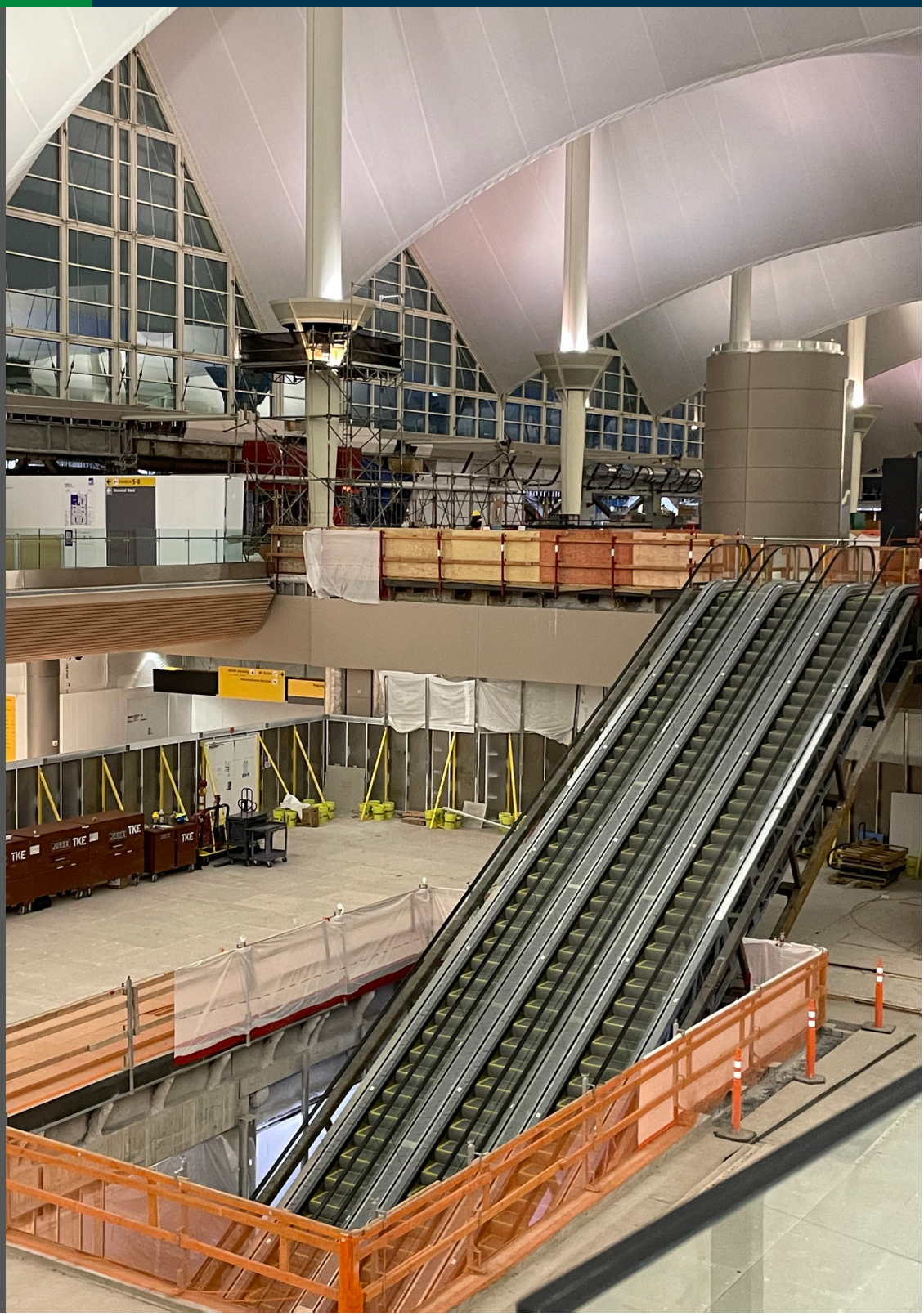
FOLLOW-UP REPORT

Denver International Airport
Great Hall Construction

JANUARY 2025



TIMOTHY M. O'BRIEN, CPA
DENVER AUDITOR

OFFICE OF THE AUDITOR
AUDIT SERVICES DIVISION,
CITY AND COUNTY
OF DENVER

Audit Team

Carl Halvorson, CIA, Audit Manager
June Samadi, MPH, Lead Auditor
Alex Munoz, CPA, Senior Auditor
Jackson Rossmith, Senior Auditor

Other Contributors

Stelios Pavlou, Communication and Reporting Specialist
Manda Troutman, Communication and Reporting Specialist
Jeff Neumann, Graphics and Visual Information Specialist

Audit Managers

Timothy M. O'Brien, CPA, Auditor
Valerie Walling, CPA, Deputy Auditor
Dawn Wiseman, CRMA, Audit Director
Patrick Schafer, CPA, CFE, CIA, MBA, Senior Audit Manager

Audit Committee

Timothy M. O'Brien, CPA, Chairman
Jack Blumenthal, Vice Chairman
Frank Rowe
Leslie Mitchell
Florine Nath
Charles Scheibe
Ed Scholz

You can obtain copies of this report by contacting us:

Office of the Auditor
201 W est Colfax Avenue, #705
Denver, CO 80202
(720) 913-5000

Or download and view an electronic copy by visiting our website at: www.DenverAuditor.org.

Cover photo courtesy of Denver Auditor's Office staff.

City and County of Denver

TIMOTHY M. O'BRIEN, CPA
AUDITOR

201 West Colfax Avenue, #705, Denver, Colorado 80202
(720) 913-5000 | www.DenverAuditor.org

AUDITOR'S LETTER

January 2, 2025

In keeping with generally accepted government auditing standards and Auditor's Office policy, as authorized by city ordinance, we have a responsibility to monitor and follow up on audit recommendations to ensure city agencies address audit findings through appropriate corrective action and to aid us in planning future audits.

In April 2023, we audited the Great Hall construction project and found risks involving project management and oversight of construction work. Denver International Airport agreed to implement three of our 10 recommendations.

We recently followed up and found the airport fully implemented two and partially implemented one recommendation.

Although the airport has made significant progress in implementing the recommendations it agreed to, it did not fully address all the risks associated with our original findings. Consequently, we may revisit these risk areas in future audits to ensure the city takes appropriate corrective action.

We did not update the status of the seven recommendations the airport did not agree to implement, as we confirmed it took no action toward implementing those. We include these recommendations in this report as a reference. The airport's original response and the Auditor's addendum for each of the seven recommendations are also included.

We appreciate the leaders and team members at the airport who shared their time and knowledge with us throughout the audit and the follow-up process. Please contact me at 720-913-5000 with any questions.

Denver Auditor's Office

Timothy M. O'Brien, CPA
Auditor

ORIGINAL REPORT HIGHLIGHTS

Great Hall Construction

Original Report Issued:
APRIL 2023

Follow-up Report Issued:
JANUARY 2025

Objective

To determine whether Denver International Airport's Special Projects Division is adequately managing and overseeing the current Great Hall construction project to ensure the airport procured its new contractor in a fair, open, and competitive manner and that the airport is not being overcharged for construction costs on the Great Hall project.

Background

The Great Hall in Denver International Airport lies beneath the Jeppesen Terminal's tented roof.

Renovations began in July 2018, but the airport terminated the original construction contract in late 2019 after problems arose with the initial contractor. Airport officials expedited the procurement process to hire Hensel Phelps Construction Co. as the new contractor of a re-envisioned three-phase construction project that resumed in early 2020.

The airport now expects work on the Great Hall to finish in 2028 at an expected cost of $2.1 billion.

Denver International Airport needed to strengthen its management and oversight of the Great Hall construction project to ensure the best value for the city

- The airport did not have a process to select the best project delivery method for its construction projects, and it deviated from its standard procurement process in 2019 when it mo ved quickly to select a new contractor to take over the Great Hall project.
- The airport lacked policies and procedures to manage projects using the construction manager/general contractor project delivery method, like the Great Hall renovations, consistently and effectively.
- The airport did not properly monitor or oversee Hensel Phelps Construction Co.'s subcontracting process, including when the company hired itself as a subcontractor.
- Airport managers did not properly review project allowances or general conditions costs to ensure the city was not being overcharged.

WHY THIS MATTERS

Without proper project management and oversight of construction work — beginning with choosing the appropriate project delivery method and lasting through construction — the city risks overpaying for projects like the Great Hall renovations.

Additionally, if the procurement of contractors and subcontractors is not done openly, fairly, and competitively, it damages the airport's reputation and impedes the airport's ability to ensure the city receives the best value for contracted work.

2	1	0	7
FULLY IMPLEMENTED	PARTIALLY IMPLEMENTED	NOT IMPLEMENTED	DID NOT AGREE TO IMPLEMENT

Jan. 2, 2025

Action Since Audit Report
Great Hall Construction

10 recommendations proposed in April 2023

Denver International Airport fully implemented two recommendations made in the original audit report. However, the airport only partially implemented one other and it has not taken steps to address the risks seven other recommendations had sought to resolve.

2	1	0	7
FULLY IMPLEMENTED	PARTIALLY IMPLEMENTED	NOT IMPLEMENTED	DID NOT AGREE TO IMPLEMENT

REMAINING RISKS

The recommendations the airport did not fully implement — including the seven recommendations it did not agree to implement — present several lingering risks. Among them:

- Not following procurement procedures or documenting and maintaining records for decision-making processes, such as scoresheets used when evaluating proposals, lessens transparency and reduces the airport's ability to show its processes are fair, reasonable, and competitive.
- Failing to have policies and procedures in place to ensure subcontracted work has proper oversight and is awarded in a fair, reasonable, and open way limits the city's ability to ensure it receives quality construction work and reasonable costs for subcontractor work.
- Without proper oversight of multi-tiered subcontracted work, the airport cannot ensure contract terms are followed which can result in overpayments.
- Failing to adequately oversee contractors' awards for self-performed work limits the airport's ability to ensure work was awarded in a fair and reasonable manner, based on open competition. As a result, the airport may not receive the best value for the work performed.
- Not requiring contractors to submit documentation of actual costs that can be validated and reconciled with project allowances limits the airport's ability to ensure it does not overpay for work.
- By not maintaining detailed documentation related to general conditions costs, the airport cannot determine whether these costs are reasonable or allowable. As a result, the airport may pay the contractor for costs that are unallowable.

