METRO

Metropolitan Exposition-Recreation Commission

Oregon Convention Center Expansion: Review of Management's System for Controlling Costs

August 2003

A Report by the Office of the Auditor

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Office of the Auditor

August 28, 2003

To the Metro Council and the Metropolitan Exposition-Recreation Commission:

Metro and the Metropolitan Exposition-Recreation Commission (MERC) recently completed an expansion of the Oregon Convention Center. It cost more than $100 million and provided additional exhibit space, meeting rooms, parking and other enhancements to the existing convention facility.

We reviewed MERC's management of the main construction contract for this expansion. Our review assessed the soundness of MERC's procedures for overseeing contract costs. We found that MERC's oversight was generally carried out effectively.

While no significant problems with the project's administration emerged, we did find some procedures that can be strengthened. Our recommendations include ensuring that construction materials and rented equipment are obtained at competitive prices and that payments are made only for services that are received, necessary for the project and authorized. A full list of recommendations appears in the report. While construction work has ended and the new section of the convention center is in use, most recommendations can be carried out before MERC's contract with the construction firm, Hoffman Construction, is closed. The other recommendations apply to future Metro and MERC construction contracts.

The MERC Commission Chair agreed with all but one recommendation, which we continue to advocate. This recommendation would require future construction contracts to contain a provision requiring the contractor to use a formal competitive bidding processes when purchasing high-cost construction materials. The Chair's written response is included at the end of our report.

We appreciate the cooperation and assistance provided by MERC staff during this review.

Very truly yours,

Alexis Dow

Alexis Dow, CPA
Metro Auditor

Auditor: Douglas U'Ren, Certified Internal Auditor

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Executive Summary

The Metro Auditor's Office has reviewed Metro's management of the main construction contract for the expanded Oregon Convention Center (OCC). This expansion, costing more than $100 million, provided additional exhibit space, meeting rooms, parking and other enhancements to the existing facility so that Portland can remain competitive with convention centers in other cities, bringing tourism and convention dollars to the region's economy. OCC is managed by the Metropolitan Exposition-Recreation Commission (MERC), a Metro unit that was also responsible for overseeing the expansion project.

To build the new facilities, MERC used a contracting method called the Construction Manager/General Contractor (CM/GC) approach. Under this approach, a single contractor manages the construction work and assumes responsibility for competitively bidding and managing all subcontract work. The contractor agrees to a guaranteed maximum price for construction and assumes the risk for completing the project within this amount. Our review assessed the soundness of MERC's procedures for overseeing project costs.

MERC's oversight was generally carried out effectively. The project came in on time and is currently estimated to cost at least $1.4 million less than budgeted. Our review found no major overpayments to the CM/GC or any other significant problems with the project's administration. The overall soundness reflects, in part, improvements management has made in response to audits of other recent Metro capital construction projects.

These successes notwithstanding, some procedures can be strengthened. For example, while subcontract changes costing more than $75,000 were systematically reviewed, many changes costing less than $75,000 received no documented review. Most of the changes that received no review were "buy-out" items: work tasks that were not included in the bids of the subcontractors that were awarded contracts for the project. Cumulatively, these smaller subcontract changes totaled more than $2 million – an indication that some level of formal review for a greater portion of these subcontract changes would be warranted to ensure they were reasonably priced and necessary.

Other areas in which improvements can be made include ensuring that construction materials and rented equipment were obtained at competitive prices and ensuring that the CM/GC firm is paid only for authorized subcontract work.

The specific recommendations offered for consideration are on the next page.

Recommendations

1. **Formally review a greater portion of subcontract changes costing less than $75,000**
   To achieve a higher level of assurance that subcontract changes were necessary and reasonably priced, project management should review a more significant portion of subcontract changes costing less than $75,000. The reviews should be documented and undertaken before the final payment is made to the CM/GC.

2. **Ensure that the CM/GC is paid only for authorized subcontract work**
   To minimize the risk of overcharges for subcontract services, management staff should ensure that the total amount paid to each subcontractor, as shown in the CM/GC's monthly invoices, do not exceed amounts the expansion staff has reviewed and authorized. This check should be done before the final payment is made to the CM/GC. In addition, project management should check the subcontractor activity report and ensure that it accurately records the subcontract tasks he has approved.

3. **Ensure accountability for travel costs**
   To provide more visibility of construction-related travel costs and avoid potential conflicts of interest, Metro and MERC should directly pay the travel costs associated with inspecting vendor operations rather than indirectly through the contractor or vendor.

