GOLD LINE A&E CONTRACT REVIEW

PROGRAM EVALUATION AND AUDIT

METROPOLITAN
C O U N C I L

Highlights

All sampled deliverables accounted for, and sampled payments were found to be allowable. Document management could be improved.

What We Found

What's Working Well

Project staff were able to account for all deliverables sampled, and Audit found that all payments reviewed were allowable.

What Needs Improvement

Contract deliverables are inconsistently documented and stored. Many deliverables could only be found with Gold Line Project Office assistance. Files were not named in accordance with established naming conventions and were frequently stored outside of the designated deliverables folder.

What We Recommend

Conduct regular reviews of files to ensure compliance with the document management plan, ensuring a complete contract file is maintained and correcting any naming convention discrepancies for completed deliverables.

Why We Did This Work

To evaluate the management of A&E Contract #17P058 and assess compliance with its terms including pay applications and deliverables.

To determine whether Kimley Horn (the Prime Contractor), and the Council are compliant with payment and deliverable provisions of the Contract.

What We Reviewed

The review was limited to Contract #17P058, and specifically to its pay applications and deliverables. All pay applications and deliverables from January 1, 2018 to May 31, 2023 were eligible for review.

How We Did This Work

Audit interviewed Gold Line staff and reviewed Contract #17P058, Council policies and procedures, and NASPO best practices.

Audit reviewed a sample of 31% of total pay applications for prompt payment and payment allowability.

Audit also assessed 14% of total deliverables to ensure they satisfied contractual requirements.

Contents

Introduction

Background

The METRO Gold Line is a Bus Rapid Transit (BRT) project that will establish connections between St. Paul, Maplewood, Landfall, Oakdale, and Woodbury. It will represent Minnesota's first BRT line operating primarily in exclusive bus-only lanes. When completed, the Gold Line will offer convenient access to employment and housing choices, transit stations, and key destinations along the Interstate 94 corridor.
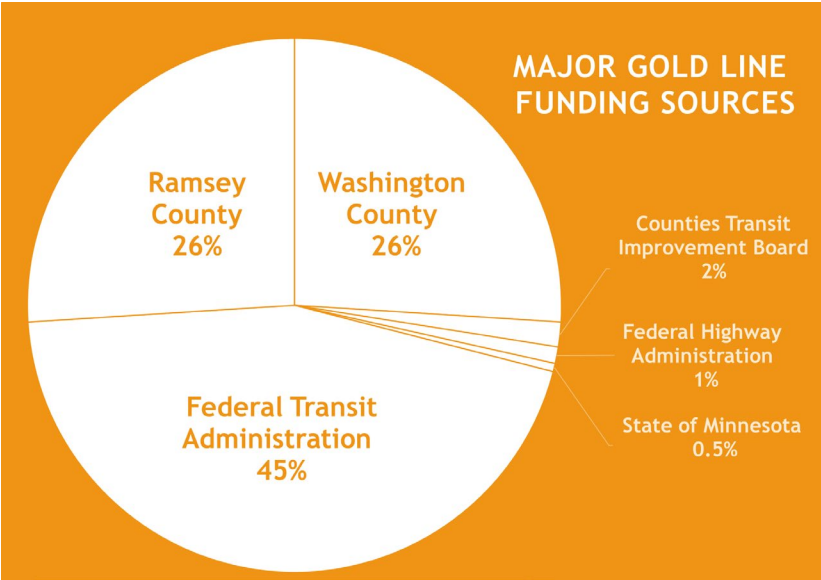
With a budget of $505.3 million, the Gold Line project has secured full capital funding from various sources. The Federal Transit Administration contributes 45 percent, while Ramsey County and Washington County contribute 26 percent each. The remaining 3 percent of funding is provided by the Federal Highway Administration, the State of Minnesota, and the former Counties Transit Improvement Board (See Figure One).[1]

Figure 1: Major Gold Line Funding Sources

The Metro Transit Gold Line Project Office (GPO) provides general oversight of this project with assistance from HNTB, a Project Management Consultant (PMC), which provides primary project management support to the Council.

Kimley Horn and Associates (KHA) is the Engineering Service Consultant (ESC) charged with carrying out the architecture and engineering (A&E) responsibilities for the Gold Line project. The firm's role as the A&E primary is detailed in Contract #17P058, which has a not-to-exceed value of $35 million. The contract was executed in January 2018 and encompasses four phases. KHA is currently engaged in the fourth phase, offering design support in construction. Construction activities began in the fall of 2022 and are projected to continue until 2024. The anticipated start of Gold Line service is scheduled for 2025.

Pay applications play a crucial role in the execution of large infrastructure projects, as they provide information about the progress of a contract. At its very essence, a pay application is a detailed invoice, with several supporting attachments. This tool provides an account of the work completed and materials provided over a certain period. It follows the work required by the contract to determine

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[1] *Gold Line Project (metrotransit.org)*

the amount due. These pay applications are not standalone documents; they require additional information and supporting documents to ensure transparency and accuracy.

