



City of Albuquerque

Office of Internal Audit

Internal Audit

Interoffice Memorandum

December 15, 2004

Ref. No. 04-00-121F

To: Ed Adams, Director, Department of Municipal Development

From: Carmen L. Kavelman, Acting Director, Office of Internal Audit

Subject: FINAL FOLLOW-UP OF AUDIT REPORT NO. 00-121, CAPITAL IMPLEMENTATION PROGRAM-PROJECT MANAGEMENT

The Office of Internal Audit completed a follow-up review of Management Audit Report No. 00-121, Department of Finance and Administrative Services (DFAS), Capital Implementation Program-Project Management dated August 13, 2002. The Capital Implementation Program (CIP) was an office of DFAS from December 2001 until the creation of the new Department of Municipal Development (DMD) in July 2003. The purpose of our review was to determine if the audit recommendations had been implemented. Since CIP is no longer under the direction of DFAS all follow-up recommendations will be addressed to DMD. A review of five capital project contracts and related Architect/Engineering (A/E) agreements was performed to determine if the recommendations were implemented. We determined the following:

RECOMMENDATION NO.1:

At the time of the audit, there were almost 1,000 CIP projects being performed for the City at any one time. Department personnel and CIP personnel manage these projects; however, there are no documents describing responsibilities of the project manager or written procedures for the project manager to follow. During our review of projects we identified several areas of concern including charges for unauthorized services, retainage released prior to completion of project, and approval of payments for items that were not in accordance with contract terms. Other areas of concern included inaccurate contract completion dates, non-application of late fees, inadequate or missing supporting documentation, and missing signature authorizations.

We recommended that DFAS establish a semi-annual training program for project managers. The training should focus on management of construction projects including financial responsibilities and controls. We also recommended DFAS update and distribute existing guidelines for CIP project management.

ACTION TAKEN:

This recommendation has been partially implemented. DFAS offered an eighty-minute project management training seminar on January 23, January 29, and February 3, 2003 which gave an overview of the main elements of project management that apply to all

projects. The seminars were well attended by City employees, however, DFAS has not offered the seminar since this time. In addition, DFAS has not updated the 1993 Project Manager Handbook.

FOLLOW-UP RECOMMENDATION

DMD should continue to offer the project management training seminar on a regular basis, provide training for new project managers and publish updates on new rules and regulations.

DMD should update the 1993 Project Manager Handbook.

EXECUTIVE RESPONSE FROM DMD

***“DMD, through the CIP Division, does offer project management training to new project managers on an as-needed basis. In addition, the City Architect is available to assist any project manager as it relates to renovation or new construction. As rules and regulations are updated, they are distributed to the appropriate personnel within each Department.*”**

“DMD has established a technical team with members from the transportation, storm drainage, CIP and CIP fiscal division. This team has met three times for the purposes of updating the handbook.”

RECOMMENDATION NO. 2:

The City enters into A/E agreements for the design and engineering of City construction projects. The agreements describe the specific services to be provided while allowing for additional services as needed. Additional services are broadly described in the agreements. We recommended that DFAS review the language in the A/E contracts and incorporate the changes made to 14-7-1-4 ROA 1994 which requires definite completion dates for additional services.

We also recommended that DFAS review all existing A/E agreements and formally close agreements where the project is completed. As of October 2000, the City had 211 open A/E agreements whose original amounts totaled more than \$59 million. There were 1,755 Additional Services Agreements written for these 211 open A/E agreements; an average of 8 per contract. The Additional Service Agreements increased the City's obligation to the A/E firms by approximately \$46 million. The total value of the Additional Services Agreements exceeded the original A/E agreements for 61 of the 211 open contracts. In addition, supplemental contracts in the amount of approximately \$20 million were added to the original contract amounts.

ACTION TAKEN:

The recommendation has been partially implemented.

Article XXI of the standard A/E agreement has been updated to include authorization and justification for additional services, and includes a provision for definite completion dates for additional services.