4. **Ensure construction materials are acquired at competitive prices**
   To ensure competitive pricing, MERC and Metro should ensure future CM/GC contracts require the use of a formal competitive bidding process to acquire major construction materials.

5. **Ensure rates for rented equipment are competitive and reflect the CM/GC's actual costs**
   To ensure that the project is not over-billed for equipment rentals, project management should select a significant sample of the equipment rented from or by the CM/GC and formally evaluate whether equipment rates were competitive. Checks should also be done to ensure that equipment rented directly from the CM/GC firm or its affiliates approximate the actual cost of providing the equipment. These comparisons should be documented and completed before the CM/GC services contract is closed.

6. **Ensure the CM/GC is paid for only those services that were actually received and necessary for the project**
   Project management should investigate the reasons for general conditions costs that went over budget and request refunds for excessive costs if appropriate. The line item budgets that were significantly exceeded included waste disposal, survey services and phone costs.

7. **Resolve outstanding billing issues**
   Project management should ensure that all billing problems identified during construction are resolved before authorizing the last payment to the CM/GC and closing the contract. This recommendation is the result of our follow-up on prior audit recommendations that pertain to construction contracting.

8. **Ensure the confidentiality of subcontractor bids**
   To enhance the integrity of subcontract bidding coordinated by the CM/GC firm, in future construction projects MERC and Metro staff should establish a procedure to ensure that bids received by the CM/GC are protected from disclosure until formal bid openings occur.

9. **Improve management of contract and project risks**
   In future projects or contracts that are significant in amount or high risk, Metro/MERC managers should prepare risk management plans, as recommended in our previous audit reports on Metro contracting practices and The Oregon Zoo's Great Northwest construction project.

Introduction and Background

The Oregon Convention Center (OCC), a national convention facility in Northeast Portland near the Willamette River, has recently undergone a major expansion costing more than $100 million. OCC is owned by Metro and managed by the Metropolitan Exposition-Recreation Commission (MERC), a Metro unit. OCC opened in 1990, but by the mid-1990s, MERC officials and representatives of the local hospitality industry initiated plans to expand it, out of concerns that the facility was reaching operational capacity and that its ability to attract conventions and trade shows was being affected. Groundbreaking for the expansion took place in February 2001. All construction work was completed by mid-June 2003.

The expansion adds about 408,000 square feet to OCC's existing 500,000 square feet of space. The new facilities include such additions as 105,000 square feet of exhibit space, a second 34,500 square foot ballroom and 22 meeting rooms.

South end of OCC Expansion with Rain Garden in foreground

The project's authorized project budget totaled about $119.3 million. The budget was initially set at $115.0 million, but the MERC Commission voted to add about $3.6 million of renovation work on the existing convention center to this project, and the Commission and the Metro Council increased project funding by another $740,000 for furniture, fixtures and equipment. The major source of financing was $100 million in revenue bond proceeds received from the City of

Portland. Under an Intergovernmental Agreement approved by Multnomah County, the City of Portland and Metro in late 2000, Multnomah County raised its hotel/motel and auto rental taxes by 2.5 percent to generate funds needed to pay the debt service on the bonds issued by the City. Besides the proceeds from the revenue bonds, other funding included $5 million received from the Portland Development Commission, $5 million from OCC's operating fund and about $5.6 million in interest earned on invested project funds.

Overview of the Contracting Approach

To build the new facilities, the Metro Council authorized MERC to use a contracting method known as the Construction Manager/General Contractor (CM/GC) approach. Under this approach, a single firm provides both construction management and general construction services. The CM/GC firm manages the construction work and assumes responsibility for competitively bidding, awarding and managing construction trade contracts (hereafter called subcontracts) and for coordinating the activities of subcontractors.

Among the important features of this approach are the following:

- It enables the project to be fast-tracked, so that the site work, foundation and other early construction work can be partially completed before design work for later stages of the project is finished. By overlapping design and construction work, the CM/GC approach can shorten the overall time needed to complete a construction project. Involving the construction firm early in the process also allows the firm to interact with the architect, better ensuring that the project can be built as designed and allowing opportunities to make design changes that save money.
- It has cost control features that shift risk to the contractor. Before construction work begins, the CM/GC firm works with the client and the architect to establish a guaranteed maximum price for the construction work. This price cannot be exceeded without the client's approval. The CM/GC firm assumes the risk for completing the project within the guaranteed maximum price, which provides the client – in this case MERC – with some protection against cost overruns.