FINDING | Denver International Airport needs to strengthen its management and oversight of the Great Hall construction project to ensure the best value for the city

RECOMMENDATION		IMPLEMENTATION STATUS
1.1	Develop and implement a project delivery method selection process	FULLY IMPLEMENTED
1.2	Follow construction procurement procedures and document steps	DID NOT AGREE TO IMPLEMENT
1.3	Develop construction procurement procedures for expedited needs	PARTIALLY IMPLEMENTED
1.4	Develop and implement policies and procedures for the construction manager/general contractor delivery method	FULLY IMPLEMENTED
1.5	Oversee the subcontracting process	DID NOT AGREE TO IMPLEMENT
1.6	Oversee multi-tiered subcontracted work	DID NOT AGREE TO IMPLEMENT
1.7	Oversee contractors' awards for self-performed work	DID NOT AGREE TO IMPLEMENT
1.8	Validate and reconcile project allowances	DID NOT AGREE TO IMPLEMENT
1.9	Appropriately use project allowances	DID NOT AGREE TO IMPLEMENT
1.10	Verify general conditions billing rates	DID NOT AGREE TO IMPLEMENT

Recommendation 1.1

DEVELOP AND IMPLEMENT A PROJECT DELIVERY METHOD SELECTION PROCESS – Denver International Airport's Special Projects Division should develop a process to ensure managers and staff use a risk-based approach to select a construction project's delivery method. This process should align with leading practices – such as the Colorado Department of Transportation's "Construction Manager/General Contractor Manual" and the "Airport Owner's Guide to Project Delivery Systems."

This process should also be thoroughly documented and include primary selection factors as outlined in leading practices, as well as staff members' rationale for the chosen method.

FULLY IMPLEMENTED

Agency's original target date for completion: June 1, 2023

SUMMARY OF AGENCY ACTION

Denver International Airport's Special Projects Division developed and

implemented a procedure guide for how to document the decision-making process for selecting a project's delivery method.

We compared the guide with leading practices from the Colorado Department of Transportation's "Construction Manager/General Contractor Manual" related to project delivery selection methods and the "Airport Owners' Guide to Project Delivery Systems" related to selecting airport capital project delivery methods. We found the airport's project delivery method guide aligned with these leading practices. The guide provides a step-by-step formal process to ensure a risk-based approach is both performed and documented, which reduces the risk to the city of selecting an inappropriate project delivery method that could lead to increased project costs and delays.

The airport published this guide in December 2022 and has used it to determine the appropriate project delivery method for the Taxiway Lima Extension project. We reviewed a copy of this project's delivery analysis and found the decision-making process was adequately documented and aligned with the procedures outlined in the project delivery method guide.

As a result, we consider this recommendation fully implemented.

Recommendation 1.2

FOLLOW CONSTRUCTION PROCUREMENT PROCEDURES AND DOCUMENT STEPS – Denver International Airport's Special Projects Division should follow its standard operating procedures for construction procurements and ensure thorough documentation exists for each project to show staff met all required steps in the procurement process.

DID NOT AGREE TO IMPLEMENT

SUMMARY OF AGENCY ACTION

Airport officials took no action to implement this recommendation because they did not agree to implement it after our original report.

This was the airport's response to the recommendation when the original report was issued in April 2023:

> *DEN followed the requirements in the Charter, Denver Revised Municipal Code, and Executive Order 8 and as much of DEN's procurement process as was practicable under the circumstances in procuring the contract. DEN did not have a procurement process for expedited procurements or exceptional circumstances like this one, which included potential litigation and a contractual handover of an in-progress project. Further, at the time, DEN's procurement process was time consuming and was estimated to take more than a year, if DEN had followed its existing SOPs.*

This was untenable with the exterior walls of the Terminal demolished and existing systems and building being exposed to freezing temperatures. As a result, it would have taken too long to procure the contract through DEN's then-existing process. Instead, DEN solicited proposals from six potential proposers deemed qualified to perform the work, and three submitted proposals. All proposals were reviewed in regard to the contractors' qualifications and initial pricing, and all contractors were interviewed. One panel member was from a DEN stakeholder representing the airlines. All panel members were seasoned in the procurement and contractor selection process and, therefore, separate training was not deemed to be necessary. The selection panel was also approved by the DEN CEO. After interviews, the panel convened to discuss the proposals, interviews, and proposed costs. The panel unanimously approved the final selection. All bidders were notified of the results and a meeting was held with the airlines to share the results with them. We are not aware of a directive from Airport Management at that time directing staff to minimize records due to the number of open records requests; rather the focus was on a swift, efficient, fair and competitive selection process to get construction restarted as soon as possible. All procurements overseen by DEN Special Project since the Great Hall procurement in 2019 have followed DEN's SOPs.

For the original report, we wrote the following addendum rebutting the airport's response:

> The airport says in its response that managers and staff "followed the requirements in the Charter, Denver Revised Municipal Code, and Executive Order 8 and as much of [the airport's] procurement process as was practicable under the circumstances."
>
> We did not assert that the airport did not follow city requirements for the procurement process. As we discussed on pages 13-14 of the report, airport managers told us the airport did not develop or keep any supporting documentation for the steps they followed in their procurement procedures. For example, the airport's response says, "The panel convened to discuss the proposals, interviews, and proposed costs." However, the airport did not keep any record of such a decision-making process, such as through meeting minutes or score sheets.
>
> The airport's own procurement procedures say, "The evaluation panel will review the proposals and score the proposals based on the criteria set forth during the panel member training on the scoresheet template. All scores are collected and combined into a master scoresheet to

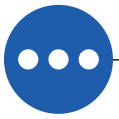
determine the best proposer." Further, the procurement procedures say, "The master score sheet is retained in our records and should follow the city's electronic records retention policy."

While we recognize this project had some unique circumstances, there is no excuse to not document the decision-making process. While airport officials say they followed as much of their procurement process as they deemed "practicable," without verifiable documentation, we could not determine whether these steps occurred. As we said in the report: This diminishes transparency and hinders the airport's ability to show its selection process was fair, reasonable, and competitive.

Airport officials also said in their response that they "are not aware of a directive from Airport Management at that time directing staff to minimize records due to the number of open records requests." However, this statement was made to us during an interview with the airport's senior vice president of special projects on Oct. 18, 2022, after we had asked, yet again, why documentation does not exist for several procurement steps.

Recommendation 1.3

DEVELOP CONSTRUCTION PROCUREMENT PROCEDURES FOR EXPEDITED NEEDS – Denver International Airport's Special Projects Division should work with the airport's Business Management Services to update its existing standard operating procedures for construction procurement to include necessary steps staff should take for special cases when a procurement needs to be expedited.



PARTIALLY IMPLEMENTED

Agency's original target date for completion: Dec. 1, 2023

SUMMARY OF AGENCY ACTION

Denver International Airport's Special Projects Division worked with the airport's Business Management Services Division to update its existing procedure guide to include the necessary steps to take for special cases when a procurement needs to be expedited. These procedures formalize and define when a fast-tracked procurement is required, the types of procurements that can be fast-tracked, and outlines documentation, justification, and approvals required to be completed.

We reviewed procurement documentation from the only two fast-tracked projects that have occurred since our audit and found the airport kept key documentation as outlined in its procedures for one project. However, the airport was missing a couple of key supporting documents for the other project, including the final score sheet and the conflict of interest forms for two of the three-panel members.

By inconsistently maintaining supporting documentation as outlined in the airport's procedure guide, the public and other stakeholders might perceive the airport as failing to be fair, open, and competitive. There is also an increased risk that airport staff could mismanage the procurement process, miss required steps, or result in noncompliance with city requirements and airport standards.

Therefore, we consider this recommendation partially implemented.

Recommendation 1.4

DEVELOP AND IMPLEMENT POLICIES AND PROCEDURES FOR THE CONSTRUCTION MANAGER/GENERAL CONTRACTOR DELIVERY METHOD – Denver International Airport's Special Projects Division should develop and implement policies and procedures addressing the unique risks of the construction manager / general contractor project delivery method. These policies and procedures should align with leading practices and detail the steps required to effectively manage such projects, beginning with the initial scoping of a project all the way through completion. These should also be sufficiently defined and structured so tasks are performed consistently across projects.

FULLY IMPLEMENTED

Agency's original target date for completion: Dec. 1, 2023

SUMMARY OF AGENCY ACTION

In December 2023, Denver International Airport's Special Projects Division implemented construction manager /general contractor policies and procedures for its projects. These policies and procedures largely documented practices that had already been in place at the airport, as well as incorporated guidance from the Associated General Contractors of America and the National Association of State Facilities Administrators.

The documentation we received also provided background on the construction manager /general contractor delivery method, and formalized procedures for trade subcontractor buyouts, self-performed work, funding use requests, cost structures, and applications for payment. Furthermore, appendices provided examples of the forms and log established throughout the policies and procedures.

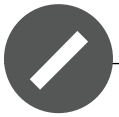
We interviewed key personnel at Denver International Airport to better understand the implementation of these procedures since December 2023. Additionally, we reviewed forms and logs from the project to verify the procedures were being followed. This documentation, along with the newly established procedures, showed they were being followed and mitigated the risk of tasks being performed inconsistently.

As a result, we consider this recommendation fully implemented.

Recommendation 1.5

OVERSEE THE SUBCONTRACTING PROCESS – Denver International Airport's Special Projects Division should oversee the awarding of subcontracted work to ensure the terms of construction manager/general contractor contracts are adhered to. Specifically, the division should develop and implement policies and procedures to ensure subcontracted work is awarded in a fair and reasonable way and, to the greatest extent possible, is based on open competition. At a minimum, the division should.

- Obtain and review all bid packages submitted by prospective subcontractors to ensure:
  - At least three bids for each trade are received — and if not, that the contractor makes an effort to re-bid or to document why three bids were not received.
  - The lowest, responsive, and qualified bidder is selected — and if not, document the justification as to why.
  - The contractor sufficiently documents its rationale when it chooses another bidder instead.
- Document the review and approval process for all bid packages for subcontractors chosen by the contractor.
- Obtain and review all subcontracts the contractor enters into to ensure proper oversight.



