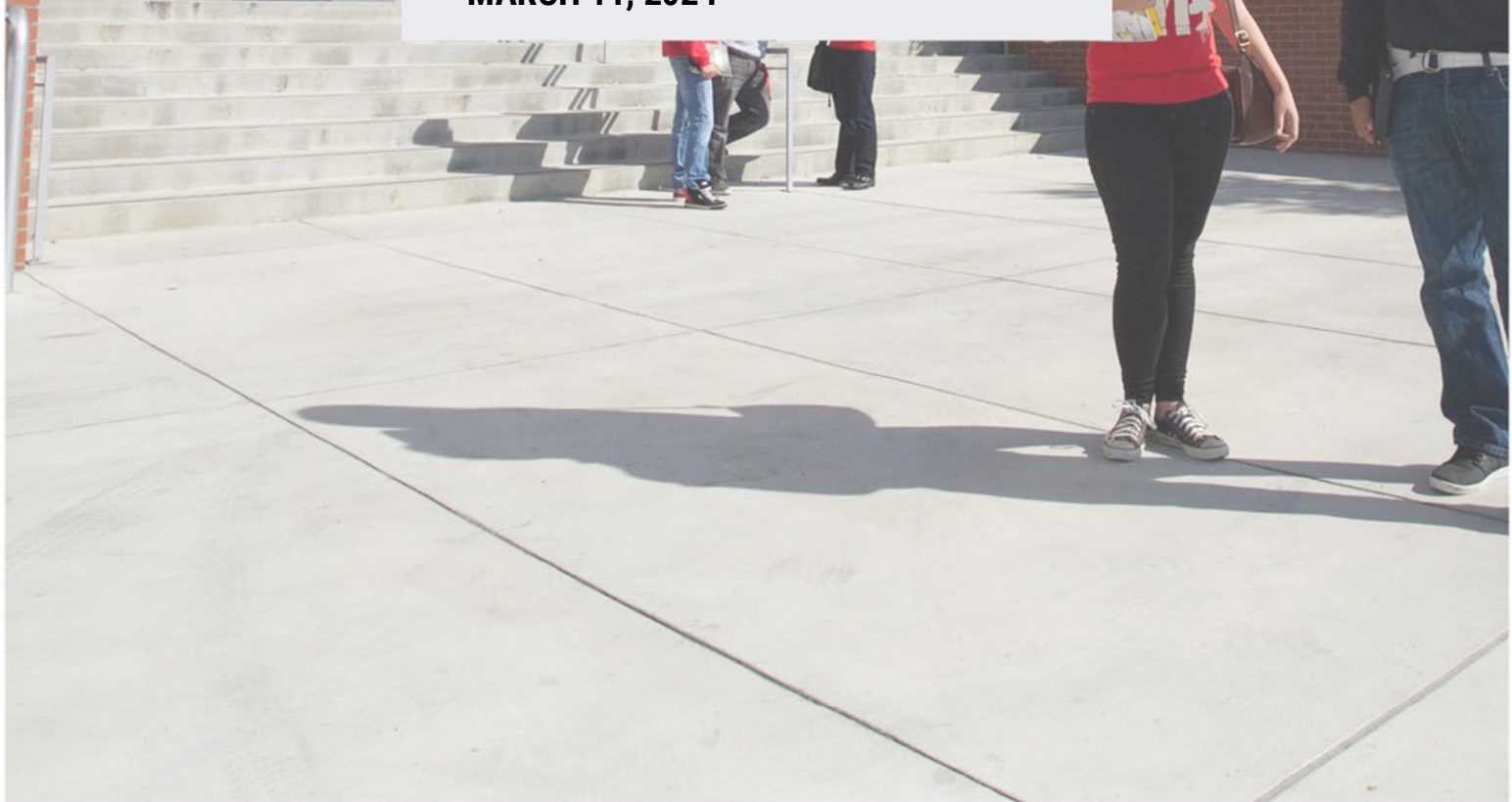
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CONSTRUCTION LIBRARY REPLACEMENT

**CALIFORNIA STATE UNIVERSITY,
EAST BAY**

**AUDIT REPORT 23-52
MARCH 11, 2024**

CREATION AND



EXECUTIVE SUMMARY

AUDIT OBJECTIVES AND BACKGROUND

In accordance with the fiscal year (FY) 2023/24 Audit Plan, as approved by the Board of Trustees, Audit and Advisory Services performed a construction audit of the Library Replacement project at California State University, East Bay (CSUEB).