A review of the list of A/E agreements at February 2004 found 11 agreements totaling approximately \$8 million whose balances had not changed since October 2000. Eight of the agreements were dated between 1992 thru 1999. The other 3 agreements were dated 2000.

FOLLOW-UP RECOMMENDATION

DMD should complete its review of all existing A/E agreements and formally close agreements where the project is completed. Open contracts without any activity for extended periods should be reviewed and closed.

EXECUTIVE RESPONSE FROM DMD

“The CIP Fiscal division will prepare a list of projects with no activity in the past two years for review by all division managers. Open contracts will be closed as appropriate.”

RECOMMENDATION NO. 3:

A change order is a written authorization issued after execution of the original agreement authorizing an addition, deletion, or revision in the work or an adjustment in the contract price or the contract time. Circumstances often arise during construction projects which require additional work. We recommended that DFAS reevaluate the procedures for the approval of construction contract change orders and strengthen the justification required for the change order. The justification should include the basis for not bidding out major changes. Our audit sample of construction contracts revealed the following examples of change orders. One construction contract had change orders submitted for \$1,239,186 that was in excess of the original contract amount. Another contract reinstated through six change orders \$94,351 of items that were deleted from the original contract as part of cost reduction negotiations. Two construction contracts used change orders to set up contingencies of \$50,000 each, one for an allowance for unforeseen conditions and one to allow the contractor to be paid in a timely manner. DFAS stated that they would inform project managers that these types of Change Orders would no longer be accepted or processed.

We also recommended that DFAS require additional approval for change orders in excess of a certain percentage over original cost. Current policy states that when individual change orders exceed \$50,000 they must be approved by the CAO. However, when change orders are less than \$50,000, CAO approval is not required even though the cumulative amount frequently exceeds \$50,000. DFAS stated they would continue to review change orders and would require further information from the Department when justification is inadequate. DFAS did not agree to

establish a policy requiring additional approval when cumulative change orders exceeded a percentage of original cost.

ACTION TAKEN:

This recommendation has been partially implemented. Of the five contracts selected for review, none of the contracts had cumulative change order amounts in excess of the original contract amount nor did they have contingencies set up.

One contract had a change order which added back \$9,264.94 originally deleted to save costs. The contract included the following justification: “These fixtures were negotiated out of the project to save cost. We are adding them back in to complete the project.”

FOLLOW-UP RECOMMENDATION

DMD should strengthen their review of change orders to ensure change orders are not processed for amounts removed from the original contract.

EXECUTIVE RESPONSE FROM DMD

“DMD has added a review of change orders by the DMD Deputy Director to ensure that change orders are not routinely processed for amounts removed from the original contract. However, DMD believes there are certain circumstances when it is both proper and appropriate to reinstate an amount into a contract.”

RECOMMENDATION NO. 4:

We recommended that DFAS develop procedures to ensure that change orders are properly completed. We found change orders that had incorrect completion dates and that were missing architect/engineer review and approval signatures.

We also recommended that DFAS review contractor justification for project delays. DFAS should approve extended dates of completion and, where there is insufficient justification for project delays the department should assess and collect liquidated damages. The Standard Construction Contract Special Provisions Section states, “Liquidated damages, in the amount per day shown in the Bid Proposal will be assessed against the CONTRACTOR for each calendar day, or portion thereof, that the Work remains incomplete after expiration of the agreed time allotted for construction, including any approved extensions of time granted.” DFAS responded that the department will review contractor justification for project delays. DFAS will coordinate with the department and legal in collection of liquidated damages as appropriate.”

ACTION TAKEN:

This recommendation has been partially implemented. Change orders for the sample of five contracts reviewed were properly approved; however, one of the construction contracts reviewed had a change order submitted without a revised completion date.

The change order submitted on September 19, 2003 added \$37,545.77 in costs and extended the contract 25 days from June 14, 2003 to July 10, 2003. The change was submitted two months after the requested revised contract completion date.

FOLLOW-UP RECOMMENDATION

DMD should strengthen their review of change orders to ensure change orders revised completion dates are correct.