While there is no singular universal pay application, the Gold Line project office uses standard forms and requires similar supporting information. On the first page of a pay application, there is an overview of the project's status that presents critical financial details. This includes information such as the names of the property owner, contractor, and architect involved in the project, as well as the specific pay application number and the dates covered. Furthermore, it outlines the original contract amount, the total value of work completed to date, the total amount of prior payments, the current amount due, and the remaining total balance. To ensure accuracy, the first page also includes designated spaces for certification by the project's director, project manager, and contractor.

Figure 2: Gold Line Route Map

Objective

This audit sought to assess compliance with the terms of Contract #17P058 and identify potential gaps in contract management. The audit objectives were to determine if:

- Pay applications were prepared, paid, and documented according to contractual terms and all governing rules.

- Contractual deliverables were provided as stipulated by Contract #17P058.

These objectives address operational and financial risks identified in the engagement level risk assessment. If contractual deliverables are not being satisfied or provided on time, this may cause project delays, posing an operational risk. Potential financial loss and reputational damage may occur if payments are delayed.

This audit considered *Thrive MSP 2040's* outcome of *Stewardship* and its principles of *Accountability* and *Integration*.[2] The audit reviewed whether financial resources are spent efficiently and according to the contract terms. It also highlights efforts to implement *Integration* by communicating and engaging effectively with customers, stakeholders, and employees. Additionally, this audit supports Metro Transit's Strategic Plan's Core Element Three, which commits to evaluation of performance for continuous improvement.[3]

Equity

Risks related to project management may not be equally distributed among all stakeholders. Occupants residing along the Gold Line route are significantly transit-dependent, as approximately 14 percent of households residing within a half-mile radius of Gold Line stations do not own vehicles. Upon completion of the project, residents along the 10-mile route will be connected to an estimated 93,000 job opportunities within a half-mile radius of the Gold Line Stations.[4] Delays in schedule could impact both individuals who depend on transit, and small businesses along the Gold Line corridor.

Furthermore, if the prime contractor makes late payments to subcontractors and Disadvantaged Business Enterprises (DBEs), the smaller businesses are negatively impacted. Unlike the prime contractor, smaller businesses may not possess the same liquidity. If payments are not received in accordance with the agreed terms, subcontractors can be left to float the cost, using their own funds to ensure the job is completed. If payment is delayed, expenditures (such as fuel for vehicles) can add quite quickly to the costs of essential materials and cause significant financial burden for small businesses.

Scope

This audit was limited to A&E Contract #17P058, and specifically to its pay applications and phase deliverables. Pay applications and deliverables from January 1, 2018 to May 31, 2023 were eligible for review.

Methodology

Auditors deployed a variety of methods to determine if A&E Contract #17P058 is being effectively administered and managed. Audit reviewed Contract #17P058 to determine terms and clauses that apply to pay applications and deliverables. Audit also reviewed Council policies and procedures, as well as contract management best practices published by the National Association of State Procurement Officials (NASPO). As a part of the audit process, GPO, PMC and OEEO staff were interviewed to gain insights into the administration and management of the contract.

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[2] *Thrive MSP 2040 Plan - Metropolitan Council (https://metrocouncil.org/Planning/Thrive-2040/Thrive-MSP-2040-Plan.aspx)*
[3] *Stronger, Better: 2023 Strategic Plan.pdf (https://www.metrotransit.org/Data/Sites/1/media/about/strategic-plan_2023.pdf)*
[4] *Gold Line Project (metrotransit.org)*

Auditors initially randomly sampled 7 of 58 pay applications to assess compliance with the contract's terms on authorized prompt payments, overtime, and allowability of reimbursable expenses. To further test the recurring concern of prompt payment, Audit selected another 13 pay applications from more recent time periods. Overall, 20 of 63 pay applications (31%) were reviewed for prompt payment.

Audit identified contract deliverables and compared these two products outlined in the first and second plans of work. The objective was to identify any discrepancies or missing items, ensuring proper alignment between the contract and the plans of work. After ensuring the contract and plans of work were in alignment, a random sample was selected. The sample consisted of 28 of 206 deliverables, or approximately 14% of the population. Within the selected sample, 12 deliverables were drawn from the first plan of work, while 16 were from the second plan.

Audit attempted to independently locate each deliverable in the sample, noting adherence to document storage, naming conventions and timelines stipulated by the contract, plans of work, and internal policies and procedures. Audit sought assistance from GPO if deliverables could not be independently located in the designated folder on the Council network.

Recognition

Audit would like to thank the Gold Line Project Office for their cooperation and support. Project staff were responsive and cooperated with Audit's requests, working to promptly resolve questions that arose during testing.

