



Secretary of State Audit Report

Oregon Health and Science University: Biomedical Research Building Construction Audit

Summary

PURPOSE

This audit addresses construction of the Oregon Health and Science University (university) Biomedical Research Building. Our objectives were to determine whether:

- Contractor solicitation and selection were conducted in accordance with university public contracting policies;
- Processes were in place to ensure payments for payroll, rental equipment and subcontractor work were reasonable; and
- Contract payments, amendments and change orders were in accordance with contract terms and university public contracting policies.

BACKGROUND

As of September 2006, the university's total construction project budget for the 274,000 square-foot Biomedical Research Building was \$130.5 million, of which \$98 million was state funded and the remainder was funded through private gifts and university operating funds. The university used a construction manager/general contractor (CM/GC) for the project and also contracted with a project management firm to assist with managing the project. Construction began in 2003, and the building opened in 2006.

RESULTS IN BRIEF

The university did not follow its policies when it selected the project management firm and did not always retain solicitation and selection documentation as required by those policies. Also, the university's process for reviewing CM/GC contractor payment applications and project management firm invoices appeared incomplete, including a lack of written procedures detailing what should be included in a payment review. By reviewing documentation we obtained directly from the CM/GC,

we identified a small amount of payroll overcharges. Further, since the CM/GC could not provide complete information, we could not determine if some equipment rental charges exceeded contract allowable rates and if total rental charged for some equipment exceeded acquisition costs. Lastly, the university had adequate processes to ensure contract amendments and change orders were in accordance with contract terms and university policies.

RECOMMENDATIONS

We recommend Oregon Health and Science University:

- Strengthen its procedures to ensure it formally solicits contracts when applicable, and retains all solicitation and selection documentation.
- Develop, document and implement procedures requiring detailed review of contractor payment supporting documentation.
- Seek reimbursement for payroll overcharges.
- Consider having future contracts clarify payroll maximum hours, stipulate equipment rental charges will not exceed equipment cost and address who would own the equipment once equipment cost is met.

AGENCY'S RESPONSE

Oregon Health and Science University generally agrees with the recommendations. Its complete response can be found starting on page 5.

Background

Oregon Health and Science University (university) is the state's only health and research university. In 1995, the university became a public corporation with a governor-appointed Board of Directors. Although exempt from state contracting rules, it is required to develop policies that support openness, impartiality and competition in awarding contracts.

As of September 2006, the university's total construction budget for the 274,000 square-foot Biomedical Research Building was \$130.5 million, of which \$98 million was state funded and the remainder was funded through private gifts and university operating funds. Construction began in 2003, and the building opened in 2006.

The university used a construction manager/general contractor (CM/GC) for the project.¹ To assist with managing the project, the university also contracted with a project management firm.

Audit Results

The university did not solicit and select the project management firm according to its policies and did not always retain solicitation and selection documentation as required by those policies. Also, the university's process for reviewing CM/GC contractor payment applications and project management firm invoices appeared incomplete. Lastly, the university generally had adequate processes to ensure contract amendments and change orders were in accordance with contract terms and university policies.

¹ Under a CM/GC approach, the contractor performs an agreed scope of work at a price not to exceed an agreed upon amount, the guaranteed maximum price.

Formal Solicitation Was Not Performed for Project Management Contract

University policies and procedures effective at the time the initial contract with the project management firm was awarded required a formal solicitation for contracts estimated to exceed \$150,000. A formal solicitation is intended to encourage competition and discourage favoritism by allowing all persons the opportunity to bid on work.

The initial contract for the project management firm (to help the university manage the construction project) was awarded in March 2003 for approximately \$362,400. The total contract amount, including amendments authorized through May 2006, was approximately \$2.3 million. However, the university did not award the contract using a competitive process. For example, the university did not advertise or attempt to obtain multiple bids for the contract work.

Without a competitive process, contract award decisions may not be defensible if challenged. Moreover, the university does not have assurance it selected the most qualified contractor at the best value.

Solicitation and Selection Records Were Not Always Maintained

University policies and procedures also required solicitation and selection documentation be maintained for contracts exceeding \$10,000. Documenting award decisions and maintaining supporting materials help ensure processes are transparent.

The university followed its policies for maintaining documentation of evaluating CM/GC contractor proposals.

However, when we attempted to review the contractors' proposals, we noted some required sections and entire proposals were missing. University staff subsequently requested and obtained most of the missing documentation from the contractors.