An independent committee selected by the MERC Chair and Metro's Executive Officer and Presiding Officer chose Hoffman Construction Company as the CM/GC for the project. The firm was selected through a competitive process that was based primarily on qualifications, though fees and other costs were also evaluated. The original guaranteed maximum price was set at $98.5 million. The MERC Commission has approved four change orders and the guaranteed maximum price is now set at $103.2 million. The guaranteed maximum price is smaller than the project's total cost because it excludes several items, such as the design services contract[1], art purchases and various administrative expenses. The guaranteed maximum price is Hoffman Construction Company's maximum compensation, which is based upon the firm's actual costs, plus a fee totaling 1.98 percent of construction costs.

Metro's primary role was to work with other area governments to provide funding for the expansion project; MERC's primary role was to manage the project. To do so, MERC established an expansion project team whose full-time members include a Senior Project Manager, a Construction Coordinator and two assistants. The Senior Project Manager had primary accountability to work with the CM/GC and architect to ensure construction was completed on time, within budget, and in accordance with operational needs specified by OCC's managers. The Senior Project Manager reported to the project co-directors: OCC's Director and Metro's Business Services Director.

Audit Objectives, Scope and Methodology

In recent years, Metro has undertaken other large projects involving capital improvements or contract management. We conducted two recent audits of these activities[2], and in both cases we made recommendations for improvement. Given the size of the OCC expansion project, we decided to conduct an audit of the management practices that Metro and MERC put in place for this project. The objective of our audit was to determine if the expansion project team installed an effective set of procedures to ensure that it reimbursed the CM/GC only for services that were 1) allowed under the contract, 2) reasonably priced, and 3) necessary to achieving the project's objectives.

The CM/GC contracting approach that MERC and Metro chose to use for constructing the OCC expansion is relatively new and complex. In late 2000, before construction on the expansion was under way, we attempted to find a comprehensive model that would provide guidance on how CM/GC construction contracts should be managed in order to achieve least cost results, but we were unable to find such a model. Therefore, we developed our own framework for controlling CM/GC costs and reviewed it with the project's managers. Our framework has four major components, as follows:

- Establishing a fair and reasonable Guaranteed Maximum Price contract with the CM/GC and controlling changes to it
- Controlling subcontract and related costs

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[1] The architect for the project was Zimmer Gunsul Frasca Partnership, a Portland firm. The design contract totaled $6.9 million as of March 2003.

[2] *Contracting: A Framework for Enhancing Contract Management* (December 2000) and *The Oregon Zoo: Construction Management* (September 2001)

- Controlling "general conditions" costs
- Properly calculating fee payments to the CM/GC.

Our work included identifying the cost controls in place, evaluating them and performing limited testing to see if they functioned effectively. It involved such specific steps as the following:

- Interviewing managers and staff responsible for the expansion project, including the two project co-directors, the Senior Project Manager and his assistants, and others.
- Examining records supporting three months of reimbursements to the CM/GC.
- Testing a sample of subcontracts to determine if they were competitively bid and were awarded based on lowest overall cost to MERC.
- Testing a sample of subcontract changes to determine if efforts to ensure their necessity and reasonableness were documented.
- Following up on recommendations made in previous audits that are related to the scope and objectives of this audit. The implementation status of these recommendations is presented in Appendix A.

Several aspects of the scope of our work should be noted. Our audit did not address the marketability of the convention center or any of the economic, financial or operational projections that were used to justify expanding it. Our work also covers only the contract between Metro and Hoffman Construction for CM/GC services. MERC has awarded several other contracts to Hoffman Construction that are linked to the OCC expansion project, all of which are relatively small in amount. Finally, because the purpose of this review was to evaluate OCC's oversight of construction contract costs, we relied primarily on documents and information available at the OCC's office or as provided by OCC staff and did not examine records maintained by the CM/GC at its headquarters or by the architect.

One matter came to our attention that is outside the scope of our audit work but nonetheless should be noted here. Metro and MERC do not yet have complete systems in place to ensure consistent management and timely reporting of the status of large dollar projects. As a result, there can be significant differences between approved project budgets, available resources and planned spending. For example, the Expansion Project Manager gave us a budget forecast that indicates the project's total resources are about $120.7 million. However, financial reports prepared by Metro's accounting department indicate that actual project funds available for spending are significantly less and approximate only $115.7 million. Actual spending is expected to total approximately $113.7

million. The magnitude of the differences between these numbers and the lack of a defined system for deciding the use of remaining project funds is a significant management concern as roles, responsibilities and authorization processes lack clear definition. We addressed Metro's lack of an adequate project oversight system in our September 2001 audit report on construction project management practices at The Oregon Zoo, and Metro is now developing such a system. In light of the issues just noted, we encourage Metro and MERC to complete development of a project management system that clearly defines roles and responsibilities, specifies a consistent process for authorizing projects and making changes to them, and provides stakeholders a complete view of each project's financial and operational status.