EXECUTIVE RESPONSE FROM DMD

“DMD has added a review of change orders by the DMD Deputy Director to ensure that revised completion dates are correct.”

RECOMMENDATION NO. 5:

We recommended that DFAS develop project planning that reduces the need for change orders. In our original audit we reviewed 12 contracts of which six were open and six were closed. The total number of change orders submitted for these 12 contracts as of March 2002 was 124, with each contracts having from 2 to 20 change orders. The percentage increase for these change orders as related to the original contract price ranged from 1.5% increase to 113.4% increase in the total contract price.

ACTION TAKEN:

This recommendation has been fully implemented. Of the five contracts reviewed, three were open, two were closed. The number of change orders submitted per contract ranged from 0 to 8 with the total percent increase for change orders as related to original contract price from 0 to 9.4%.

RECOMMENDATION NO.6:

We recommended that DFAS inform project managers of the potential issues associated with combining art projects with construction projects. A 1999 New Mexico Department of Labor audit found that the Kimo Theater Renovation Project conservator failed to submit accurate certified payroll reports, pay minimum wage rates and classify workers according to the work performed. This situation arose because the conservator was not aware that public arts projects are subject to minimum wage rates when included as part of a public works construction project.

ACTION TAKEN:

This recommendation has been fully implemented. A review of a cultural project confirmed that art projects are now written separate from construction projects.

RECOMMENDATION NO.7:

We recommended that DFAS and Solid Waste Management Department (SWMD) obtain required documentation prior to closing the contract or releasing any retainage. Specific procedures and documents are required when a construction contract is completed which include Contract Closeout, Final Inspection, Final Change Order, and Payments to Contractors and Completion. These documents and procedures provide support for the work performed. This includes operating and maintenance manuals be provided to the City before final payment for the project is approved, and performance testing be completed on all equipment prior to final payment. For a SWMD project reviewed, the project manager was unable to provide the required documentation for the Contract Closeout or the field performance tests, equipment testing and startup or final acceptance tests. Also, retainage was released prior to contract completion. We recommended that DFAS and SWMD ensure that contracts dated prior to June 13, 2001 are complete before releasing the retainage. Contracts dated after June 15, 2001 are no longer subject to retainage requirements.

ACTION TAKEN:

This recommendation has been partially implemented. Out of the sample of five projects, one project (SWMD project) did not comply with the recommendation. For the SWMD project reviewed, performance testing was not performed, a final walkthrough review was not performed, and the required documentation was not on file.

FOLLOW-UP RECOMMENDATION

SWMD should conduct performance testing and walkthroughs on purchased equipment and obtain the required documentation prior to final payment.

EXECUTIVE RESPONSE FROM SWMD

“SWMD works closely with CIP to ensure compliance with all CIP procedures. However, the project reviewed in the follow-up audit was a grant-funded project and not a CIP project. SWMD understands many documentation requirements are the same for both grant and CIP projects. SWMD will review their grant procedures to ensure they are in compliance.”

RECOMMENDATION NO.8:

DFAS should ensure that completed projects are of the quality warranted in the contract. Two projects reviewed had defects which should have been corrected within the warranty period. We recommended that A/E contracts contain quality control provisions requiring on-site inspection by the architect/engineer and the project manager prior to the completion of the project. A follow-up inspection should be performed prior to warranty expiration, or if earlier, approximately 11 months after completion of the project. Any warranty, guarantee, or latent defect requirements should be enforced and a post construction review meeting should be held to discuss lessons learned on CIP projects.

ACTION TAKEN:

This recommendation has been partially implemented. A CIP official confirmed that post-construction review de-briefing meetings are held.

The architect agreement we reviewed contained provisions for the 11 month on-site observation, review of written guarantees and related documents, and provisions for issuance of the final Certificate for Payment, and acceptance of the project by the City. The engineering agreement we reviewed did not contain the 11 month on-site observation or review of warranty or guarantee provisions.