DID NOT AGREE TO IMPLEMENT

SUMMARY OF AGENCY ACTION

Airport officials took no action to implement this recommendation because they did not agree to implement it after our original report.

The airport's response to the recommendation when the original report was issued in April 2023 starts below. The Auditor's Addendum to the response from the original report begins on page 14.

> *As noted in the response to Recommendation 1.4, DEN Special Projects will expand upon its current procedures and include more detail fully documenting that the Great Hall Project's policies and procedures currently being followed. These will*

include procedures for strengthening the documentation process for the subcontractors chosen to work on the Program.

*DEN Special Projects oversaw the procurement of subcontracted work to ensure the terms of the CMGC contract were satisfied. DEN obtained and reviewed all bid package recommendations and subcontracts. The Contract does not require the Contractor to get three bids for each package. Because the Contractor cannot control which subcontractors bid and cannot interfere in their decision-making, the Contract instead requires "fair and open competition, based upon competitive bids". Fair and open competition does not relate to the number of bids or proposals received; it relates to the method of the solicitation by ensuring that any subcontractor who is qualified is able to bid and that all who participate in the bidding has a fair chance and the competition is open to those who are qualified. To date, the Contractor has held **548** outreach events and ensured fair and open competition for each bid package.*

Oversee the subcontracting process:

Denver International Airport's Special Projects Division should oversee the awarding of subcontracted work to ensure the terms of construction manager/general contractor contracts are adhered to. Specifically, the division should develop and implement policies and procedures to ensure subcontracted work is awarded in a fair and reasonable way and, to the greatest extent possible, is based on open competition. At a minimum, the division should: ***Disagree with finding - DEN already performs this requirement.***

- *Obtain and review all bid packages submitted by prospective subcontractors to ensure:* ***DEN already performs this requirement.***
    - *At least three bids for each trade are received - and if not, that the contractor makes an effort to re-bid or to document why three bids were not received.* ***Disagree with this finding - a minimum of three bids is not required by industry best practices or this contract.***
    - *The lowest, responsive, and qualified bidder is selected - and if not, document the justification as to why.* ***Disagree with this finding - DEN reviews the Contractor's recommendation, and it is the Contractor's risk if the subcontractor can't perform and responsibility to manage them (refer to next item for reference to documentation).***

- *The contractor sufficiently documents its rationale when it chooses another bidder instead.* ***Agree - DEN Special Projects will ensure the CMGC properly documents their evaluation process to support their recommendation.***

- *Document the review and approval process for all bid packages for subcontractors chosen by the contractor.* ***Agree - DEN Special Projects will adopt a consistent documentation process.***
- *Obtain and review all subcontracts the contractor enters into to ensure proper oversight.* ***Disagree with finding - DEN performs this requirement.***

In addition, regarding the specific findings included with Recommendation 1.5, DEN has the following responses:

*Auditor finding (pg. 21): "****DELAYS IN PROVIDING SUBCONTRACTS AND LACK OF KNOWLEDGE OF ALL SUBCONTRACTS*** *- Based on our audit work as of August 2022, we do not believe airport officials had copies of all 34 subcontracts for phase two of the Great Hall project readily available. Airport officials took 33 days to provide us with initial copies of the subcontracts we asked for. After evaluating them, we discovered four subcontracts were missing that should have been included in the response to our request. This led us to conclude airport officials did not have knowledge of all phase two subcontracts in existence."*

DEN response: This is incorrect. DEN had copies of all subcontracts. The Auditor's original request for project documentation included large volumes of documents including thousands of pages of back-up material. Given the time and personnel resources needed to compile these documents, while the same DEN staff were also fully engaged in advancing the Project and moving 20 airlines within the Terminal. DEN developed a schedule to transmit the requested documents in stages over the course of several weeks. This schedule was shared with the Auditor and the documents were transmitted on the scheduled dates. The referenced subcontracts were included in the last package of documents transmitted 33 days after the request. The four missing subcontracts were simply an error in transmission and were subsequently forwarded when found not to have been included. Thus, the auditor is erroneously implying the timeline to transmit documents is tantamount to lack of possession or knowledge of the work.

*Auditor finding (pg. 21): "****DELAYS IN PROVIDING SUBCONTRACTS AND LACK OF KNOWLEDGE OF ALL SUBCONTRACTS*** *- Meanwhile, we learned airport officials also*

did not have a complete understanding of all subcontracts Hensel Phelps had issued for phase two. On two occasions, the airport did not know that Hensel Phelps had entered into subcontracts with itself to perform some construction work."

DEN response: This is incorrect. The work referenced in this statement was for "concrete" and "Doors, Frames and Hardware". The amounts for both scopes of work were included in the CMGC's GMP proposal which was reviewed, approved, and executed by DEN in a task order change order. DEN had full knowledge and oversight of this work.

*Auditor finding (pg. 22): "**NO WRITTEN APPROVAL FOR SOME SUBCONTRACTS** - The airport's contract with Hensel Phelps says each subcontractor that Hensel Phelps expects to perform work must be accepted in writing by the airport before the subcontracted work begins."*

DEN response: The intent of this requirement is that DEN review and approve of the subcontractors performing work under the Contractor. Whether the approval of each subcontract took place via written email, or as documented in the weekly project cost review meeting minutes, each subcontract was reviewed and approved. We acknowledge the documentation process needs to be strengthened, therefore, we will now provide an emailed approval to the contractor once a recommended trade partner subcontract is reviewed and found to be acceptable.

*Auditor finding (pg. 22): "**LACK OF COMPETITIVE BIDDING** - We found that for 20 of the 34 subcontracts for phase two, Hensel Phelps either did not competitively bid the work or Hensel Phelps received less than the recommended three bids. Staff at Hensel Phelps said the company made no attempt to rebid these 20 subcontracts, which totaled over $20 million in construction work."*

*DEN response: The Auditor's rationale for stating there was a "Lack of Competitive Bidding" and that 20 of 34 subcontracts were not competitively bid is based on the Auditor's unilateral requirement that a "competitive bid" require three proposals. The Contract's Special Condition SC-5 states: "The Contractor recognizes and accepts that the subcontractor and supplier selection… is based on fair and open competition…(and) shall be procured based upon competitive bids awarded to the lowest, responsive and qualified bidder…". The Contract does not require that three bids must be received to meet SC-5. Instead, the Contractor is required to create a fair and open competition for all packages, regardless of how many bids are received. To date, the CMGC has held **548** outreach events and ensured fair and open competition for each bid*

*package. As discussed with the Auditor, the CMGC employed a wide ranging solicitation program to promote not only fair and open competition, but also to maximize M/WBE participation for the entire project. These efforts included an extensive process for advertising the upcoming solicitation opportunities as part of the Great Hall Project. All solicitations were made public and open to any firm that wanted to submit a bid. Firms had 2 ways of accessing and bidding the Great Hall opportunities. * Option 1 – All opportunities were linked to DEN's "flydenver.com" website page with a direct link that navigates to the advertising page on DEN's website which is maintained for the Subcontracting opportunities with the CMGC on the Great Hall program. This included a direct link on the referenced webpage to navigate a firm to the "Building Connected" website that the CMGC maintains for all bid opportunities. Any firm has the ability to register on Building Connected and bid on the listed opportunities at the Great Hall. * Option 2 – All opportunities are linked directly to the CMGC's website page. This link navigates to the section of the CMGC's website that will allow any firm to register with Building Connected and view/bid on any solicitation opportunities part of the Great Hall Program. In addition to the above public solicitations both via the DEN Airport and the CMGC's websites, the CMGC utilized a variety of strategies to maximize the number of companies interested in bidding. Examples of the additional efforts made by the CMGC include publishing opportunities and solicitations in advance of the Bid Package issuance through the DSBO website, DEN newsletter and the CMGC's newsletter announcements, project specific outreach events, pre-bid meetings, pre-bid site walks, and direct phone calls to the trades.*

*Auditor finding (pg. 23): "**LACK OF COMPETITIVE BIDDING** - In some cases, airport officials were also unaware that Hensel Phelps had waived the requirement to competitively bid subcontracted work. Although Hensel Phelps' contract with the airport allows for this, airport officials must authorize this waiver with express written approval. We identified four instances when the airport had not given express written approval for the exceptions. In these cases, the subcontracts were for work that Hensel Phelps determined only one subcontractor could do or the subcontract went directly to an airport-preferred vendor."*

DEN response: DEN was aware of and reviewed these proposed scopes of work prior to the execution of the GMP. The Phase 2 Task Order Change Order (TOCO) which established the final GMP included the following scopes of work, which were not competitively bid at the direction of DEN.

- TK Elevator – Scope: elevators and escalators. The products purchased and received (and transferred to DEN for installation) by the former developer were TKE elevators and escalators. Therefore it was most cost efficient to use the same provider and to not reprocure elevators and escalators and determine how to dispose of the ones previously received.
- *Powers Products Co. - Scope: vertically folding partitions. This is specialty equipment for security of new checkpoint, and this is the only certified installer for this product in this region.*
- *Brock Solutions - Scope: Baggage Handling Systems (BHS) Controls and Startup. This contractor provides controls for DEN's BHS systems and therefore was needed for continuity of services.*
- *Diamastone - Scope: Large Format Tile Supplier. Required for continuity of flooring materials to be installed throughout the Great Hall.*

The proposed final GMP from HP was reviewed in detail by DEN including the costs proposed for these four scopes of work. By signing and executing the TOCO, DEN provided written approval for these four subcontracts in accordance with SC-5.

*Auditor finding (pg. 23): "**SOME SUBCONTRACTS MAY NOT HAVE BEEN AWARDED TO THE LOWEST, MOST QUALIFIED BIDDER** - Not only does the airport's construction contract with Hensel Phelps require subcontracted work to be based on competitive bids, it requires subcontracts to be awarded to the "lowest, responsive, and qualified bidder. But Hensel Phelps did not adhere to this requirement for all subcontracts. In six instances where Hensel Phelps did not select the lowest bid, the airport could not provide us with documentation justifying the reason for its choice."*

DEN response: As discussed previously with the Auditor, each bid package was organized by an "Instructions to Bidders (ITB)" document that outlined the bidding process to include the scopes of work to be bid (in that particular package) and the selection criteria for award. The outlined selection criteria for award for the more complex scopes (such as Steel, Mechanical, Electrical, Fire Protection, Demolition, Glass & Glazing, Drywall, etc.) included the following evaluation components: pricing, project approach & schedule, relevant project experience / project team, and MWBE participation. For the Phase 2 purchasing, all recommended, approved and awarded subcontracts/purchase agreements made to date have been to the lowest bidder except for a few of these

complex scopes where the scoring criteria evaluation and review process outlined in the ITB resulted in award to a subcontractor with the best overall score and qualifications, but not necessarily the lowest price. This evaluation and review process utilized has greatly reduced risk and has increased the MWBE participation on the project. It should be noted that DEN reviews the CMGC's final recommendation, which is the CMGC's risk and responsibility. We acknowledge the documentation process needs to be strengthened in these instances, therefore, we will now provide documentation justifying the reasons for not simply awarding to the lowest bidder.