The objectives of the audit were to ascertain the effectiveness of operational, administrative, and financial controls related to construction activities; identify cost recovery opportunities; and ensure compliance with relevant government regulations, Trustee policy, Office of the Chancellor (CO) directives, construction contract general conditions, and campus procedures.

In 2017, CSUEB released a request for qualifications and request for proposals seeking a qualified contractor to assist with the development and construction of a replacement library building. A \$79 million contract was awarded to construction manager Rudolph and Sletten. Inc. in December 2019 to complete the Library Replacement project using the Construction Manager at Risk (CM at Risk) with Guaranteed Maximum Price (GMP) delivery method. The new three-story building, referred to as the CORE Library, was completed in May 2023. Positioned at the center of CSUEB's hilltop campus, it now serves as a hub for learning, engagement, and collaboration and houses the library main collection, reserve, archive and special collections; library staff offices; student center for academic achievement; and collaboration and innovation spaces.

OVERALL CONCLUSION

Based upon the results of the work performed within the scope of the audit, except for the weaknesses described below, the operational, administrative, and financial controls for the Library Replacement project as of January 5, 2024, taken as a whole, provided reasonable assurance that risks were being managed and objectives were met.

AUDIT SCOPE AND RESULTS

In general, we found that construction operations were effective and complied with California State University (CSU) policies and procedures. Clearly delineated roles and responsibilities and communication between campus departments and other regulatory agencies aided in the successful completion of the Library Replacement project.

However, our review did note areas for improvement in the administration of bidding and contracting, construction management, and project close-out. A summary of the observations noted in the report is presented in the table below. Further details are specified in the remainder of the report.

Area	Processes Reviewed	Audit Assessment
General Environment	Oversight of the construction function, including proper delegations of authority	<i>Effective – no reportable observations noted</i>
Project Development and Design	Plan reviews and approvals by regulatory agencies and others such as the State Fire Marshal, Division of State Architects, and CSU review boards, and permitting process	<i>Effective – no reportable observations noted</i>
Bidding and Contracting	Bid advertisements, contractor prequalification, proposal scoring, GMP submittal reviews, contract execution, and subcontractor oversight	<i>Observation noted in the proposal evaluation process</i>
Bonding and Insurance	Enrollment and adequate coverage of required insurance and performance and payment bonds	<i>Effective – no reportable observations noted</i>
Construction Management and Accounting	Effective management of overall project and project costs through accurate payment applications, change orders, allowances, and contingencies	<i>Observation noted in payment application and change order processing and review</i>
Project Completion and Closeout	Punch lists, project close-out requirements, final accounting of project costs, and liquidated damages (as applicable)	<i>Observation noted in final accounting of project costs and certification of occupancy</i>

We performed fieldwork from November 13, 2023, through January 5, 2024. The audit focused on procedures in effect during the planning and construction of the project and included the audit tests we considered necessary in determining whether operational, administrative, and financial controls for the Library Replacement project are in place and operative. The review was limited to gaining reasonable assurance that essential elements of the construction program were in place and did not examine all aspects of the program.

For portions of the construction management and accounting and project completion and close-out areas noted above, we retained an outside contractor to perform a review of project costs. The purpose of the review was to verify that change orders, allowance, and contingency usage were compliant with the terms of the construction contract, and to review documentation supporting final project costs claimed by the construction manager. The outside contractor primarily coordinated with the CM at Risk, Rudolph & Sletten, Inc. (R&S), to obtain project information, and then confirmed observations with key campus personnel.

OBSERVATIONS, RECOMMENDATIONS, AND RESPONSES

1. FINAL ACCOUNTING OF PROJECT COSTS

OBSERVATION

The construction manager (CM) did not complete and submit a final detailed cost report to the campus for the purpose of verifying costs and ensuring the accuracy of the final payment made to the CM.

Specifically, we found that the monthly schedule of values (SOV) report was provided by the CM and reviewed by the campus. However, this report did not readily substantiate total trade contractor payments, material and equipment costs, and direct labor costs.