FOLLOW-UP RECOMMENDATION

DMD should ensure all architect/engineering contracts contain provisions requiring on-site observation by the architect or engineer and the project manager prior to date of completion of the project. All documents related to warranty and guarantee, and latent defects should be reviewed and a follow-up inspection should be performed approximately 11 months after completion of the project.

EXECUTIVE RESPONSE FROM DMD

“DMD believes that engineering contracts contain the quality control provision requiring on-site observation by the architect or engineer. The appropriate language is included in all contracts.

“DMD does comply with warranty and guarantee and latent defect requirements established for CIP projects. DMD does receive everything required in the contract and will continue to ensure that all requirements in all contracts are met. In addition, DMD has resumed post-construction review debriefing meetings to discuss lessons learned on CIP projects.”

AUDITORS' COMMENT

The actual engineering contract dated April 9, 2004 that was provided by DMD to Internal Audit for review did not contain the provision for an on-site follow-up inspection 11 months after the completion of the project.

RECOMMENDATION NO. 9:

The City of Albuquerque standard construction contract incorporates City of Albuquerque Standard Specifications for Public Works Construction, 1986 Edition, General Conditions and Technical Specifications, along with the updates to the standard specifications. There were six updates to the standard specifications that were not all incorporated into the 1986 edition. The standard specifications are sold to contractors and bidders of City construction projects. When Public Works Department (PWD) sold the standard specifications it sold only the 1986 edition that was updated in December 1992, and did not include all of the updates. Without these standard specification updates, users of these standard specifications did not have all necessary information to bid on a contract.

We recommended that PWD should update its 1986 Edition of the City of Albuquerque Standard Specifications for Public Works Construction. Also, PWD should provide copies of the six updates with the 1986 Edition of the City of Albuquerque Standard Specifications for Public Works Construction that are sold to the public.

ACTION TAKEN:

This recommendation has been fully implemented. Updated Standard Specifications can now be found on the City website, in bound book format, or in CD ROM format.

RECOMMENDATION NO. 10:

At the time of the original audit CIP had two automated project tracking systems: Capital Projects Tracking System (CPTS), and an Excel Spreadsheet Project Tracking System (Excel Spreadsheet) which produces the Financial Status Report (FSR).

The CPTS: 1) monitors administrative limits for the transfer of appropriations between projects or contingencies; 2) lists scope of projects; and 3) monitors CIP purchase orders for design and construction costs e.g. shows how much was paid out on a contract, how much was paid in change orders, and how much was in additional services.

The FSR, produced from the Excel spreadsheet, is a summary report and does not provide construction cost detail. The FSR lists costs allocated by funding source and funding year. It is difficult to determine the total funds allocated to projects with multiple funding sources and spanning multiple years. Tracking system reports should provide useful information that can be sorted by project funding source and annual costs, without requiring additional reconciliation.

Under this system CIP personnel manually enter the same information captured by CPTS into the Excel spreadsheet to produce the FSR. In 1999, CIP received \$250,000 from General Obligation Bonds to modify the CPTS so that it could generate the FSR.

We recommended that DFAS review and implement a project tracking system that did not require maintaining two different systems. Tracking system reports should be useful and not require additional reconciliation.

We also recommended that DFAS submit the annual Status Report as required by 2-12-5 ROA 1994 (revised in 2001) that required detailed information for each project change through project completion. The Status Report had not been submitted to Council since Fiscal Year 1997. These revisions require annual status updates of each Capital Improvements Program at annual intervals until all projects are completed. For each current project the report shall include the project name; total estimated project cost; total funding appropriated to projects, itemized by source of funding; and the status, including feasibility studies, design completion, and date construction began. The status report shall also list any changes to the project including the amount of any increase or decrease that was authorized without prior Council approval.

ACTION TAKEN:

This recommendation has not been implemented. The modification of the CPTS project tracking system was terminated. The \$80,000 balance of the original \$250,000 amount appropriated for the system modification was reappropriated to the CIP Facility Plan Set-Aside project.