*Auditor finding (pg. 24): "**SOME SUBCONTRACTS EXCEEDED BID PROPOSAL AMOUNTS** - We found the dollar amounts for three of the 34 phase two subcontracts were for more money than the vendor originally proposed. As shown in Table 1, this amounted to the airport paying over $1 million more than originally proposed across three subcontracts."*

DEN response: The statement that DEN was "paying…more than originally proposed" is incorrect. In a CMGC project, the Contractor is preparing a GMP price that includes all anticipated costs. In the process of interviewing the bidders, the Contractor may identify costs or scope that were not included in the bids because they were missed or the documents were unclear, yet that scope and cost needs to be covered. The Contractor adds those costs to the "original bid" in order to ensure the covered scope costs are as complete as possible. Thus, the final cost might be more than the original bid.

In the case of the building concrete, there were two elements of work that made-up the entire scope of "building concrete" - vertical concrete and horizontal concrete. The CMGC submitted a bid for the vertical concrete for $1,115,407 as indicated in the report. No other bidder bid on the vertical scope. After analyzing the horizontal concrete bids, the CMGC added the lowest responsive bidder's horizontal concrete proposed amount of $635,851 to result in a total "building concrete" cost of $1,751,258 as shown in the Auditor's Table 1. In arriving at this overall price, the CMGC did not mark up the horizontal concrete bidder's proposal and combined both elements of building concrete in their subcontract recommendation to DEN. Had the CMGC recommended to DEN that a subcontract be issued to them for $1,115,407 and a separate subcontract be issued to the horizontal concrete subcontractor for $635,851, the result would have been the same.

Drywall - The difference between "bid" and "subcontract" of $25,574 is the cost of design services the Contractor was required to do for the cold-metal framing that was identified as part of the overall drywall scope, but not included in the initial bid. This was added to the bid amount prior to executing the subcontract to ensure the entire scope was covered. It was identified during the buyout process, to which, DEN was a party to the interview with that subcontractor.

Structural Steel- In regard to the discrepancy between the amount bid and the amount subcontracted, DEN sent the Auditor the Contractor's recommendation letter, dated 7/26/21 which explains $241,264 of the difference. The balance is indicated in the line items contained in the subcontract and account for small scope items found during buyout, but not covered in the initial bid. The Auditor's Office has been sent all the documentation which supports the additional scope that was added post bid and all of it has been verified as fair and reasonable by DEN.

*Auditor finding (pg. 24): "**SUBCONTRACTS NOT SIGNED IN ADVANCE OF WORK PERFORMED** - The construction contract between the airport and Hensel Phelps specifies that construction work must begin within 10 days of the airport issuing a task order to Hensel Phelps or its subcontractors. However, we found several subcontractors did not have signed contracts in place at the time the airport signed a task order for phases one and two of the current Great Hall project. Specifically, nine subcontracts were signed after the airport issued a task order, none of which were signed within 10 days. This indicates either that work did not begin within the required 10 days of the task order — which would violate the contract requirement — or that work began without a signed contract in place, which risks subcontractors working on-site without a signed agreement in place."*

DEN response: This statement is incorrect. Article III of the agreement between the DEN and CMGC reads, "the Contractor agrees to begin the performance of the work… within ten (10) days after receiving a Task Order Notice to proceed…". The audit report uses the term "construction work" but the Contract states "performance of the work". "Performance of the work" in a CM/ GC contract includes both Preconstruction Services as well as Construction Services. Typically, the initial Task Order for a CMGC project is written to cover Preconstruction Services including due diligence and assisting with target pricing to keep the design within the budget. However, under the Contract, there is only one NTP for each task order. Hence, when a Task Order NTP is issued, Contractor's commencement of "the performance of

the work…within ten (10) days…", means that the Contractor must begin Preconstruction services. That does not mean that Construction services begins at the same time. Furthermore, it is to be expected that several subcontracts would have not been executed immediately following the issuance of the task order as the design would not have been completed, making subcontractor buyout impossible.

For the original report, we wrote the following addendum rebutting the airport's response:

Because airport officials' response to Recommendation 1.5 references each individual section of the finding, we provide a similar format in offering further clarification to correct the airport's assertions.

DELAYS IN PROVIDING SUBCONTRACTS – In the airport's response, officials dispute that they did not actively possess and have knowledge of all subcontracts.

However, as we discussed on page 21 of the report, we requested documentation through email multiple times — documentation that should have been readily available. It took an inordinate amount of time for the airport to provide this, despite constant follow-up requests. As part of these repeated requests, we indicated our concern for the delay and told the airport that we believed this indicated managers and staff do not possess the subcontracts. As we said in this report, it took 33 days for the airport to provide the subcontracts. If these subcontracts were truly readily available and airport managers were consistent with their review of them, as officials claim in their response, it should not have taken over a month to provide them.

The airport had hired a third-party consultant to review areas of the Great Hall project that we looked at as part of this audit. On Feb. 16, 2023, airport officials met with the audit team to have this consultant discuss its findings. One of the items the airport's own consultant discussed was that the ability of a project owner — like the airport, in the case of the Great Hall project — to produce documentation sheds light on how controlled a project is. Specifically, the consultant said how quickly documents come to auditors speaks to how controlled a project is. We agree wholeheartedly with the airport's consultant on this matter. The airport's inability to provide documentation and fulfill audit requests in a timely manner indicates managers and staff did not have the subcontracts in hand and had to retrieve them from their contractor, Hensel Phelps.

Furthermore, throughout our audit fieldwork, we had to request missing contracts the airport had not provided. We discovered and requested the final missing subcontract on Dec. 19, 2022.

LACK OF KNOWLEDGE OF ALL SUBCONTRACTS – As we also discussed on page 21, when we asked airport leaders whether Hensel Phelps entered into a subcontract agreement for its self-performed work, airport managers said no. Specifically, the senior vice president said in an email on Aug. 29, 2022: " There is not a separate lump-sum subcontract that Hensel Phelps entered into with the airport that covers the self-performed work." Furthermore, the director of construction at the airport said in an interview that same day that, "It is a subcontract that is under the [guaranteed maximum price]. It is part of the task order with Hensel Phelps; there is no separate contract."

The airport's delay in providing subcontracts and its officials not knowing that their general contractor had, in fact, entered into a subcontract agreement for self-performed work indicates an obvious lack of oversight for the subcontracting process. This lack of oversight runs the risk of the city overpaying for subcontracted work — the largest portion of a project's costs — or could result in the city receiving lesser-quality work.

NO WRITTEN APPROVAL FOR SOME SUBCONTRACTS – In their response, airport leaders said they approved all subcontractors via email or in weekly project-cost review meeting minutes. However, the airport gave us a project-cost review meeting agenda with no detailed summary of what was discussed. Additionally, there were no signatures to indicate managers had approved it.

Meeting agendas with inconsistent and minimal handwritten notes and that lack any signoff do not constitute written approval as required by the contract. Furthermore, there is no evidence to show when the handwritten notes on the meeting agendas were made and by whom.

Airport officials must document an adequate review of all subcontracted work to ensure they are receiving quality work and not overpaying for the work being performed.

LACK OF COMPETITIVE BIDDING – In their response, airport officials said "the contract does not require" them to receive three bids for each trade of construction work.

The audit report does not say this is a contractual requirement. As we discussed on page 22 of the report, best

practices published by The Institute of Internal Auditors recommend receiving a minimum of three bids.

Additionally, we do not say the airport did not make proper efforts for solicitation, as airport officials suggest in their response. In fact, our analysis determined otherwise. The issue is that the airport failed to provide documentation to justify why it did not receive three bids or why no attempts were made to re-bid, in line with best practices.

Furthermore, airport officials said in their response that staff reviewed and approved the scopes of work that we had found were not competitively bid. Nonetheless, the airport needs to adhere to its own contract and provide express written approvals for any and all exceptions. The execution of a task order does not satisfy this requirement.

Lastly, we found no evidence that Hensel Phelps received prior written approval from the senior vice president before awarding five of the six trades that bypassed the competitive bidding process, as required by the contract in the "Special Conditions" section. The signing of a task order is not equivalent to a detailed, documented review and approval.

SOME SUBCONTRACTS MAY HAVE NOT BEEN AWARDED TO THE LOWEST, MOST QUALIFIED BIDDER – Airport officials said in their response that they "acknowledge the documentation process needs to be strengthened [for the selection process], therefore, we will now provide documentation justifying the reasons for not simply awarding to the lowest bidder."

This indicates airport officials do in fact agree with this audit finding. In the end, we could not conclude, in some cases, if subcontracts were awarded to the lowest, most qualified bidder because of the airport's lack of documentation — specifically, the documentation needed to justify why some subcontractors were chosen over lower bidders. This is an important step of the review process to ensure proper oversight of a contractor and to promote a competitive, open, and fair bidding process.

SOME SUBCONTRACTS EXCEEDED BID PROPOSAL AMOUNTS – Airport officials said in their response that in a construction manager/ general contractor delivery method, it is acceptable to exceed the bid price for any anticipated scopes that were originally "missed" or "unclear." However, according to the airport's own contract, all work needs to be competitively bid out or alternatively approved in writing by the senior vice president.

We found these additional scopes were not competitively bid out nor approved in writing. Additionally, the contract says the work to be performed under the contract needs to be detailed in task orders.

SUBCONTRACTS NOT SIGNED IN ADVANCE OF WORK PERFORMED – Airport officials said in their response that, "Several subcontracts would have not been executed immediately following the issuance of the task order because the design would not have been completed, making subcontractor buyout impossible."

