



# INSPECTOR GENERAL

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AUGUST 30, 2021

## **Audit of the Cannon House Office Building Renewal Project's Subcontractor Bids and Awards**

*Report No. OIG-AUD-2021-05*

## MISSION

The OIG promotes efficiency and effectiveness to deter and prevent fraud, waste and mismanagement in AOC operations and programs. Through value added, transparent and independent audits, evaluations and investigations, we strive to positively affect the AOC and benefit the taxpayer while keeping the AOC and Congress fully informed.

## VISION

The OIG is a high-performing team, promoting positive change and striving for continuous improvement in AOC management and operations. We foster an environment that inspires AOC workforce trust and confidence in our work.



# Results in Brief

## *Audit of the Cannon House Office Building Renewal Project's Subcontractor Bids and Awards*

August 30, 2021

### Objective

Construction and contract audits are included in the Architect of the Capitol (AOC) Office of Inspector General (OIG) audit and evaluation plan. As such, the AOC OIG contracted with Cotton & Company LLP (Cotton) to review the subcontractor bid and award process used by the AOC's Construction Manager as Constructor (CMc) during its work on the Cannon House Office Building Renewal (CHOB) Project (Contract No. AOC13C2002). Cotton assessed whether the subcontractors' Phase 1 and Phase 2 contracts: 1) were awarded in accordance with the solicitation requirements and AOC's policies and procedures; 2) align with industry standards; and 3) were supported by the subcontractors' bids.

Cotton's policy requires that it obtain a management representation letter associated with the issuance of a performance audit. It requested a management representation letter from the AOC on July 14, 2021, a copy of which is included in this report as Appendix C. AOC management refused to sign the management representation letter that was provided and instead provided a letter, included as Appendix D, stating that the information provided for the audit was complete and accurate.

### Findings

Cotton determined that, overall, the Phase 1 and Phase 2 contracts that the CMc awarded to the subcontractors: 1) were awarded in accordance with the solicitation requirements and AOC's policies and procedures; 2) align with industry standards; and 3) were supported by the subcontractors' bids. We also determined that the CHOB Project team's review and approval process for subcontractor bids and awards was adequate overall. However, we concluded that while the CHOB Project team did review the CMc's selection of subcontractors, it

### *Findings (cont'd)*

did not approve these subcontractor selections as required by the contract, and the team needs to improve its process for documenting subcontractor bid and award reviews.

Our assessment included reviewing supporting documentation for Phase 1 and Phase 2 subcontractor bids and awards. We tested a sample of subcontractor bids and awards for each phase. During our review, we noted that the CMc contract terms and conditions stated that the CHOB Project team was required to approve subcontractors hired by the CMc. The CHOB Project team did review these selections; however, in most cases, the team chose to acknowledge the selections rather than approve them.

In addition, we found the CHOB Project team needs to improve its documentation of: a) situations requiring the AOC's satisfaction, especially in instances where fewer than three bids were received; b) situations requiring the Contracting Officer's (CO) approval of the CMc's rationale when hiring a subcontractor other than the lowest bidder; and c) the CMc's compliance with the Contracting Officer's Representative (COR) solicitation requirements.

It is essential that the CHOB Project team refine its documentation process to obtain greater assurance that the CMc's subcontractors were selected in accordance with solicitation requirements, the AOC's policies and procedures, and the terms and conditions of the contract. If the AOC does not: 1) perform a review to ensure that the CMc contract terms and conditions are appropriate for the project; and 2) refine the review and approval documentation process, there is a potential risk that the CMc could award subcontracts for the CHOB Project's scopes of work that do not align with all contractual requirements.

### Recommendations

We made four recommendations to address the identified areas of improvement.



# Results in Brief

## *Audit of the Cannon House Office Building Renewal Project's Subcontractor Bids and Awards*

Specifically, we recommend:

1. The AOC review the terms and conditions of its CMC contract to ensure the contract contains the appropriate terms and conditions for the CHOBBr Project.
2. The AOC provide guidance to its contracting officers to modify contracts promptly in cases in which they find terms or conditions that are not appropriate.
3. The CHOBBr Project team consider updating its Project Management Plan to include procedures to ensure that, for each scope of work, the AOC has maintained written documentation of:
  - The conditions for satisfaction in situations where the AOC received fewer than three bids; specifically, the steps it took to evaluate the bid amounts in the absence of preferred competition levels.
  - The CO's approval of the CMC's rationale in situations where the CMC recommended hiring a subcontractor that was not the lowest bidder.
  - The CMC's compliance with the COR's solicitation requirements, which requires the CMC to perform an analysis of the proposals received and to provide a recommendation to the CHOBBr Project team regarding which subcontractor to select based on this analysis.
4. The CHOBBr Project team, in order to ensure consistency during the subcontractor bid and award process, develop a checklist or other template describing the steps the CHOBBr Project team should take to meet satisfaction requirements in situations where the CMC obtained fewer than three bids for a scope of work.