Our audit work was performed between December 2002 and April 2003 in accordance with generally accepted government auditing standards.

Audit Results and Findings

MERC's oversight of the costs associated with the OCC expansion project was, in many respects, carried out effectively. Oregon law calls for public agencies to make every effort to construct public improvements at the least cost, and MERC's oversight efforts appear generally adequate in this regard. Management's most recent estimates indicated that construction contract costs will total about $101.8 million, which is at least $1.4 million less than planned. We identified no major overpayments to the CM/GC or any other significant problems.

Oversight has improved when compared with performance on previous projects, an outcome attributed in part to improvements management has made in response to audits of other Metro capital construction projects.

Nonetheless, there are still several areas in which oversight measures can be improved for this project and future projects. Our audit framework addressed four main areas: establishing a fair and reasonable guaranteed maximum price, controlling subcontract and related costs, controlling "general conditions" costs, and properly calculating fee payments to the CM/GC. With regard to establishing a fair and reasonable guaranteed maximum price and properly calculating fee payments to the CM/GC, we concluded that Metro's procedures were fully adequate. In the two other areas, we noted several opportunities for improvement, either during the remainder of this project, or in future projects where this approach is used. These are detailed below.

Improving Controls Over Subcontracts and Related Costs

Under the approach used for building the OCC expansion, the CM/GC obtains bids from subcontractors that perform nearly all the actual construction work. Subcontract services constituted about $95 million of the $103.2 million guaranteed maximum construction price. Because the cost of subcontract services is so significant, it is important to set up competitive conditions when awarding subcontract work, ensure that change orders are reasonably priced and properly monitor billings for subcontract services. We found that the CM/GC obtained a reasonable level of competition for subcontract work, but some improvements can be made in monitoring change orders and subcontract billings. In addition, steps need to be taken to ensure that subcontractors do not pay for inappropriate items, and that expenditures for construction materials and rented equipment are adequately controlled.

Formally reviewing a higher percentage of subcontract changes

Some changes to competitively bid subcontracts are inevitable, brought on by such factors as design work not being completed at the time subcontract bids are solicited, change orders that alter the scope of construction work after subcontracts have been awarded and work tasks that are not bid by the selected subcontractor (these tasks are as known as "buy-out" items). Since the cumulative dollar value of subcontract changes can be substantial, effective processes for ensuring the necessity and reasonableness of changes are important.

Expansion project staff adequately reviewed subcontract changes that cost more than $75,000. We tested 13 changes to 12 subcontracts and found that all changes over $75,000 had been reviewed and approved by the project architect and the Senior Project Manager. All of the changes we tested were well documented.

While changes above $75,000 were adequately reviewed, the project staff did not review – or did not document their review of – many subcontract changes costing less than $75,000 in our audit test sample. This is a concern, as the cumulative cost of such changes can be significant. For example, there were 42 changes to the steel erector's subcontract that cost between $10,000 and $75,000 each. The cumulative value of these changes was about $785,000. Since there were at least 20 major subcontractors performing construction work on this project, it is estimated that expansion project staff either did not review a substantial portion of more than $2 million worth in subcontract changes or did not document such reviews so that they could be verified.

The Senior Project Manager told us that most of the subcontract changes that did not receive formal review and approval were buy-out items – tasks not included in the subcontractor's bid. We believe that the project staff should perform a documented review of all significant changes that affect the total ultimately paid to the CM/GC, regardless of whether those changes are the result of work scope adjustments or buy-outs. Otherwise, there is no assurance that the changes were necessary and reasonably priced.

We recommend that project management review a bigger sample of subcontract changes costing less than $75,000. For example, all changes over $25,000 and a sample of changes less than $25,000 could be reviewed. The reviews should be undertaken to determine if the changes were both necessary and reasonably priced. These reviews should be documented so that others can confirm the work was completed and review the expansion staff's conclusions. The reviews can be undertaken any time before the CM/GC contract is closed.

Ensuring that the CM/GC is paid only for authorized subcontract work

The expansion project team also needs to ensure that the CM/GC's monthly invoices only contain billings for subcontractor services the Senior Project Manager has reviewed and authorized. Otherwise, there is risk that the project could be billed for services that are unauthorized and unallowable, or over-billed for services that were authorized. Such a procedure was not in place, and for the items in our sample we identified one instance in which an incorrect amount was paid. In this instance, the CM/GC billed the project $81,970 for a subcontract change that was only authorized for $76,970. The CM/GC said the $5,000 difference was for needed engineering services, but no evidence was provided indicating the Senior Project Manager was aware of this added cost – or had approved it – before we brought it to his attention.