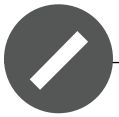
We took those subcontractors noted in the airport's response into account and we excluded them from our analysis, despite the airport suggesting otherwise .

Regardless, we still found 14 subcontracts across phases one and two that were signed after the task order was signed and initiated. This means that either 1) work did not begin within 10 days of the task order notice, as required by the contract or 2) work did begin without a signed contract in place, risking unnecessary liability for the airport.

Recommendation 1.6

OVERSEE MULTI-TIERED SUBCONTRACTED WORK – Denver International Airport's Special Projects Division should strengthen its oversight of multi-tiered subcontracted work to ensure markups are calculated in accordance with contract terms.

Specific to the current Great Hall project, the division should obtain information on all subcontractor work done during phases one and two that used multiple tiers of contractors. The division should recalculate the markup charges and seek credit for any amounts the airport was overcharged.



DID NOT AGREE TO IMPLEMENT

SUMMARY OF AGENCY ACTION

Airport officials took no action to implement this recommendation because they did not agree to implement it after our original report.

This was the airport's response to the recommendation when the original report was issued in April 2023:

> *Markups on multi-tiered subcontracted work on Change Orders, Allowances and Contingencies specific to the Great Hall Program were calculated correctly and consistently. DEN Special Projects applies Title 1104.2.E(2) of Denver's General*

Contract Conditions to all subcontracted work utilizing Allowances and Contingencies. Title 1104.2.E(2) of Denver's General Contract Conditions states that "A supervising Subcontractor (if any) shall be entitled to a three percent (3%) markup on the actual price charged to the Subcontractor by a Subcontractor of a lower tier". The term "actual price charged to the subcontractor" would be inclusive of the 12% markup allowed by Title 1104.2.E(1). As discussed elsewhere, "actual price" is interpreted to mean the invoice price rather than a price calculated as time and materials. While DEN Special Projects acknowledges that other City agencies could interpret this differently, this is DEN Special Projects' consistent interpretation. Therefore, the costs presented and paid for under the Great Hall Program were correct.

Regarding the Auditor's finding that "Hensel Phelps also exceeded the 15% markup limit by layering markups", we acknowledge this case may occur on limited basis when there are numerous tiers of subcontractors. At a 15% limit, the Denver General Contract Conditions would only allow for two tiers of subcontractors (12% for subcontractor performing the work + 3% for supervising subcontractor). However, on a large complex program such as the Great Hall, there are cases where there are more than two tiers of subcontractors, which would lead to the 15% being exceeded. Fortunately, the Denver General Contract Conditions allows for this situation in Title 1104.2.E(5) which states: "...Written justification and approval shall be required for any percentages exceeding a total of fifteen percent (15%)". In the cases where this occurs, the contractor's proposal details the multiple tiers of subcontractor costs and their markups. Once submitted, DEN reviews them to ensure they're fair and reasonable prior to final approval.

For the original report, we wrote the following addendum rebutting the airport's response:

> Airport staff's justification for exceeding the 15% mark up limit is that this is a complex project and that Denver's "General Contract Conditions" allow for this situation.
>
> However, neither the size nor the complexity of a construction project justifies noncompliance with a contract. We received no evidence that the airport followed the "General Contract Conditions" by providing justification and approvals for exceeding the 15% limit .
>
> After sampling seven subcontractors, we concluded the total amount the airport could have been overcharged for all incorrect markups could be significant. Furthermore, a project owner's inadequate oversight of the subcontracting

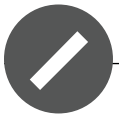
process increases the potential for fraud.

Recommendation 1.7

OVERSEE CONTRACTORS' AWARDS FOR SELF-PERFORMED WORK – Denver International Airport's Special Projects Division should ensure its project managers are actively involved when any contractor awards itself subcontracted work to ensure the terms of the primary construction contract are adhered to with regard to awarding self-performed work.

Specifically, project managers should ensure the work is awarded in a fair and reasonable manner and, to the greatest extent possible, is based on open competition. At a minimum, project managers should:

- Obtain and review all bid packages submitted by prospective subcontractors to ensure at least three bids for each trade are received — and if not, that the contractor makes an effort to re-bid — and that the lowest, responsive, and qualified bidder is selected.
- Review all bid packages for reasonableness — such as ensuring a contractor does not bid on self-performed work that they will subsequently subcontract out.
- Approve all self-awarded work.
- Obtain and review all self-performed work agreements entered into by the contractor so that managers are familiar with the terms and conditions contained within them and can ensure all costs are reasonable.



DID NOT AGREE TO IMPLEMENT

SUMMARY OF AGENCY ACTION

Airport officials took no action to implement this recommendation because they did not agree to implement it after our original report.

The airport's response to the recommendation when the original report was issued in April 2023 starts below. The Auditor's Addendum to the response from the original report begins on page 26.

> *DEN Special Projects performed a detailed review of the Contractor's proposed self-performed work packages. DEN Special Projects has seen no evidence that the CMGC structured the bidding for its self-performed work packages to its advantage and would have required the Contractor to re-do a package if this occurred.*
>
> *As noted in the response to Recommendation 1.4, DEN will expand upon its current Program guidelines to document the Program's detailed policies and procedures already in place. These will include procedures for strengthening the*

documentation process for the subcontractors chosen to work on the Program. To illustrate the magnitude of the CMGC's self-performed work on Phases 1 & 2, both were 0.73% of the overall costs.

Regarding each specific Recommendation included within 1.7, DEN has the following responses:

Oversee contractors' awards for self-performed work

Denver International Airport's Special Projects Division should ensure its project managers are actively involved when any contractor awards itself subcontracted work to ensure the terms of the primary construction contract are adhered to with regard to awarding self-performed work.

Specifically, project managers should ensure the work is awarded in a fair and reasonable manner and, to the greatest extent possible, is based on open competition. At a minimum, project managers should:

- *Obtain and review all bid packages submitted by prospective subcontractors to ensure at least three bids for each trade are received — and if not, that the contractor makes an effort to re-bid — and that the lowest, responsive, and qualified bidder is selected.* ***Disagree with this finding – As discussed above, the Contract does not require three bids for a bid process to be "fair and open competition, based upon competitive bids". Further, to date, the Contractor has held 548 outreach events and ensured fair and open competition for each bid package.***
- *Review all bid packages for reasonableness — such as ensuring a contractor does not bid on self-performed work that they will subsequently subcontract out.* ***Disagree with finding – also as discussed above, this finding relates to one bid package and there was nothing improper about it.***
- *Approve all self-awarded work.* ***Agree – While DEN Special Projects does approve this, it will adopt a consistent documentation process.***
- *Obtain and review all self-performed work agreements entered into by the contractor so that managers are familiar with the terms and conditions contained within them and can ensure all costs are reasonable.* ***Disagree with finding - DEN already performs this requirement.***

In addition, regarding the specific findings included with Recommendation 1.7, DEN has the following responses:

*Auditor finding (pg. 30): "**Airport officials were unaware subcontracts existed for Hensel Phelps' self-performed work** - Airport officials may not have been actively involved with reviewing, managing, and procuring the contractor's self-performed work. Specifically, they were not aware of the separate subcontracts that Hensel Phelps entered into that covered its self-performed work for both phase one and phase two of the current Great Hall project. Instead, officials incorrectly believed Hensel Phelps' subcontracted work was included under the guaranteed maximum price listed in individual task orders. In fact, we found Hensel Phelps entered into a subcontract agreement with itself for both phases."*

DEN response: This is incorrect; DEN was aware of, and reviewed in detail, these proposed scopes of self-performed work that became part the GMPs for both Phase 1 and Phase 2. The Task Order Change Orders (TOCO) which established the final GMP for both phases included all of the CMGC's self-performed scopes of work.

For Phase 1, the CMGC's self-performed work included doors, frames, and hardware (DFH) as well as rough carpentry. The CMGC's proposal for the DFH scope was presented to DEN prior to the execution of the final GMP. DEN's initial Task Order with the CMGC, executed on 3/5/2020, provided the initial $77,879,000 in funding to allow the initial scopes of work to be developed and bought-out under subcontracts while the design and final GMP were being developed. At the submission of their final GMP proposal, the CMGC included these approved DFH costs in their summary and also submitted new proposed costs for their rough carpentry scope of work. When the final GMP was reviewed and approved by DEN through execution of the TOCO, these rough carpentry costs were approved as well. There was no "incorrect belief" about the cost of the self-performed work.

For Phase 2, the CMGC's self-performed subcontracts included building concrete and doors, frames and hardware (DFH). Both of these scopes of work were reviewed by DEN, approved, and included in the final GMP submission.

*Auditor finding (pg. 30): "**Airport officials were unaware subcontracts existed for Hensel Phelps' self-performed work** - As discussed on page 21, airport officials needed 33 days to provide us with project subcontracts for the current Great Hall project after we requested them. Copies of subcontracts should have been easily accessible, readily available, and already reviewed by airport officials. The extended time it took the airport to provide us with the subcontracts, coupled with our need to request subcontracts that were not initially*

provided, indicates airport managers may not have had copies of subcontracts. Not having copies of these documents in their possession further illustrates how airport staff overrelied on Hensel Phelps."

DEN response: As stated in a previous comment, this assumption is incorrect. DEN had copies of all subcontracts. The Auditor's original request for project documentation included large volumes of documents made up of thousands of pages of backup material. Given the time and personnel resources needed to compile these documents, while DEN was also fully engaged in moving 20 airlines within the Terminal, DEN developed a schedule to transmit the requested documents in stages over the course of several weeks. This schedule was shared with the auditor and the documents were transmitted on the scheduled dates. The referenced subcontracts were included in the last package of documents transmitted, which happened to be 33 days.

*Auditor finding (pg. 30): "**The airport paid Hensel Phelps nearly $242,000 more than what was authorized for subcontracted work** - Because the airport was not actively involved in how Hensel Phelps hired itself as a subcontractor, the airport paid Hensel Phelps $241,565 more than the guaranteed maximum price authorized by a task order for phase one of the current Great Hall project. There also was no written approval for the excess work that Hensel Phelps self-performed nor was that work competitively bid out to ensure a fair procurement."*

DEN response: This is incorrect, DEN was actively involved with all subcontracting, including self-performed work by the Contractor. The Auditor was provided with a subcontract change order log indicating all of the additional costs proposed by the CMGC for their Phase 1 self-performed work, as well as DEN's review documents of those proposals. Each proposal was reviewed by DEN to ensure the costs were fair and reasonable and the CMGC was not overpaid. The majority of these requests were under $10k, so competitively bidding such small miscellaneous scopes of work is unreasonable given the fast-track nature of this project and effort to bid such small scopes.