CIP did generate a Status Report for FY2003; however, it did not contain the detail as required by 2-12-5 ROA 1994 (revised in 2001).

FOLLOW-UP RECOMMENDATION

DMD should produce an annual Status Report which complies with all the reporting requirements of 2-12-5 ROA 1994 and the 2001 revisions.

DMD should maintain a tracking system that provides useful information, including project funding by source and annual allocation of costs to projects.

EXECUTIVE RESPONSE FROM DMD

“DMD does not have a mechanism to implement the reporting requirements of 2-12-5 ROA 1994 and the 2001 revisions. DMD agrees that current tracking systems are cumbersome. However, DMD is hopeful that a new financial system for the City would be able to capture information regarding the status of a project and to provide financial information regarding funding by source and annual allocation of costs

to projects. The financial system project is not yet fully funded through the city capital program; additional funds will be sought in the 2005 General Obligation Bond program. There is not currently an estimated date for implementation of a financial system.”

RECOMMENDATION NO. 11:

The architect on a CIP project recommended a contractor be awarded a contract even though the bid did not meet required specifications for Bid Bond format. The contractor also listed a subcontractor that was not a prebid approved manufacturer on the project. The architect for the project recommended that the City accept the bid from the contractor while acknowledging the deficiencies. Therefore, there may not have been consistency in the decision to accept or reject a bid. These requirements are included in the bid documents to protect the City and ensure that the City receives the most value for its money.

We recommended that DFAS be consistent in the basis for accepting or rejecting bids.

ACTION TAKEN:

This recommendation has been fully implemented. Bid documents for four projects were reviewed and appeared to be consistent.

RECOMMENDATION NO. 12:

CIP uses standard contracts for both the Architectural Services Agreement and the Engineering Services Agreement (A/E agreement) which were last modified October 1, 2001. The A/E agreement contained the following language that conflicts with the Internal Audit Ordinance: “Records of expenses by the Architect (Engineer) and its consultants pertaining to all services provided under this Agreement . . . shall be available at mutually convenient times to the City or the City’s authorized representative, but only upon the request of the Chief Administrative Officer.” Under the Internal Audit Ordinance the Internal Auditor is not required to make information requests through the CAO unless the departments’ employees fail to produce the requested information. This was a repeat finding from Management Audit Report of the Capital Improvements Program, Office of Management and Budget, Mayor/CAO Department, Audit Report 95-128 dated November 28, 1995.

We recommended that DFAS revise the standard A/E agreements to be consistent with the provisions of the Internal Audit Ordinance.

ACTION TAKEN:

This recommendation has been partially implemented. Article XXI (Other Provisions) of the standard A/E agreements was updated to reflect Internal Audit Department as an

authorized representative who can request records. One of the CIP agreements selected for review was a professional services agreement which did not contain an audit clause.

FOLLOW-UP RECOMMENDATION

DMD should revise the standard professional services agreement to be consistent with the provisions of the Internal Audit Ordinance.

EXECUTIVE RESPONSE FROM DMD

“DMD will recommend to the Purchasing Division of DFAS that all standard contract forms be amended during the normal course of business to be in conformity with the Internal Audit Ordinance.”

RECOMMENDATION NO. 13:

The Capital Improvements Design and Construction Project Manager Handbook, Section 5.23 Approval of Final Estimated Construction Costs, states that “a certificate of approval of Final Estimated Construction Cost will be required by Legal prior to their sign-off of the Advertisement for Bids.” This requirement was instituted to correct a lack of a formal approval process for construction cost estimates submitted by consultants. This approval is important for all projects and particularly significant for those projects where the consultant’s fees may be adjusted based on the final estimated construction costs. A certificate of approval was not found with the contract documents for one project out of the 12 construction contracts in our sample.

We recommended that the Legal Department be provided with the project manager’s certificate of approval of final estimated construction costs. These documents should be provided to the Legal Department prior to their approval to advertise for bids.

ACTION TAKEN:

This recommendation has been fully implemented. The projects selected for review were properly approved by the Legal Department.

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xc: Mayor Chavez
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