## Management Comments

The AOC was provided an opportunity to comment in response to this report.

The AOC provided comments on August 13, 2021, see Appendix E. AOC management agreed with the conclusion that overall, the Phase 1 and Phase 2 contracts that the CMC awarded to the subcontractors: 1) were awarded in accordance with the solicitation requirements and AOC's policies and procedures; 2) align with industry standards; and 3) were supported by the subcontractors' bids. However, while the CHOBBr Project team did review the CMC's selection of subcontractors, it did not approve these subcontractor selections as required by the contract, and the team needs to improve its process for documenting subcontractor bid and award reviews. AOC management concurred with the AOC OIG's four recommendations.

Please see the Recommendations Table on the following page.

## *Recommendations Table*

Management	Recommendations Unresolved	Recommendations Resolved	Recommendations Closed
Office of the Chief Engineer	NONE	1, 2, 3 and 4	NONE

The following categories are used to describe agency management's comments to individual recommendations:

- **Unresolved** – Management has not agreed to implement the recommendation or has not proposed actions that will address the recommendation.
- **Resolved** – Management agreed to implement the recommendation or has proposed actions that will address the underlying finding that generated the recommendation.
- **Closed** – The OIG verified that the agreed upon corrective actions were implemented.




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UNITED STATES GOVERNMENT

## MEMORANDUM

DATE: August 30, 2021

TO: J. Brett Blanton  
Architect of the Capitol

FROM: Christopher P. Failla, CIG  
Inspector General 

SUBJECT: Audit of the Cannon House Office Building Renewal  
(CHOB) Project's Subcontractor Bids and Awards (Report  
No. OIG-AUD-2021-05)

The Office of the Inspector General (OIG) is transmitting Cotton & Company, LLP's (Cotton) final audit report on the CHOB Project's Subcontractor Bids and Awards (OIG-AUD-2021-05). Under contract AOC19A3002-T004 monitored by my office, Cotton, an independent public accounting firm, performed the audit in accordance with auditing standards generally accepted in the United States of America. In connection with the contract, we reviewed Cotton's report and related documentation and inquired of its representatives. Although Cotton is responsible for the report dated August 30, 2021, and the conclusions expressed in the report, our review disclosed no instances where Cotton did not comply, in all material respects, with generally accepted government auditing standards.

Architect of the Capitol (AOC) management has agreed with the report conclusion that overall, the Phase 1 and Phase 2 contracts that the Construction Manager as Constructor (CMc) awarded to the subcontractors: 1) were awarded in accordance with the solicitation requirements and AOC's policies and procedures; 2) align with industry standards; and 3) were supported by the subcontractors' bids. However, while the CHOB Project team did review the CMc's selection of subcontractors, it did not approve these subcontractor selections as required by the contract, and the team needs to improve its process for documenting subcontractor bid and award reviews. AOC management concurred with the four recommendations in this report.

In our review of AOC Management Comments, we determined that the proposed corrective actions do meet the intent of our recommendations. The next step in the audit resolution process is for AOC management to issue a Notice of Final Action that outlines the actions taken to implement the agreed upon recommendations. This notice is due one year from the date of report finalization, August 30, 2022.



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UNITED STATES GOVERNMENT

## MEMORANDUM

We appreciate the courtesies extended to the staff during the audit. Please direct questions to Erica Wardley, Assistant Inspector General for Audits, via phone or email at 202.215.3395 or [erica.wardley@aoc.gov](mailto:erica.wardley@aoc.gov).

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## Introduction

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### Objective

This report presents the results of our audit of the subcontractor bid and award process used by the AOC's CMc during its work on the CHOBr Project (Contract No. AOC13C2002). The objective of this audit was to determine whether the subcontractors' Phase 1 and Phase 2 contracts: 1) were awarded in accordance with the solicitation requirements and AOC's policies and procedures; 2) align with industry standards; and 3) were supported by the subcontractors' bids.