In regard to the statement made regarding "using unrelated allowances" to fund some of these small costs, the Auditor disagrees with DEN's use of available allowances. DEN's management of Allowances is consistent with the Contract language and general project accounting principles. The Contract stipulates that "Whenever costs are more than or less than the allowances, overruns and underruns in allowances will first come from owner's contingency and if

insufficient owner's contingency remains, the Task Order shall be adjusted accordingly by change order." In these cases, DEN may reallocate allowances with underruns/ overruns appropriately to other areas of work to avoid the need for a Task Order Change Order and to stay within the Project's overall budget. This is a common risk-mitigation and budgeting technique in construction. Therefore, the Auditor's statement of misuse of allowances is unfounded.

*Auditor finding (pg. 32): "**Subcontracted work Hensel Phelps awarded to itself was not procured in a fair and reasonable manner** – Managers of the Special Projects Division who are responsible for overseeing the Great Hall project did not ensure Hensel Phelps followed a fair and reasonable bidding process when awarding itself a subcontract for self-performed work."*

DEN response: As stated previously, the CMGC has held 548 outreach events and ensured fair and open competition for each bid package, including self-performed work. The CMGC employed a wide-ranging solicitation program to promote not only fair and open competition, but one that maximized M/ WBE participation for the entire project.

*Auditor finding (pg. 32): "**Hensel Phelps structured the bidding for concrete work to its advantage, potentially reducing submissions by other prospective subcontractors** – Leading practices in construction say project owners must be aware that contractors can use their inside knowledge to obtain self-performed work. For example, a contractor might do this by combining two types of subcontracted work into a single bid, knowing no subcontractor can perform both. One bid package for phase two of the Great Hall project solicited subcontractors for concrete work that included both specialized work with vertical concrete columns and routine work with horizontal concrete. Airport officials said Hensel Phelps intended to perform the vertical concrete work from the beginning because the company had a lot of experience with this skilled labor. Vertical concrete work is complex and high risk, while horizontal concrete work is what any concrete construction company is more accustomed to performing. Therefore, grouping together the horizontal and vertical portions of the work in a single bid package limited the competition, fairness, and transparency required by the contract."*

DEN response: Thirty different subcontractors were solicited to bid on Phase 2's concrete work. As discussed above, the CMGC received two bids, and both of those bids were only for the horizontal concrete portion of work. As stated in previous comments, there were two elements of work that made-up

the entire scope of "building concrete": vertical concrete and horizontal concrete. The CMGC bid the vertical concrete the day for $1,115,407. The CMGC then added the lowest responsive bidder's horizontal concrete proposed amount of $635,851, resulting in a total "building concrete" amount of $1,751,258. The CMGC did not markup the horizontal concrete bidder's proposal, and combined both elements of building concrete into their subcontract recommendation to DEN. The CMGC also could have recommended to DEN that a subcontract be issued to them for vertical concrete in the amount of $1,115,407 and a separate subcontract be issued to the horizontal concrete subcontractor for $635,851, but they did not. As they did not include any markup on the horizontal work, the result would have been exactly the same regardless of which contract approach the Contractor used. DEN Special Projects has seen no evidence that the CMGC structured the bidding for their self-performed work packages to its advantage and the amount of self-performed work is limited.

*Auditor finding (pg. 33): "**Airport managers allowed Hensel Phelps to self-award some work, which the company then subcontracted out to another subcontractor** - Hensel Phelps was self-awarded the concrete work for phase two for $1,751,258. Hensel Phelps' bidding documents make clear the company intended to perform only the vertical portion of the work, although it was awarded both the horizontal and vertical concrete work. We learned from the contractor that Coloscapes Concrete was hired as a second-tier subcontractor, working to perform the horizontal concrete work that was originally awarded to Hensel Phelps. This goes against leading practices, which say a contractor should not bid on self-performing work and then subcontract that work out, because the contractor could increase costs this way.60 Hensel Phelps staff told us they charged no markups as the supervising subcontractor — but neither Hensel Phelps nor the airport provided documentation to confirm that. Therefore, we cannot determine whether the airport was overcharged. The risk exists that this could happen on subsequent projects if airport officials do not provide more adequate oversight of subcontractor awards."*

DEN response: Restated again from a previous comment: In the case of building concrete, there were two elements of work that made-up the entire scope of "building concrete"; vertical concrete and horizontal concrete. The CMGC bid the vertical concrete the day before bids were due from other subcontractors. The CMGC's vertical concrete bid was $1,115,407 as indicated in the report. After analyzing the other bids, the CMGC added the lowest responsive bidder's

horizontal concrete proposed amount of $635,851. This resulted in a total "building concrete" amount of $1,751,258. The CMGC did not markup the horizontal concrete bidder's proposal, and combined both elements of building concrete into their subcontract recommendation to DEN. Had the CMGC recommended to DEN that a subcontract be issued to them for vertical concrete in the amount of $1,115,407 and a separate subcontract be issued to the horizontal concrete subcontractor for $635,851, the result would have been exactly the same.

*Auditor finding (pg. 34): "**No evidence exists that Hensel Phelps' bid for subcontracted work was submitted before other bids for phase two** - To ensure a fair and competitive bidding process, as required by the contract, Hensel Phelps' bids for subcontracted work should have been submitted before any other potential subcontractors' bids. Doing so would eliminate the opportunity for Hensel Phelps to adjust its bid after seeing the bids of potential competitors. However, we found that Hensel Phelps submitted its bid for door and hardware installation on the same day another prospective subcontractor — Metro Doors LLC — submitted its bid. Because both bids were submitted on the same day, Hensel Phelps' self-performed work for the door and hardware installation may not have been procured in a fair and reasonable manner that ensured open competition to the greatest extent possible."*

DEN response: The Auditor references SC-5 in their statement "as required by contract". However, SC-5 does not state that the GC needs to provide their self-perform bid before a subcontractor's. In any case, the CMGC did provide their self-performed concrete bid the day before any other bids were due. In the case of the $18,614 DFH bid, the CMGC provided it at the same time as the other bidder. This was irrelevant because the other bidder was deemed nonresponsive as they excluded certain work requirements from their bid.

*Auditor finding (pg. 34): "**The airport did not provide a written review of pricing for some self-performed work before Hensel Phelps awarded itself a subcontract** - Lastly, airport managers failed to provide a written review of pricing for Hensel Phelps' door and hardware installation bid for phase two of the project, as they had done for the concrete work. When we asked airport officials about this, they said they did not perform the same level of review because the bid was for only $18,614 in work — a significantly lower amount than for the $1.7 million concrete bid."*

DEN response: This is correct. The amount of the DFH proposal for Phase 2 was $18,614 and given the minimal scope, it

was reviewed in our weekly cost review meeting. After review and discussion, it was found to be fair and reasonable and approved. We acknowledge there could have been better documentation of the process in this instance, therefore, written documentation of the reviews will be provided in the future.

For the original report, we wrote the following addendum rebutting the airport's response:

In clarifying the claims made in the airport's response to Recommendation 1.7, our addendum for Recommendation 1.5 regarding the following topics remains relevant:

- Lack of competitive bidding.
- Lack of knowledge of all subcontracts.
- No written approval for some subcontracts.

Additionally, we must clarify several other assertions the airport made in response to our audit findings and Recommendation 1.7 specifically:

- Airport officials say in their response that staff were actively involved with all subcontracting, including self-performed work by Hensel Phelps. They further said these charges were approved through the execution of the task order.

  However, the execution of a task order does not satisfy the terms of the contract. As the project owner, the airport has a responsibility to provide the same level of review to all subcontracted work regardless of cost to ensure accuracy and proper oversight of the general contractor. These $10,000 "small projects" Hensel Phelps was awarded add up to more than $240,000 worth of work. Furthermore, the work that Hensel Phelps did was not competitively bid nor approved in writing, as required by the contract.

  Airport officials assert that competitively bidding small, miscellaneous scopes of work is "unreasonable given the fast-track nature of this project."

  In fact, contracts should be adhered to regardless of the size and cost of a project. If airport staff wanted to bypass the competitive bidding process for these smaller jobs, the contract allows for this — if there is prior written approval by the senior vice president. The airport did not provide written documentation that this occurred, despite our multiple follow-up requests.

Various times throughout our audit, airport staff said they were seeking to fast-track this project. This devotion to rush the project has caused clear lapses in oversight.

- In response to our conclusion that subcontracted work Hensel Phelps awarded to itself was not procured in a fair and reasonable manner: Officials emphasized that Hensel Phelps has held over 500 outreach events that maximized efforts to solicit businesses owned by people of color and women.

  As we noted previously in our addendums, we agree the solicitation efforts airport staff made have been sufficient. However, that is irrelevant to this subfinding. The issue is that airport officials bypassed the competitive bidding process and awarded work to Hensel Phelps without prior written approval as required by the contract. We discuss this issue of the lack of competitive bidding in our addendum to the airport's response to Recommendation 1.5.
- In response to our conclusion that Hensel Phelps structured the bidding for concrete work to its advantage: Airport officials said that because Hensel Phelps "did not include any markup on the horizontal [concrete] work, the result [of the bidding process] would have been exactly the same regardless of which contract approach the Contractor used."

  We disagree with this claim. Vertical concrete work is a complex, high-risk job. If Hensel Phelps was intending to perform this work from the beginning, then grouping together the horizontal and vertical portions of the work indicates a bidding process that was not entirely competitive, fair, or open.

  Smaller concrete construction firms that are qualified to complete horizontal work but not vertical work could have been discouraged to bid for the subcontract, even though they were qualified to complete the horizontal portion. Likewise, construction companies that did bid were deemed unresponsive for not including all portions of the scope in their bids, even though Hensel Phelps itself excluded the horizontal portion of the work from its bid.