We also found the selected contractor's proposal excluded certified financial information specifically required in the Request for Qualifications/Request for Proposal. This information was required to demonstrate the contractor possessed the necessary assets to complete the project. Due to staff turnover, university staff were unsure whether the contractor's certified financial information was reviewed prior to awarding the contract. In addition, the university did not have documentation to support that such a review occurred.

Without the documentation to support solicitation and selection decisions, the information is not available for review and dispute resolution should a non-selected contractor challenge the award.

Contract Payment Review Appeared Incomplete

An essential part of the contracting process is contract monitoring, which includes comparing invoices and charges to contract terms and conditions. Verifying contractor payment claims helps reduce the risk of overcharges.

University officials stated contract payment applications and invoices are sufficiently reviewed prior to payment. However, the university could not provide evidence to support that it performed a complete, detailed review of CM/GC contractor payment applications and project management firm invoices. Additionally, the university did not appear to request additional

documentation to confirm charges were appropriate. Lastly, the university did not have written procedures detailing what should be included in a payment review.

To ensure CM/GC hours billed were actually worked, we had to obtain employee timesheets directly from the contractor, as the university only had a summary included with the payment application. Our review of the timesheets found the CM/GC did not have supporting timesheet documentation for two payroll charges, and one individual was paid for more than the maximum allowable 40 hours per week.

After we provided the university with our draft audit report, the CM/GC provided additional timesheet documentation to university staff. The additional timesheet documentation showed the CM/GC billed the university in both cases for an employee that did not work on the project, rather than one that did. Although the total hours billed agreed to the timesheet documentation, the university was overcharged \$1,440 in one case due to different employee hourly rates. In addition, the CM/GC noted the individual paid in excess of 40 hours was an hourly paid intern, and stated for that reason the 40-hour maximum did not apply. However, based on our review, the contract is not clear whether the 40-hour maximum applied.

For CM/GC equipment rental charges, we could not determine whether some of the charges exceeded allowable rates stated in the contract because the contractor was not able to provide complete information on rates charged. We also could not determine whether total rental charges for most of the equipment we tested exceeded acquisition costs because items were either not tracked individually or acquisition cost information was not maintained. Of those we were able to test, the university paid

more than the acquisition cost for two items. Additionally, the contract did not stipulate whether equipment rental charges could exceed the equipment cost or specify who would own the equipment once rental charges paid met the equipment cost.

Finally, for the project management firm invoices we reviewed, the university did not have supporting documentation of the invoice charges. Further, there was no evidence the university requested receipts or other support to ensure the accuracy of amounts billed before approving payments.

Although the actual overpayments we identified during our audit were minimal, without detailed procedures and reviews of payment applications and invoices, the risk of significant overpayments exists.

We recommend Oregon Health and Science University:

- Strengthen its procedures to ensure it formally solicits contracts when applicable, and retains all solicitation and selection documentation.
- Develop, document and implement procedures requiring detailed review of contractor payment supporting documentation.
- Seek reimbursement for payroll overcharges.
- Consider having future contracts clarify payroll maximum hours, stipulate equipment rental charges will not exceed equipment cost and address who would own the equipment once equipment cost is met.

Agency's Response:

Oregon Health and Science University generally agrees with the recommendations. Its complete response can be found starting on page 5.

Objectives, Scope and Methodology

The purpose of our Oregon Health and Science University (university) Biomedical Research Building construction audit was to determine whether:

- Contractor solicitation and selection were conducted in accordance with university public contracting policies;
- Processes were in place to ensure payments for payroll, rental equipment and subcontractor work were reasonable; and
- Contract payments, amendments and change orders were in accordance with contract terms and university public contracting policies.

To answer the first objective, we reviewed the university's contracting solicitation and selection policies and procedures, Request for Qualifications and Proposals for construction of the Biomedical Research Building, construction firms' bid proposals and selection documentation.

To answer the second objective, we interviewed university managers, CM/GC staff and the project management contractor to gain an understanding of contracting payment review and approval processes. We also reviewed all 33 payment application summaries, six contract amendments and 13 change orders the CM/GC contractor submitted from the inception of the project in 2003 through March 2006. We verified these were mathematically accurate and properly approved.

To answer the third objective, we reviewed the accuracy and completeness of the supporting documentation the CM/GC contractor provided and additional contractor payroll documentation for seven of the 33 payment

applications. Also, the CM/GC contractor provided us with rental equipment rates and usage reports for equipment used on the project through May 2006. We reviewed these to determine if charges were in accordance with contract terms. For selected rental equipment, we reviewed acquisition cost information to determine if rental charges met or exceeded the original acquisition price. We selected payments from the university to the CM/GC and from the CM/GC to its subcontractors in order to further ensure payment accuracy. We reviewed supporting documentation for two CM/GC contract amendments and three CM/GC change orders to ensure calculation accuracy and adherence to contract terms, and to determine whether the university had conducted appropriate reviews. To verify calculation accuracy and adherence to contract terms, we also reviewed all project management firm invoices submitted from 2003 through April 2006.