No material differences in project costs were identified; however, the submittal of a final accounting of actual project costs by the CM assists the campus in identifying any errors and irregularities and decreases the risk that campus payments will exceed the total GMP construction amount.

RECOMMENDATION

We recommend that the campus develop, communicate, and implement procedures relating to final payment and project close-out to ensure that a final accounting of costs is completed by the construction manager and verified by the campus for future construction projects.

MANAGEMENT RESPONSE
We concur. We will develop, communicate, and implement procedures relating to final payment and project close-out to ensure that a final accounting of costs is completed by the construction manager and verified by the campus for future construction projects by August 15, 2024.

2. PAYMENT APPLICATION

OBSERVATION

Review of payment applications from the CM needed improvement to ensure that payment requests were accurate prior to payment processing.

We reviewed 39 payment application forms and found that 14 were erroneously completed by the CM and did not accurately reflect the work completed to-date. Specifically, the inaccuracies appear to be due to:

- Incorrect calculation of “Net Due on Earned to Date” due to misinterpretation of the form and inclusion of stored material costs for 13 payment requests.
- Advancement of 100% of stored material values, rather than 90% as required for nine payment requests.
- Incorrect calculation of the 5% retention amount for one payment request, which affected 12 subsequent payment requests.

Although there was no identified impact to the total project payment, proper review of payment requests and supporting documentation throughout a construction project helps to ensure a project's integrity, including budget adherence, contractual compliance, and quality control.

RECOMMENDATION

We recommend that the campus develop and implement enhanced review procedures to ensure accuracy of payment requests prior to payment, and communicate with the CM regarding the proper completion of payment application forms.

MANAGEMENT RESPONSE

We concur. We will develop and implement enhanced review procedures to ensure the accuracy of payment requests prior to payment and communicate with the CM regarding the proper completion of payment application forms by August 15, 2024.
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3. CERTIFICATE OF OCCUPANCY

OBSERVATION

The certificate of occupancy was not issued timely, as required by CSU regulations.

We found that occupancy of the CORE Library building began in July 2022 after appropriate approval from the Office of the State Fire Marshal. However, the CSU certification of occupancy was not signed by the campus deputy building official until June 2023. Campus management stated that they were unaware that the CSU Certification of Occupancy & Completion/Release of Retention form could be completed in phases, and therefore, they completed the form when the project was closed out and retention was released.

Timely issuance of the certification of occupancy provides explicit approval by the CSU that a facility can be lawfully occupied and that all requirements for occupancy have been met.

RECOMMENDATION

We recommend that the campus remind related personnel of the requirement to issue the CSU certificate of occupancy prior to building occupancy.

MANAGEMENT RESPONSE

We concur. The relevant staff was reminded of the process and requirements of issuing Form 702.02-OCR, Certificate of Occupancy and Completion/Release of Retention, prior to building occupancy at the PDC staff meeting on February 12, 2024.

4. CONFLICT OF INTEREST

OBSERVATION

Conflict-of-interest and confidentiality statements were not signed by evaluation committee members prior to the start of the proposal evaluation process.

Specifically, we found that bidding opened in June 2017, and requests for qualifications and proposals were due in July and August of 2017, respectively. However, conflict-of-interest and confidentiality statements were not signed until March 2018.

Timely review and attestation of conflict-of-interest and confidentiality statements ensures that the bidding process is conducted in a fair, transparent, and legal manner.

RECOMMENDATION

We recommend that the campus provide training to relevant personnel to ensure that conflict-of-interest and confidentiality statements are completed prior to the start of the proposal evaluation process.

MANAGEMENT RESPONSE
We concur. We will provide training to all relevant personnel to ensure that conflict-of-interest and confidentiality statements are completed prior to the start of the proposal evaluation process by March 31, 2024.

5. CHANGE ORDERS

OBSERVATION

The campus review of CM and subcontractor change orders needed improvement.

We reviewed 12 owner change orders consisting of 94 proposed change orders (PCO) to determine whether approved change order costs were accurately reflected in final project costs. Supporting documentation for selected change orders, including cost breakdowns, invoices, change order requests, and contractual agreements, were evaluated.