Observation 1: A complete and accurate contract deliverable file was not maintained.

All deliverables sampled in the first and second plans of work corresponded to products outlined in Contract #17P058. With assistance from GPO, all 28 deliverables sampled were located, except MicroStation and Geopak files, which will be received at the end of the project. 15 deliverables required GPO assistance to locate, 14 of which were stored outside of the designated ESC deliverables folder.

Table 1: Deliverable Locations

	Found	In Deliverables Folder	With Release Form
Y	25	14	13
N/A*	3	1	1
N	0	13	14

*N/A found entry refers to Geopak and CAD files that will not be received until the end of the project, and two deliverables which were confirmed via email submittals.

Project office guidelines assign responsibility to the Consultant Deliverable Manager or Originator for placing electronic files in a specified deliverables folder on the Council network.[5] These guidelines were not consistently followed by Kimley Horn and were not enforced by the Gold Line Project Office. The primary contributing factor is a lack of clarity around the definition of deliverables. The Gold Line Project Office defines the term "deliverable" more narrowly than the contract,[6] leading to differences in understanding of procedures for storing documents. Items explicitly listed as deliverables in the contract, plans of work, and internal deliverables tracking list that were needed on an ongoing or ad-hoc basis were not considered to be deliverables by the Gold Line Project Office, and therefore storage of these items in the designated folder was not required or enforced.

NASPO guidelines emphasize the importance of maintaining a complete and accurate contract file.[7] They advise that the contract file should contain essential records of the contract award, including the documentation of deliverables. The lack of a centralized and standardized system impedes efficient

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[5] Consultant Deliverables Management Guidelines is an internal procedure that outlines the steps for the formal submission of Consultant Deliverables. According to these guidelines, the Consultant Deliverable Manager or Originator "places electronic file(s) ready for transmission to GPO Senior Management staff in the "00_Deliverables" folder on the Metropolitan Council Network." The Consultant Deliverable Guidelines define a deliverable as "a contractually required work product developed by Consultants and delivered to the Client/Project Sponsor."

[6] Contract 17P058 defines deliverables as "studies, reports, sketches, drawings, maps, models, photographs, audio/video tapes, computer programs/models, electronic media, specifications, cost estimates, field data, test data, and other tangible documents identified in the attached exhibits to be provided by the CONSULTANT under this Contract, and as identified in a written notice relating to the Work."

[7] NASPO Contract Administration Best Practices Guide states that "Documenting and maintaining a contract file are good practices to ensure the delivery is in line with the contract requirements and issues are addressed timely."

access to deliverables, potentially disrupting workflows and posing operational, financial, and compliance risks for the Metropolitan Council. A lack of standardization for storing deliverables also poses a compliance risk as records relevant to the contract must be maintained and available to the state auditor for six years per Minnesota State Statute.[8]

Recommendation:

1. Maintain a centralized and well-organized repository for all contract deliverables including those that are needed on an ongoing or ad-hoc basis.

    Management Response: Management concurs that a centralized and well-organized repository for all contract deliverables is important to maintain.

    Timetable: Management will continue to review deliverables as they are made to ensure they comply with the contract and project requirements immediately.

    Staff Responsible: Ed Sanderson, Design Manager, will oversee this task, and will utilize the Project Management Consultant to supplement this task with periodic quality control checks.

    Audit Follow-Up: Confirmation

Observation 2: Gold Line Project Office's (GPO) deliverable file names did not conform to established naming conventions.

With the assistance of project office staff, all sampled deliverables were located. However, the deliverable file names frequently did not adhere to naming conventions established in the project office's document naming and control policy.[9] Common violations of naming conventions included the use of prohibited symbols and missing or incorrect introductory acronyms and revision numbers (**Table 2**). Additionally, no file names corresponded directly to contract task numbers, making it difficult to independently locate specific deliverables.

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[8] Minnesota State Statute *16C.05, subd. 5* states, "A contract or any pass-through disbursement of public funds to a vendor of goods or services or a grantee made by or under the supervision of the commissioner or any county or unit of local government must include, expressed or implied, an audit clause that provides that the books, records, documents, and accounting procedures and practices of the vendor or other party, that are relevant to the contract or transaction, are subject to examination by the contracting agency and either the legislative auditor or the state auditor, as appropriate, for a minimum of six years."

[9] GBRT PC 600-01 Document Naming and Version Control policy, specific guidelines for naming and versioning documents should be followed. Final accepted deliverables should have a revision number of "R01-Final." Each document should incorporate the appropriate acronym designated for its specific document type. File names should not contain spaces or symbols, except for the underscore "_" as a separator between data items/fields, while special characters such as ":~ ! @ # $ % ^ & * ( ) +" should be avoided.