Additionally, we reviewed university contracting policies and procedures, relevant *Oregon Revised Statutes*, the CM/GC contract and all amendments and change orders authorized from the inception of the project through March 2006. We also reviewed the project management contract and all amendments authorized through May 2006.

Finally, we identified contracting best practices by reviewing publications and other construction audits.

We performed our fieldwork between May and September 2006. We conducted our audit in accordance with generally accepted government auditing standards.

Oregon Health and Science University's Response to the Audit Report

Thank you for the opportunity to respond to your draft report entitled "Oregon Health and Science University: Biomedical Research Building Construction Audit."

We think it is important to note at the outset that this new 12-story, 274,000-square-foot building houses among the most advanced research laboratories in the world, a place where world-class scientists work together to translate basic science research into new drugs and other world-changing treatments. It is one of the few such facilities anywhere that will bring together the full range of advanced research tools – imaging, chemical biology, cell signaling, developmental therapeutics and stem cell production – that are the foundation of molecular medicine. Only one other research center in the world, for example, has advanced imaging equipment equal in power to the equipment installed in this new center. The building significantly enhances OHSU's capacity to take research from the laboratory to clinical trials to the patient's bedside and the student's casebook. In addition, the OHSU Biomedical Research Building is among the most environmentally sustainable research buildings in the Pacific Northwest and is on track for silver LEED (Leadership in Energy and Environmental Design) certification.

The University generally agrees with the recommendations of the audit report. This report and subsequent internal audits of costs associated with this project did not identify any material overcharges to the project.

The University's comments based upon the individual recommendations are as follows:

Recommendation: We recommend Oregon Health and Science University strengthen its procedures to ensure it formally solicits contracts when applicable, and retains all solicitation and solicitation documentation.

At the time of this engagement there were two policies and procedures regarding formal solicitation of vendors in place: one managed by Contracting Services and one managed by Facilities. Both of these policies had been reviewed and combined prior to the commencement of this audit. In addition, the procedures manual has been updated accordingly to clearly define the roles of Contracting Services and Facilities in the contract solicitation and exemption process. OHSU believes these changes have brought its procedures into agreement with the recommendations of the State Audits Division.

Additionally over the past few years, Oregon Health and Science University has also upgraded to high-speed scanners and is now scanning bid proposals and contracts or requiring all responses to solicitations to be provided in electronic format. All proposals and other contract related documents are archived to and tracked in the Contract Management Database (CMS), which is part of the University's main financial system.

Recommendation: We recommend Oregon Health and Science University develop, document and implement procedures requiring detailed review of contractor payment supporting documentation.

The University has strengthened its policies covering detailed reviews of supporting documentation of contractor payments to specifically include the recent addition of CM/GC arrangements. OHSU, through its Project Manager, did have a review process in place to ensure that the charges billed by the CM/GC were accurate and reasonable including a review of supporting documentation; however validation of the performance of the review was not available. To ensure that the review can be verified by external and internal parties, these policies will include retention standards for reviewed payment applications and supporting documentation.

Recommendation: We recommend Oregon Health and Science University seek reimbursement for payroll overcharges.

The University has investigated these possible overcharges and has requested the overcharge of \$1,440 be refunded. OHSU agrees that having future contracts clarify maximum chargeable payroll hours would be beneficial.

Recommendation: We recommend Oregon Health and Science University consider having future contracts stipulate equipment rental charges will not exceed equipment cost and address who would own the equipment once equipment cost is met.

OHSU works with contractors on a regular basis to ensure that equipment rental charges do not exceed equipment costs. OHSU will include standard language in all future contracts to implement this practice.

OHSU thanks the State Audits Division for its recommendations. We concur wholeheartedly with the intent of related State guidelines and share the State's desire to see them fully implemented. We also appreciate the professionalism and thoroughness of the State Audits Division in helping us identify areas of potential improvement.



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The courtesies and cooperation extended by the officials and staff of the Oregon Health and Science University were commendable and much appreciated.

This report, a public record, is intended to promote the best possible management of public resources. Copies may be obtained from our website on the internet at:

<http://www.sos.state.or.us/audits/audithp.htm>

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