

**Metropolitan Council  
Program Evaluation & Audit  
Green Line Change Order Audit Follow-Up Review  
Summary of Findings  
April 18, 2014**

Audit evaluated a random sample of 193 COs (51 from Civil East; 43 from Civil West; 46 from OMF; 53 from Systems) from those that had been executed subsequent to the initial review dated January 2013. In addition, when the CCPO Management Response referred to conducting training on January 30, 2013, only COs executed at a reasonable time after that date were included in the results.

Audit was pleased to observe that, with minor exceptions, 12 of 13 audit recommendations appearing in the following audit reports:

*Central Corridor Light Rail Transit Advanced Construction Contracts Change Orders, May 20, 2011*  
*CCLRT (Green Line) Construction Projects Change Order Review, January 2013*

have been implemented. The other recommendation is being reviewed in conjunction with a Quality Assurance/Quality Control review currently in progress. Audit also identified conditions not previously reported resulting in the following two new recommendations.

- 1. Recommendation (Significant): Green Line Project Office and Metro Transit personnel should review change orders for possible double charging and implement a procedure/work instruction for use on future special projects for an additional level of review and narrative when change orders include what appear to be unreasonable costs and costs that may also be paid for through contractor overhead.**

Audit reviewed six COs that lacked adequate rationale for including project management, “extraordinary supervision,” delay and research costs and for work being conducted entirely on an overtime basis. Without proper justification, paying the contractor for research costs would appear to be paying for costs ordinarily included in overhead. Project management and supervision are costs normally included in the contractor’s original bid. Without adequate explanatory narratives, it appears that these amount to duplicate payments. Although overtime and delay costs may be proper under the circumstances, without adequate supporting rationale and detailed Serial Record Memo change order narratives, these costs appear unwarranted. Although Project Office personnel provided explanations for the COs in question, the appearance of improper costs is important to avoid, especially on special projects such as the Green Line that can draw negative attention regardless of the actual circumstances.

**Management Response:** *Transit Systems Development (TSD) staff will include additional instruction in the Change Order procedure regarding the need to provide more detailed justification in the Serialized Record Memos (SRM) when change orders are allowing for contractor overtime, extraordinary supervision or other costs that may be perceived as being part of the contract overhead. TSD Staff will coordinate this effort with Metro Transit Engineering and Facilities staff.*

**Staff Responsible:** *Project Controls staff will make this modification to the Change Order procedure.*

**Timetable:** *This modification will be complete by August 1, 2014*

2. **Recommendation (Significant):** Special projects offices should coordinate with Metro Transit Engineering and Facilities personnel to develop written procedures/work instructions that memorialize their standard of "fair and reasonable" when change orders are within 10% of the ICE. This could include clarifying at project initiation the price of a construction contract change order to be considered "fair and reasonable" when within 10% of the ICE.

Project Office personnel currently execute change orders with a reliance on accepting the contractor's proposal if it is within 10% of the ICE, although in some instances additional negotiations take place. Audit identified 159 COs that equaled the contractor's proposal. One aspect of the reason given for the final price in 130 of those COs was that the contractor's proposal was within 10% of the ICE. In addition, twenty-nine of those COs exceeded \$20,000, summarized as follows:

<u>CO Price Range</u>	<u>Number of COs</u>
\$20,000 - \$50,000	18
\$50,001 - \$100,000	8
\$100,001 - \$250,000	1
Greater than \$250,000	2

During discussions with Audit, construction field office and CCPO personnel stated that 10% was an industry-wide measure of reasonableness. Audit also discussed this practice with Metro Transit Engineering and Facilities personnel, receiving a similar yet more detailed response.

Metro Transit uses the 10% guideline, but only for COs valued at less than \$20,000. The cost of researching and negotiating small proposal/ICE differences (\$2,000 or less) would most likely eliminate any savings. However, for COs exceeding \$20,000, Metro Transit either:

1. Negotiates further and comes to agreement with the contractor,
2. Eliminates the work, or
3. Opens the work to bidding by the entire contractor community.

Although both Green Line and Metro Transit personnel use this metric, neither has a written procedure or work instruction regarding "10% reasonableness."

**Management Response:** *Transit Systems Development (TSD) staff will include additional instruction in the Change Order procedure regarding the use of the "10% rule" for determining a change order cost proposal from a contractor to be fair and reasonable. Currently the Central Corridor Project Office staff use the 10% rule as one tool to help in determining whether the proposal from the contractor for a change order is fair and reasonable. However, CCPO management has made it clear that negotiations cannot stop just because the independent cost estimate and the contractor's proposal are within 10% of each other. The procedure will require that additional justification be provided in the SRM for the determination of fair and reasonable. The revised procedure may include change order dollar limits where additional negotiations are encouraged but not required in the event the proposal and the ICE are within 10% of each other and the change order value is low enough that continued negotiations will be more costly than the potential cost savings. TSD Staff will coordinate this effort with Metro Transit Engineering and Facilities staff.*

**Staff Responsible:** *Project Controls staff will make this modification to the Change Order procedure.*

**Timetable:** *This modification will be complete by August 1, 2014*