Table 2: Naming Convention Testing Results

	Correct Revision Number	No Special Characters	Acronym Correct
Y	6	19	20
N/A	3	3	3
N	19	6	5

*N/A files were not stored in the H: drive and not tested for adherence to naming conventions

Unclear assignment of responsibilities between the GPO, PMC, and ESC led to inconsistent adherence to naming guidelines. The PMC did not monitor the ESC's file storage and naming practices, and policies failed to clarify who should review and enforce naming conventions.

The failure to monitor and enforce naming conventions makes contract deliverables difficult to identify and locate when needed, posing operational, compliance, and financial risks. It hinders the identification and retrieval of critical documents, compromises the audit trail, and impairs the ability to match files with contractual requirements.

Recommendation:

1. Conduct regular file reviews to ensure compliance with the document management plan, correcting any naming convention discrepancies for completed deliverables.

Management Response: Management concurs with the observation and recommendation and will conduct periodic quality control checks to ensure compliance with the Gold Line's document management plan.

> **Timetable:** Gold Line will begin periodic quality control checks for compliance with the Gold Line document management plan in Quarter Three 2023 and will continue to spot check throughout the project.

> **Staff Responsible:** Alicia Vap, Project Director, and will utilize Project Management Consultant staff to supplement this task.

> **Audit Follow-Up:** Retest

Recommendation:

2. Update document management plan to require descriptive file names that directly correspond to contract task numbers and update plan to clearly define the roles and responsibilities of each party, including the GPO, PMC, and ESC, in monitoring and enforcing naming conventions.

Management Response: Management concurs that future document management plans will require descriptive file names that directly correspond to contract task numbers and correspond to specific project teams. Management will request the ESC and PMC teams to add their responsive contract acronym to their deliverables going forward.

> **Timetable:** Management will start to implement this change in Quarter Three of 2024.

Staff Responsible: Alicia Vap, Project Director, and will utilize Project Management Consultant staff to supplement this task.

Audit Follow-Up: Confirmation

Conclusions

This audit sought to provide assurance of contractual compliance with the terms of Contract #17P058 and to help identify potential gaps in project management. The audit findings reveal deficiencies in maintaining a complete contract file and failure to adhere to naming conventions. These deficiencies do not align with industry best practices and limit the Audit's ability to assure that the consultant is delivering services according to the terms of the contract. Failure to meet contractual deliverables may lead to project delays, posing an operational and financial risk. Looking ahead, the key takeaways from this audit should be used to inform Council-wide strategies. Emphasizing enforcing contracts, following document management plans, and establishing clear monitoring and enforcement roles are practices with broad benefits for all Council capital projects.

August 15, 2023
Matthew J. LaTour, Director Program Evaluation & Audit
Chief Audit Executive

Appendix A: Summary of Findings

Number	Description	Recommendation	Follow-up Action	Page
Observation 1	A complete and accurate contract deliverable file was not maintained.	Maintain a centralized and well-organized repository for all contract deliverables including those that are needed on an ongoing or ad-hoc basis.	Confirmation	5
Observation 2	Gold Line Project Office's (GPO) deliverable file names did not conform to established naming conventions.	Conduct regular file reviews to ensure compliance with the document management plan, correcting any naming convention discrepancies for completed deliverables.	Retest	7
		Update document management plan to require descriptive file names that directly correspond to contract task numbers and update to clearly define the roles and responsibilities of each party, including the GPO, PMC, and ESC, in monitoring and enforcing naming conventions.	Confirmation	7

Program Evaluation and Audit recommendations are categorized according to how Audit will follow-up on them. The categories are:

- **Retest** — Audit will retest the area using the same or similar procedures after a recommendation has been implemented and sufficient time has passed for the changes to take effect. The retest will take place on a specified timetable. The recommendation will be closed once the change has occurred. A new audit project will be opened for retesting and any new findings will include new recommendations.
- **Confirmation** — Audit will confirm that an adequate risk response has been completed on the agreed upon timeline. The recommendation will be closed once the change has taken place.
- **Assess Risk** — Audit will not plan for specific follow up to these recommendations. Audit will discuss the area as part of its annual risk assessment activities and consider future audit work in the area.

Appendix B Glossary

A&E — Architectural and Engineering
APE — Advanced Preliminary Design
BRT — Bus Rapid Transit
ESC — Engineering Services Consultant
FTA — Federal Transit Administration
GPO — Gold Line Project Office
IMPS — Integrated Master Project Schedule
NASPO — The National Association of State Procurement Officials
PE — Preliminary Engineering
PMC — Project Management Consultant

Distribution List

All audit reports are reported to the general public and are available on *www.metrocouncil.org*. This audit report was distributed to the following parties:

- Deputy General Manager, Capital Programs, Metro Transit
- Director, Gold Line, Metro Transit
- Manager of Design and Engineering, Gold Line, Metro Transit