To minimize the risk of being overcharged for subcontract services, project management should ensure that the total amount paid to each subcontractor, as shown in the CM/GC's monthly invoices, do not exceed amounts reviewed and authorized. This check can be done any time before the CM/GC contract is closed by comparing a copy of the subcontractor activity report that the Senior Project Manager has reviewed and approved to amounts actually paid to each subcontract per the CM/GC's latest monthly billing. If any discrepancies are found, the Senior Project Manager should investigate and resolve them. In addition, the Senior Project Manager should check the subcontractor activity report and ensure that it accurately records the subcontract tasks he has approved.

Ensuring accountability for travel costs

Members of the expansion project team took a number of trips that were for such purposes as verifying the quality of materials needed for construction. Reviewing most of these trips was outside the scope of our audit, because the trips were not paid with construction contract funds. However, the cost of one trip was paid by a subcontractor and was therefore within the scope of activities we reviewed. The trip involved travel to Hong Kong by the Senior Project Manager and a CM/GC manager, who traveled to Hong Kong for five days to inspect a carpet factory in advance of paying a contractually required deposit to the carpet manufacturer. The trip's purposes were to confirm that carpet production was actually underway and to verify that the carpet was being produced in accordance with the requested specifications. The contract for carpeting required the subcontractor to pay for the costs of an inspection and the subcontractor paid all but $53 of the cost of this trip.

Although this trip was necessary for the project, we are concerned about shifting its cost to the subcontractor. First, the total expenses of this trip were not readily visible to MERC and Metro officials, as they were incurred by the subcontractor instead of being charged directly to the project. Visibility is necessary to developing an accountability system that ensures public funds are spent prudently. Second, requiring subcontractors to pay the cost of such trips can create an appearance of a conflict of interest, since there is risk that subcontractors could use trips as a means of influencing the decisions of project managers. Third, the practice is inconsistent with the fact that MERC paid for similar trips directly from general project funds.

We recommend that for future construction projects, Metro and MERC directly pay the travel costs associated with inspecting vendor operations rather than indirectly through the contractor or vendor.

Ensuring construction materials are acquired at competitive prices

To a limited extent, the CM/GC acquired construction materials and services directly from suppliers rather than obtaining them through subcontractors. Items purchased directly included raw concrete and concrete pumping services, bike security racks, generators and steel components for the garage. These items were acquired using purchasing orders rather than subcontracts. As with subcontracts, we expected that the expansion project team would require competitive bidding for major cost materials to ensure reasonable pricing.

Our review of three major purchase orders totaling $3 million showed that competitive bidding was not performed on two of them. One purchase order, for garage embeds cost $356,000. The second purchase order, for concrete, totaled $2.3 million. It was awarded after price quotes were obtained from two companies, but not after formal bids. Obtaining quotes is not the same as obtaining bids, because with quotes it is difficult to determine if both concrete companies worked under the same set of assumptions when they provided their prices.

In reviewing the formal Request for Proposals (RFP) that was used in awarding the CM/GC work to Hoffman Construction, we found it unclear whether the CM/GC was required to seek competitive bids for all major construction materials. The RFP stated that "the CM/GC shall publicly conduct the sub-bidding of all construction work costing $75,000 or more…" However, we could not determine if "construction work" encompassed construction materials. This appears to be the cause for using less rigorous methods of awarding construction materials contracts than formal competitive bidding.

We recommend that in future projects utilizing the CM/GC contracting approach, MERC and Metro should ensure the RFP clearly specifies the use of formal competitive bidding for major construction materials.

Improving Controls Over "General Conditions" Costs

"General conditions" costs are essentially indirect expenses for which the CM/GC is entitled to reimbursement. They include safety programs and awards; construction and office equipment rentals; the salaries, wages and benefits of CM/GC managers and staff located at the construction site field office, and temporary sanitation facilities. The budget for general conditions costs, including bonds and insurance, was approximately $3.9 million as of December 2002.

We found that sufficient steps were taken to ensure that these costs were reasonable and that expansion project staff had an adequate procedure in place to monitor them. However, we noted several ways in which procedures could be improved.

Ensuring rates for rented equipment are competitive

"General conditions" costs included amounts paid for rental equipment, such as a forklift, copiers, construction trailers and portable radios. The total paid for this rental equipment cannot be easily determined, because costs were charged to multiple accounts that contained other kinds of costs as well. However, charges recorded to cost codes that contained rented equipment totaled at least $385,000. Rental equipment included items supplied by the CM/GC. Under the contract, such equipment was to be made available to the project at 75 percent of normal market rates.