  Therefore, Coloscapes Concrete's partnership with Hensel Phelps to complete the concrete work together was likely due to these two bids being grouped together. Results, bid proposals, and prices could have

varied if the work had not been combined. In addition, the work was neither re-bid nor negotiated to ensure the airport received the best price for the work being completed.

Furthermore, airport officials accepted Hensel Phelps' bid at $143,000 o ver the estimated cost. This work, too, was neither re-bid nor negotiated to ensure the airport received the best price.

Lastly, we could not actually verify that markups were not applied as airport officials assert in their response. Airport managers and staff failed to provide proper documentation to review markups, despite our multiple requests.

- Regarding our conclusion that airport managers allowed Hensel Phelps to self-award some work that it then subcontracted out to another subcontractor: Airport officials said in their response that had Hensel Phelps recommended to the airport that a subcontract be issued to them for vertical concrete and a separate subcontract be issued to the horizontal concrete subcontractor, "the result would have been exactly the same."

  Regardless of this belief, their response does not address the issue at hand. As we explained on page 33 of the report, best practices say a contractor should not bid on self-performed work and then subcontract that work out, because the contractor could easily increase costs this way.

  There is simply no way to know whether the results would have been the same, because airport officials did not provide the documentation needed to ensure Hensel Phelps applied no extra markups or fees. Additionally, the risk remains that the airport could overpay on future contracts if a contractor subcontracts out their awarded work and applies markup fees.

- The airport asserts that our conclusion about Hensel Phelps' submitting its bid for subcontracted work before others is "irrelevant because the other bidder was [ultimately] deemed nonresponsive."

A competitor's bid being nonresponsive does not change or diminish the risk of this issue. It also remains a risk on future projects.

Best practices from the Construction Audit and Cost Control Institute Inc. say a project owner should be aware of potential bid manipulation, where a contractor obtains bids from interested subcontractors and then manipulates the bidding documents to award themselves the subcontract even though they were not the apparent low bidder.

Because of Hensel Phelps submitting its bid the same day as its competitor, there is no way for the airport to ensure Hensel Phelps did not manipulate its bid or use inside knowledge for its own advantage.

- Lastly, airport officials agreed with our conclusion that they did not provide a written review for the doors-and-hardware work awarded to Hensel Phelps.

  The airport should adhere to its contract — as well as industry standards — and provide a written review of pricing for all self-performed work. We further discuss this issue of the lack of written approval for some subcontracts in our addendum to the airport's response to Recommendation 1.5.

Recommendation 1.8

VALIDATE AND RECONCILE PROJECT ALLOWANCES – Denver International Airport's Special Projects Division should:

- Ensure division staff understand how construction allowances are defined by industry standards and that they understand how allowances should be tracked, reconciled, and used.
- Require contractors to track and reconcile actual costs incurred and compare them against the estimated allowance amount to ensure they do not overcharge the airport.
- Require contractors to submit supporting documentation, such as vendor invoices and time sheets, to allow the airport to verify actual costs incurred — that is, that the actual costs are accurate and allowable under the contract terms.

DID NOT AGREE TO IMPLEMENT

SUMMARY OF AGENCY ACTION

Airport officials took no action to implement this recommendation because

they did not agree to implement it after our original report.

The airport's response to the recommendation when the original report was issued in April 2023 starts below. The Auditor's Addendum to the response from the original report begins on page 34.

> *Contract Article IV.B.iv stipulates that "Whenever costs are more than or less than the allowances, overruns and underruns in allowances will first come from owner's contingency and if insufficient owner's contingency remains, the Task Order shall be adjusted accordingly by change order." Therefore, per the contract, reallocation of allowances with overruns or underruns to other areas of work is allowed. DEN Special Projects is properly managing allowances, the Auditor's recommendation is not practical and is contradictory to the Contract. Using allowances in this way allows the project to address unanticipated costs, items that were not fully known or designed, or a scope that was not fully known when the Contractor's proposal was done. Moving funds to other allowances or to contingency allows an owner like DEN to manage overall project costs and risks within one overall budget.*
>
> *DEN is diligent in actively managing allowances throughout all phases, including their initial development, tracking (and updating balances) at weekly cost meetings, and at the final reconciliation. DEN reviewed each request for allowance usage from the contractor, which included the appropriate supporting documentation, and ensured they were fair and reasonable.*
>
> ***Validate and reconcile project allowances:***
>
> *Denver International Airport's Special Projects Division should:*
>
> - *Ensure division staff understand how construction allowances are defined by industry standards and that they understand how allowances should be tracked, reconciled, and used.* ***Disagree with finding - DEN Special Projects staff involved in managing Allowances understand what the Contract requires and how Allowances are to be managed.***
> - Require contractors to track and reconcile actual costs incurred and compare them against the estimated allowance amount to ensure they do not overcharge the airport. ***Disagree with this finding – the contract does not require the CMGC or DEN to expend allowance funds only on a time and material basis. Allowances can be expended through any method of pricing permitted by the contract, including time and material, lump sum, or***

any other basis as DEN deems appropriate.

- Require contractors to submit supporting documentation, such as vendor invoices and time sheets, to allow the airport to verify actual costs incurred — that is, that the actual costs are accurate and allowable under the contract terms. ***Disagree with this finding - the contract does not require the CMGC or DEN to expend allowance funds only on a time and material basis. Allowances can be expended through any method of pricing permitted by the contract, including time and material, lump sum, or any other basis as DEN deems appropriate.***

In addition, regarding the specific findings included with Recommendation 1.8, DEN has the following responses:

Auditor finding (pg. 36): "...If the flooring cost more than the allowance, Hensel Phelps would adjust the construction contract and the airport would pay the difference. If the actual costs were less, Hensel Phelps would again adjust the contract..."

DEN response: This statement is in conflict with the Contract. Article IV.B.iv reads, "Whenever costs are more than or less than allowances, overruns and underruns in allowances will first come from owner's contingency and if insufficient owner's contingency remains, the Task Order shall be adjusted accordingly by change order." In a case such as the flooring example the Auditor uses, DEN may reallocate funds from allowances with underruns to cover the costs and avoid the need for a change order to amend to the task order's GMP.

Auditor finding (pg. 37): "However, we found airport staff...did not properly verify and use allowances for either phase one or phase two of the current Great Hall Project. Specifically:

1. *Once the airport and Hensel Phelps established an allowance for a specific portion of the project- such as drywall, for example - airport staff did not later require Hensel Phelps to submit documentation that could be used to validate and reconcile the actual costs against the allowance to see what adjustment were needed. Rather, the airport over relied on Hensel Phelps by allowing the company to adjust allowance amounts without any verification.*
2. *On numerous occasions, the airport moved allowance amounts that were established for one particular scope of work and transferred them to other areas of the project where an allowance was either not set up at all or where an allowance was set up but was too low to*

cover actual costs."

DEN response: (1) The statement that "airport staff did not later require Hensel Phelps to submit documentation that could be used to validate and reconcile the actual costs against the allowance" is incorrect. Each request for allowance usage was submitted by the CMGC with a detailed proposal (PCO) which was then reviewed by DEN to determine if it was fair and reasonable. Approved PCO's were then logged and tracked in their appropriate Allowance Log. DEN provided the summary Allowance Logs for P1 and P2 to the auditors on multiple occasions. These thoroughly document every individual PCO cost expending Allowance funds. These PCOs are the actual cost "documentation that was used to validate and reconcile actual cost against the allowance". DEN was diligent throughout the project in actively managing Allowances through the following stages: their initial development for GMP, at weekly cost meetings where cost requests were assigned to appropriate funding sources such as Allowances, reallocation of allowances (as necessary), and final reconciliation of allowances.

The contract does not require the CMGC or DEN to expend allowance funds only on a time and material basis. The Auditor's report is defining "Actual Costs" to be the actual time and material expended to complete the work. Allowances can be expended through any method of pricing permitted by the contract, including time and material, lump sum, or any other basis as DEN deems appropriate for the PCO. The "Actual Cost" is the cost paid by the CMGC based on the billing method determined by DEN. If a method other than time and material is chosen, DEN would not review the time and material costs for the work as that is not the basis for payment to the Contractor. The Allowance usage here was submitted and approved on a lump sum basis. Therefore, the actual costs incurred by the CMGC or its subcontractors are not reviewed on a time and material basis - DEN pays a lump sum for each unit or type of work specified in the approval regardless of the time and material cost paid by the CMGC.

DEN response: (2) Allowance funding sources were reconciled periodically throughout the project. IBT stands for "Internal Budget Transfers." IBTs are designed to keep track of any movement between Allowance items. As the project progressed, DEN was able to reconcile Allowances and then to remove Allowances that were no longer necessary, were drawn down, or completely closed to simplify the overall Allowance and GMP reconciliations.

Auditor finding (pg. 37): "Airport staff misunderstand how project allowances are defined, should be tracked, and

accounted for."

DEN response: DEN staff are fully aware of the definition of Allowances and have shared the proper Contract reference with the Auditor to refer to. Defining Allowance usage by external reference to AIA documents or auditing manuals in lieu of the actual Contract is inappropriate. Note that the Contingency and Allowance Log that is being utilized for P1 and P2 is a very detailed spreadsheet that tracks individual cost entries as well as summarized all the individual accounts in separate tabs (Allowance, Construction Contingency, Owner Contingency, etc.).

Auditor finding (pg. 37): "When the airport and Hensel Phelps agree on an allowance estimate for a particular portion of work, the airport pays Hensel Phelps the entire allowance regardless of what the actual cost was."

DEN response: This statement is incorrect. As described to the auditors and demonstrated by the individual Allowance logs submitted to them, each and every incremental allowance usage was charged with individual Potential Change Orders (PCOs) that represented actual costs. All PCO cost transactions were properly recorded in the appropriate log for each Allowance. In no case was an Allowance wholly paid as a lump sum or without proper cost documentation. All PCOs were reviewed by DEN to confirm pricing was fair and reasonable.

Auditor finding (pg. 37): "In addition to airport staff misunderstanding how allowances should work, there could be a failure with how the airport develops its initial allowance estimates. By moving allowance amounts…it indicates that the airport…may have overestimated an allowance in one area and under estimated it in another."