We found that:

- 12 PCOs were incorrectly calculated due to the use of higher-than-approved labor rates, profit margins, markup percentages, and/or sales tax amounts, resulting in about \$3,476 in overcharges.
- Three PCOs did not have adequate documentation to support \$22,500 in costs and credits associated with labor, equipment, materials, and markups for overhead and profit. However, the costs appeared to be reasonable.

Appropriate review of change orders decreases the risk of inappropriate or unsupported project costs.

RECOMMENDATION

We recommend that the campus develop, communicate, and implement enhanced procedures for reviewing change orders to ensure that adequate supporting documentation is provided and calculations are accurate.

MANAGEMENT RESPONSE

We concur. We will develop, communicate, and implement enhanced procedures for reviewing change orders to ensure that adequate supporting documentation is provided and calculations are accurate by August 15, 2024.

GENERAL INFORMATION

ADDITIONAL BACKGROUND

At CSUEB, construction projects require collaboration across multiple campus departments, such as environmental health and safety, university budget, and financial services. However, the department of campus planning, design, and construction within the division of Administration and Finance is primarily responsible for new campus facilities, renovation of existing facilities, and development and implementation of the campus master plan. For the Library Replacement project, a campus project manager, in collaboration with a contracted CM, inspector of record, and Rudolph & Sletten, Inc., oversaw the administrative and technical aspects of the project.

The campus opted for the CM at Risk with GMP delivery method, in which the construction management firm is chosen by a competitive bidding process to provide all or significant portions of design and construction administrative services and takes part in establishing the GMP. The CM at Risk acts as the general contractor during construction, assumes the risk of subcontracting the work, and guarantees completion of the project within a stipulated time frame and budget. Further, there is a potential for cost savings should the project be completed below the GMP. The initial agreement with Rudolph & Sletten, Inc., the CM at Risk, was executed in the amount of \$78,728,810, and the final contract value after all change orders had been processed was \$85,149,320.

At the CSU, campus presidents have been delegated the authority to directly manage state and non-state funded capital outlay projects. The CO issues this delegated authority to the campus subject to its compliance with the capital outlay certification procedure. To comply, the campus submits a request for Delegation of Capital Outlay Management Authority to the Certification Review Board (CRB) for review. Then the executive vice chancellor and chief financial officer in the CO must approve the request. The campus president is responsible for ensuring that he or she exercises delegated authority in compliance with applicable statutes, regulations, and BOT policies; the campus manages capital projects via a process consistent with systemwide policies and procedures and has in place appropriate internal controls and processes 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 campus capital outlay management plan 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 that impact the plan. Certification is continuous unless a CPDC post-project performance review determines that problems were caused by 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.

Each campus president (or designee) also has been delegated authority to make all professional appointments relative to capital outlay projects and campus physical development in accordance with applicable statutes, regulations, BOT policies, and systemwide policies and procedures and must ensure the use of systemwide standardized architectural, engineering, and other professional appointment contract forms. Further, each construction administrator, project manager, inspector of record, campus representative, and design professional is required to use the *CSU Construction Management Project Administration Reference Manual*, which contains the CSU construction management policies and procedures that apply to a project.

CRITERIA

Our audit was based upon standards as set forth in federal and state regulations and guidance, Trustee policy, Office of the Chancellor directives, and campus procedures, as well as sound administrative practices and consideration of the potential impact of significant risks. This audit was conducted in conformance with the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing*.

This review emphasized, but was not limited to, compliance with:

- Public Contract Code Chapter 2.5, *CSU Contract Law*
- Public Contract Code §4100 et seq., *Subletting and Subcontracting Fair Practices Act*
- Government Code §13402 and §13403
- *CSU Delegation of Professional Appointments Related to Capital Outlay Projects and Campus Physical Development*
- *CSU Delegation of Capital Outlay Management Authority and Responsibility*
- *CSU Capital Outlay and Public Works Contracts*
- *CSU Professional Services for Campus Development*
- *CSU Project Plan Development for Major Capital Construction Projects*
- *CSU Construction Management for Public Works Contracts*
- *CSU Construction Management Project Administration Reference Manual*
- *Contract General Conditions for Construction Manager at Risk with Guaranteed Maximum Price Projects*
- *Request for Proposal, Classification of Project Costs*

AUDIT TEAM

Senior Audit Manager: Christina Chen

Senior Auditor: Carolyn Phu