Expansion project staff had no procedure in place for ensuring that rental prices were competitive. They requested and received a rate schedule for equipment rented from the CM/GC, but we found no evidence that they compared these rates to those available from other sources. In addition, we found no evidence that staff ensured the CM/GC's rates for using its own equipment approximated its actual costs. Consequently, there is risk that equipment was rented at excessive cost.

We recommend that project management select a sample of some of the equipment rented from and by the CM/GC and then evaluate whether the rates provided were competitive. This can be done by comparing the billed rates to either actual rate quotes obtained from third party rental companies or by comparing the rates to those in equipment rental price guides available to contractors. These comparisons should be documented and completed before the CM/GC services contract with Hoffman Construction is closed. In addition, they should determine if rates for CM/GC-owned equipment (75 percent of market rates) reflect the CM/GC's actual costs. If any of the rates are found to be noncompetitive or above the CM/GC's actual costs, project management should seek reimbursement from the CM/GC for the amount overcharged.

Ensuring the CM/GC is paid for only those services that were actually received and necessary for the project

An important cost control task is to verify that all general conditions services the CM/GC bills to the project have been received and are necessary to achieve project objectives. Although the project team had appropriate procedures to ensure that billed services were received and needed for the project, we have concerns about some payments made to the CM/GC. Specifically:

- The CM/GC billed the project about $37,000 for garbage disposal costs, which was about $10,000 over budget. The CM/GC did not provide landfill receipts to support that all the garbage costs billed were actually incurred. The CM/GC should only be reimbursed based on actual landfill receipts.

- Amounts paid to a survey firm were about $70,000 over budget as of the end of December. Expansion project staff did not verify that the surveyor labor hours charged were actually incurred.
- In three of four monthly CM/GC invoices we reviewed, the accounting technician on the expansion project staff found that some inappropriate long distance and cellular phone costs had been charged to the project. Some of these phone costs were resolved with the CM/GC and resulted in credits to the project. We noted that the questionable phone costs identified were based on a small sample of calls. We are concerned that significant additional phone costs may have been inappropriately charged to the project, given that actual phone and postage costs through December 2002 were $10,000 over the $34,000 budgeted for this service. Accordingly, we believe a larger sample of phone charges should be reviewed.

We recommend that project management investigate the reasons for each of these budget overruns and take steps to be reimbursed for undocumented and inappropriate charges.

In addition, we noted that billings questioned by OCC staff since September 2002 have yet to be resolved. Some of these items, such as inappropriate phone costs, should result in the CM/GC issuing refunds or credits to the project. It is essential that these matters be addressed before the CM/GC contract is closed.

Appendix A

Status of Recommendations in Past Audit Reports That Are Related to the Scope of This Audit

Status of Recommendations in Past Audit Reports That Are Related to the Scope of This Audit

Expo Center Expansion: Construction Cost Management – *March 1998*

1. When managing future construction projects using the CM/GC contracting approach, MERC staff should:

   - Document their approval of all changes and decisions that result in subcontract amendments.

     Mostly implemented: *As noted in this report, management reviewed and approved nearly all subcontract changes costing more than $75,000 and many – but not all – of the changes less than that amount.*

   - Compare the CM/GC's prices and rates for services to those available from other vendors, and document the results of the comparisons.

     Partly implemented: *When the CM/GC proposed to self-perform the major concrete work for the OCC expansion, comparative pricing information was obtained and analyzed. As discussed in this report, however, no comparison was done to ensure that rental rates for CM/GC equipment were competitive.*

   - Ensure that the general contractor has provided adequate support for expenditures before reimbursing them.

     Implemented: *We found that construction contract expenses were generally well documented.*

   - More thoroughly review indirect construction services (general conditions costs) to ensure they are necessary and prudent.

     Implemented: *However, as described in the report some general conditions costs, such as garbage disposal and phone costs, were significantly higher than budgeted. As a consequence, project management should review these costs before the CM/GC contract is closed.*

   - Consider raising the threshold for sealed bidding, then ensure the required sealed bidding procedure is followed by the CM/GC.

     Implemented: *The threshold for competitive bidding on the expansion project was raised to $75,000, per section 3.5 of the CM/GC Services RFP. This is much higher than the $2,500 threshold applied to the Expo Center expansion project and addresses the audit recommendation.*

Management said a MERC representative was present at the time subcontract bids were opened and logged. However, there was no procedure in place to ensure that the bids were handled confidentially until the formal bid opening process occurred.