DEN response: DEN has previously explained to the auditors how the original allowances are established; through a collaborative effort between the CMGC and DEN. Any member from the integrated team (DEN, Architect, or CMGC) may provide input regarding what scope items may be included as an allowance. Allowance amounts are typically established through a rough order of magnitude (ROM) budget amount using institutional knowledge of the airport and historical cost databases. The CMGC establishes an initial amount, which is then presented for DEN's review Ultimately, the DEN SVP approves all allowance amounts included in the GMP through execution of the task order.

Allowances are for "known unknowns" meaning that the items of work is known but the exact scope or cost is unknown. This is in comparison to contingency, which is designed to provide

budget for "unknown unknowns" or unanticipated things that arise during construction. Given that most allowances are developed with very little or no detailed information with which to develop a more specific or accurate estimate, allowances will typically either be above, or below the initial value. Thus, it is unreasonable to say that this is a "failure with how the airport develops its initial allowance estimates" if those allowances are over or under those initial amounts. That is why they are allowances and not more specific estimates or actual costs for a scope of work or item.

Auditor finding (pg. 37): "Because of this, the airport exposes itself to overpaying…by: Not requiring Hensel Phelps to submit documentation that the airport could then use to validate actual costs against the amount set aside."

DEN response: This statement is incorrect. See above for responses for explanations regarding the submission of PCOs for each request, proper charging of same to individual Allowance accounts, and DEN's review of each request to determine that it's fair and reasonable.

For the original report, we wrote the following addendum rebutting the airport's response:

Airport officials' claim that they are spending allowances in accordance with the terms of the contract is incorrect.

The provision of the contract they cite — Article IV, Section B(iv) — uses the term "actual costs." Specifically, it reads:

> *"Whenever costs are more than or less than the allowances, overruns and underruns in allowances will first come from owner's contingency and if insufficient owner's contingency remains, the task order shall be adjusted accordingly by change order. The amounts of the change orders shall reflect the difference between actual costs and the allowances."*

This contract language explicitly comes from language recommended by the American Institute of Architects. The institute is a professional organization that offers standardized templates including contract language that can be adopted for use by members of the construction industry.

The airport specifically adopted language from one of the institute's guidance documents — namely, Section 3.8 of document A201-2017 — and airport officials used this precise wording in their Great Hall construction contract with Hensel Phelps. Article IV sections B(i) through B(iv) of

the airport's contract with Hensel Phelps are pulled directly from the American Institute of Architects' guidance.

In particular, Section 3.8 of the American Institute of Architects' contract template expounds on the term "actual costs," which appears in the contract between the airport and Hensel Phelps. Section 3.8.2.3 of the institute's contract template says: "The contractor's actual cost incurred will be compared to the allowance amount. If there is a difference between actual cost incurred by the contractor and the allowance amount, an adjustment to the contract sum will be made."

In other words, the allowance is a placeholder for amounts included in the contract sum until the contractor incurs actual costs. "Actual costs" means just that: the actual costs incurred by the contractor or its subcontractor to physically perform the construction work. Proposals, estimates, and approximations are not equivalent to actual costs, and treating those as actual costs to compare against an allowance amount violates the contract between the airport and Hensel Phelps.

By not requiring Hensel Phelps to submit documentation of its actual costs, such as time sheets and invoices, for comparison against the initial allowance estimate, the airport risks overpaying for work budgeted for through project allowances.

Recommendation 1.9

APPROPRIATELY USE PROJECT ALLOWANCES – In conjunction with Recommendation 1.4, Denver International Airport's Special Projects Division should include in its policies and procedures specific guidance on how allowances are to be estimated and used in a construction project. At a minimum, this should include prohibiting the use of allowances for any other costs of work except for the specific scope of work an allowance was initially created for.

DID NOT AGREE TO IMPLEMENT

SUMMARY OF AGENCY ACTION

Airport officials took no action to implement this recommendation because they did not agree to implement it after our original report.

This was the airport's response to the recommendation when the original report was issued in April 2023:

Allowances are a tool to mitigate risk and manage the budget

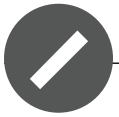
for large complex infrastructure projects. Per the Contract, DEN Special Projects is properly managing Allowances. As stated in the response to Recommendation 1.8, DEN has appropriately used project allowances on the Great Hall Program. See the discussion above.

For the original report, we wrote the following addendum rebutting the airport's response:

> In the airport's response, officials say, "Allowances are a tool to mitigate risk." However, as we define on page 31 of the report, an allowance is an estimated sum that covers the cost of construction when the exact character, final cost, or level of quality cannot be specified at the time of bidding and therefore cannot be accurately bid.
>
> Based on that definition, allowances are not risk mitigators. Rather, they are ways to allow construction to continue or for construction to be fast-tracked and not be delayed until uncertainties are determined. This is because allowances enable contractors to bid work when the design is incomplete but the project must begin nonetheless.
>
> Airport officials' claim that they are "properly managing" allowances is incorrect. Both Article IV Section B(iv) of the contract with Hensel Phelps as well as the task orders for phases one and two say that, "Whenever costs are more than or less than the allowances, overruns and underruns in allowances will first come from owner's contingency and if insufficient owner's contingency remains, the task order shall be adjusted accordingly by change order."
>
> The airport is violating both the contract terms and its task orders by shifting allowances from one scope of work to another. Doing so increases the risk that the airport is overpaying or could overpay for work budgeted for through project allowances.

Recommendation 1.10

VERIFY GENERAL CONDITIONS BILLING RATES – Denver International Airport's Special Projects Division should require contractors to provide a detailed breakdown of the components making up general conditions costs on all future projects. Staff should document their review of this schedule to include allowable and unallowable items and the reasonableness of individual items.



DID NOT AGREE TO IMPLEMENT

SUMMARY OF AGENCY ACTION

Airport officials took no action to implement this recommendation because they did not agree to implement it after our original report.

This was the airport's response to the recommendation when the original report was issued in April 2023:

> *Contract Article IV.G indicates that "The City and the Contractor agree that the wages and burden for the personnel shall be charged at stipulated fixed rates set forth which will be agreed to in the Task Order(s)."*
>
> *During the procurement, proposers competed on price in addition to other factors. During the evaluation and selection phase of the project, DEN reviewed proposed billing rates from the three proposers and determined that the selected CMGC proposed the lowest rates for a majority of the DEN requested positions. DEN also reviewed the rates to determine if they were reasonable based on panel members' knowledge of the Denver construction market and the costs of other contractors for the City. This was a factor in DEN determining that the CMGC's staff billing rates were competitive, fair and reasonable.*
>
> *The purpose of executing a task order or contract with set rates or percent general conditions costs is so that DEN does not have to take the significant amount of time required to validate those costs before contracting or to monitor those costs after contracting. Once the contract is executed, the rates or % are simply a specified cost within the contract. This is easier to manage and places the risk on the contractor that they can manage the general conditions within the amount specified in the contract. Further, having contractors propose on these costs allows for competition between them on rates, or in the event that DEN is limited by legal requirements, DEN can set a percent or rate and the proposers must accept the required rate.*

For the original report, we wrote the following addendum rebutting the airport's response:

> Airport officials say in their response that when procuring the Great Hall contractor, the three proposers that bid on the project "competed on price in addition to other factors." However, the senior vice president of the airport's Special Projects Division told us cost played only a minimal role in selecting Hensel Phelps.
>
> Hensel Phelps' proposal had a total bid $9.1 million. The other two proposers bid $8.9 million and $5.9 million, respectively. The fact that Hensel Phelps was chosen when it had the highest cost of the three proposers supports the

senior vice president's statement.

Furthermore, we reviewed all three submitted proposals, and there were zero details about the markup (i.e., the 145%) on labor rates to cover general conditions costs. As a result, the airport would have had no knowledge of what percentage Hensel Phelps was estimating it would apply to each hour of labor to cover general conditions costs. The airport's assertion that it reviewed staff rates per labor hour is not the same as reviewing the markup on each labor hour that is then taken by Hensel Phelps and multiplied by 145% to cover general conditions costs.

While reviewing staff labor rates is important, the airport's review did not resolve the risk that the airport could be overpaying for general conditions.

Here is an example: Assume a Hensel Phelps project superintendent earns a pay rate of $100 per hour. Hensel Phelps would bill the airport $100 for each hour the superintendent works on the project plus an additional 145% of that $100 rate for general conditions costs. The total billed would then be $245. The airport's review of just the labor rate is, therefore, only half the equation and leaves the airport unable to know what is baked into the 145% markup.

Furthermore, Article IV Section G of the contract between Hensel Phelps and the airport says, "The contractor's general conditions will be negotiated on a task order basis." Sections G(i) through G(vi) go on to explicitly include the categories of costs that are allowable to be billed as general conditions.

These provisions of the contract are relevant to Recommendation 1.10 for two reasons.

- First, the word "negotiated" indicates the airport has the ability to obtain details on what the 145% markup for general conditions includes and Hensel Phelps should be willing to provide that for transparency. These details would allow the airport to review the reasonableness of the amounts baked into the 145% mark-up rate.
- Secondly, because the contract explicitly stipulates the categories of costs that can be billed under general conditions, the airport should review the breakdown that makes up the 145% to ensure Hensel Phelps is not including other categories of costs not allowed by the contract.

By not asking for and reviewing the breakdown of Hensel

Phelps' 145% mark up for general conditions, the airport could be overpaying for these costs.

Office of the Auditor

The **Auditor** of the City and County of Denver is independently elected by the residents of Denver. He is responsible for examining and evaluating the operations of city agencies and contractors for the purpose of ensuring the proper and efficient use of city resources. He also provides other audit services and information to City Council, the mayor, and the public to improve all aspects of Denver's government.

The **Audit Committee** is chaired by the Auditor and consists of seven members. The Audit Committee assists the Auditor in his oversight responsibilities regarding the integrity of the city's finances and operations, including the reliability of the city's financial statements. The Audit Committee is structured in a manner that ensures the independent oversight of city operations, thereby enhancing residents' confidence and avoiding any appearance of a conflict of interest.

201 W est Colfax Avenue, #705

Denver, CO 80202

(720) 913-5000

www.DenverAuditor.org

Our Mission

We deliver independent, transparent, and professional oversight in order to safeguard and improve the public's investment in the City and County of Denver. Our work is performed on behalf of everyone who cares about the city, including its residents, workers, and decision-makers.