The Oregon Zoo: Construction Management – *September 2001*

1. When using the CM/GC approach in future construction projects, Metro should obtain written assurance from the project architect or a qualified construction consultant that the CM/GC firm's proposed Guaranteed Maximum Price and reimbursable expenditures budget are reasonably priced.

   Implemented: *MERC carried out this recommendation by obtaining an independent construction cost estimate from the Zimmer Gunsul Frasca Partnership, the project architect, as part of its review of the guaranteed maximum price proposed by Hoffman Construction in early 2001.*

Response to the Report

A METRO SERVICE

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THE merc
arts. sports. conventions. shows.

METROPOLITAN EXPOSITION-RECREATION COMMISSION

August 26, 2003

Honorable Alexis Dow
Metro Auditor
Metro
600 NE Grand Avenue
Portland, OR 97232

RE: Oregon Convention Center Expansion Project—*On Time and Under Budget*

Dear Auditor Dow:

On behalf of the Metropolitan Exposition Recreation Commission, please consider this our response to your audit of the Oregon Convention Center expansion project's system for controlling costs.

We are very proud of the work our staff did bringing the OCC expansion project in on time and under budget. This was an important community project carried out successfully with limited funds, an ambitious construction schedule, and an ongoing day-to-day operation being conducted amidst the noise and dust of a construction site. As noted in your audit, as a result of effective oversight by MERC:

> "[t]he project came in on time and is currently estimated to cost at least $1.4 million less than budgeted. Our review found no major overpayments to the CM/GC or any other significant problems with the project's administration."

I am also happy to report that since your audit was completed, our staff had found additional savings and we now anticipate that the project will cost nearly $2 million less than budgeted.

With respect to your recommendations for improving our processes even further, we have the following responses to your Summary of Recommendations:

1. ***Formally review a greater portion of subcontract changes costing less than $75,000:*** *To achieve a higher level of assurance that subcontract changes were necessary and reasonably priced, project management should review a more significant portion of subcontract changes costing less than $75,000. The reviews should be documented and undertaken before the final payment is made to the CM/GC.*

Response to Recommendation Number 1:

MERC agrees with this recommendation. We will implement it in future projects by determining in advance the level and scope of review that is appropriate for various levels and types of subcontract changes.

2. ***Ensure that the CM/GC is paid only for authorized subcontract work:*** *To minimize the risk of overcharges for subcontract services, management staff should ensure that the total amount paid to each subcontractor, as shown in the CM/GC's monthly invoices, do not exceed amounts the expansion staff has reviewed and authorized. This check should be done before the final payment is made to the CM/GC. In addition, project management should check the subcontractor activity report and ensure that it accurately records the subcontract tasks he has approved.*

Response to Recommendation Number 2:

MERC agrees with this recommendation. The expansion team will complete a review of the reports to confirm that the amount invoiced does not exceed the approved contract amount for subcontractors.

3. ***Ensure accountability for travel costs:*** *To provide more visibility of construction-related travel costs and avoid potential conflicts of interest, Metro and MERC should directly pay the travel costs associated with inspecting vendor operations rather than indirectly through the contractor or vendor.*

Response to Recommendation Number 3:

MERC agrees with this recommendation.

4. ***Ensure construction materials are acquired at competitive prices:*** *To ensure competitive pricing, MERC and Metro should ensure future CM/GC contracts require the use of a formal competitive bidding process to acquire major construction materials.*

Response to Recommendation Number 4:

The question here is the degree of formality that is appropriate for this type of process. MERC contends that the bidding process for major construction materials was appropriately conducted for this project in accordance with Oregon law, industry standards, and the CM/GC process approved by the Metro Council acting as MERC's

Public Contract Review Board. We will similarly ensure that all future contracts comply with applicable legal requirements for competitive bidding and/or any alternative procedures approved by the Metro Council.

5. ***Ensure rates for rented equipment are competitive and reflect the CM/GC's actual costs:*** *To ensure that the project is not over-billed for equipment rentals, project management should select a significant sample of the equipment rented from or by the CM/GC and formally evaluate whether equipment rates were competitive. Checks should also be done to ensure that equipment rented directly from the CM/GC firm or its affiliates approximate the actual cost of providing the equipment. These comparisons should be documented and completed before the CM/GC services contract is closed.*

Response to Recommendation Number 5:

MERC agrees with this recommendation. OCC Expansion Staff will review comparative rental rates prior to the closing of the CM/GC contract.

6. ***Ensure that the CM/GC is paid for only those services that were actually received and necessary for the project:*** *Project management should investigate the reasons for general conditions costs that went over budget and request refunds for excessive costs if necessary. The line item budgets that were significantly exceeded included waste disposal, survey services and phone costs.*

Response to Recommendation Number 6:

MERC agrees with this recommendation. Adequate costs verification must be provided by the CM/GC. The Expansion Project Manager shall investigate those general conditions costs in question and request refunds for those costs that cannot be verified.

7. ***Resolve outstanding billing issues:*** *Project management should ensure that all billing problems identified during construction are resolved before authorizing the last payment to the CM/GC and closing the contract. This recommendation is the result of our follow-up on prior audit recommendations that pertain to* construction contracting.

Response to Recommendation Number 7:

The Expansion Project Manager shall fully comply with this recommendation.

8. **Ensure the confidentiality of subcontractor bids:** To enhance the integrity of subcontract bidding coordinated by the CM/GC firm, in future construction projects MERC and Metro staff should establish a procedure to ensure that bids received by the CM/GC are protected from disclosure until formal bid openings occur

Response to Recommendation Number 8:

MERC agrees with this recommendation.

9. Improve management of contract and project risks: In future projects or contracts that are significant in amount or high risk, Metro/MERC managers should prepare risk management plans, as recommended in our previous audit reports on Metro contracting practices and The Oregon Zoo's Great Northwest construction project.

Response to Recommendation Number 10:

MERC agrees with this recommendation. In future projects or contracts that are significant in amount or high risk, Metro/MERC managers will prepare a risk management plan and assure its implementation.

Respectfully submitted,

Gary Conkling /kms

Gary Conkling, Chair
Metropolitan Exposition Recreation Commission

cc: Mark Williams
Michael Jordan
Jeff Blosser
Karl Schulz
Mark Hunter

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Report Evaluation Form

METRO

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Name of Audit Report: Oregon Convention Center Expansion: Review of Management's System for Controlling Costs

Please rate the following elements of this report by checking the appropriate box.

	Too Little	Just Right	Too Much
Background Information	❑	❑	❑
Details	❑	❑	❑
Length of Report	❑	❑	❑
Clarity of Writing	❑	❑	❑
Potential Impact	❑	❑	❑

Suggestions for our report format:____

Suggestions for future studies:____

Other comments, ideas, thoughts:____

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A regional approach simply makes sense when it comes to protecting open space, caring for parks, planning for the best use of land, managing garbage disposal and increasing recycling. Metro oversees world-class facilities such as the Oregon Zoo, which contributes to conservation and education, and the Oregon Convention Center, which benefits the region's economy.

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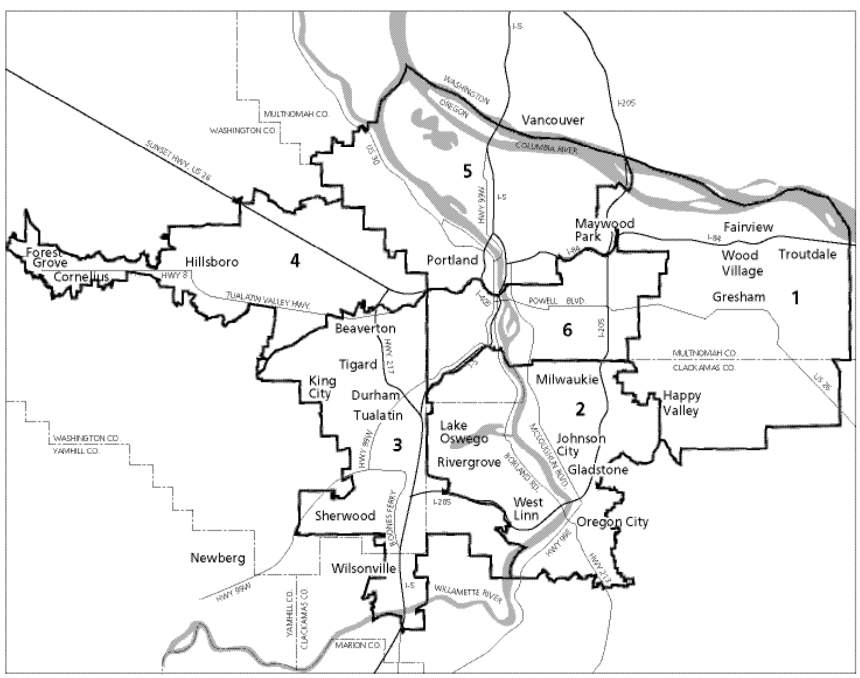

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