We conducted this performance audit in Washington, D.C., from October 2020 through April 2021, in accordance with Generally Accepted Government Auditing Standards (per the 2018 revision of the Government Accountability Office's [GAO] *Government Auditing Standards*). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We require the AOC to provide a management representation letter associated with the issuance of a performance audit report citing Generally Accepted Government Auditing Standards. The letter is intended to confirm representations, both oral and written, made to us during the audit. We requested a management representation letter from the AOC on July 14, 2021, a copy of which is included in this report as Appendix C. AOC management refused to sign the management representation letter that was provided and instead provided a letter, included as Appendix D, stating that the information provided for the audit was complete and accurate.

See Appendix A for a discussion of the scope and methodology, review of internal controls and prior audit coverage related to the objective.

### Background

The Cannon House Office Building was designed in the Beaux Arts architectural style by Carrere and Hastings and built in 1906 for the AOC. It is part of the Capitol Hill campus in Washington, D.C., and is fully occupied by more than 2,000 people. It is one of a series of buildings occupied by the House of Representatives, with Member suites, committee support offices and utility support space. The building has five stories and a full basement. There is a multi-level parking garage in the courtyard

area housing approximately 300 vehicles, with automobile access from the south. The total square footage of the building—including the parking garage—is approximately 800,000 square feet.

The AOC undertook the CHOBBr Project to ensure the building continues to provide space for members to perform their legislative business. The building has not received a comprehensive systems upgrade since the 1930s, and many of the building's systems are original. The CHOBBr Project is scheduled to take approximately 10 years to complete, with five phases (0 through 4) aligned to fall between congressional move cycles.

The AOC entered into three base contracts for the CHOBBr Project: Architect-Engineer (AE), Construction Manager as Agent (CMa), and CMc.<sup>1</sup> The primary and most substantial contract for Phases 1 and 2 was with the CMc. The AOC contracted with a joint venture between two construction companies, Clark Construction Group and The Christman Company, to perform CMc services. The AOC awarded the base contract with the CMc on October 25, 2012. The CMc contract incorporates a guaranteed maximum price (GMP), or a cap on how much the owner (i.e., the U.S. government via the AOC) will pay the contractor. The scope of this contract is design assistance and pre-construction services, as well as additional contract options for a pre-installation phase (Option 0); four option periods of staged construction, each addressing roughly one of the four wings of the building; and a closeout option. Under this contract, the CMc is responsible for replacing or upgrading all major building systems to include complete modernization to meet all applicable codes.

As part of our audit, we reviewed appropriate criteria and interviewed the CMc and members of the CHOBBr Project team that participated in the subcontractor bid and award review and approval process.

The CMc determines whether or not it is contractually required to solicit competitive bids for the services to be performed. The CMc is not required to obtain competitive bids when the provided services will be billed under General Conditions/General Requirements or when the subcontractor will be supplementing an existing trade subcontractor (e.g., the CMc determines that it needs to procure an additional plumbing subcontractor to assist the existing plumbing subcontractor with its work). If the subcontractor will be installing permanent work on the CHOBBr Project, the CMc is required to solicit bids. In preparation for soliciting bids, the CMc reviews the

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<sup>1</sup> The AE contract (AOC10C0090) was awarded to Shalom Baranes Associates. The CMa contract (AOC13C1000) was awarded to a joint venture between McDonough Bolyard Peck and AECOM, and the CMc contract (AOC13C2002) was awarded to a joint venture between Clark Construction Group and The Christman Company.

construction documents, develops a Scope Checklist for the scope of work to be competitively bid, and submits the Scope Checklist to the CMA.

Scope Checklists specifically call out specialized and unique portions of the scope of work to ensure all potential subcontractors fully understand the bid documents. The CMA review team (consisting of the Project Controls Manager and Senior Project Manager) reviews the Scope Checklist: a) for accuracy and completeness against Section C – Scope of Work from the base contract between the AOC and the CMc; and b) to ascertain whether the CMc secured appropriate and qualified subcontractor participation, thus ensuring the AOC has received competitive pricing. If needed, the CMc revises the Scope Checklist and resubmits it to the CMA. Once the CMA is satisfied with the Scope Checklist, the CMc provides the bid solicitation documents, including the Scope Checklist, to the identified potential subcontractors. The potential subcontractors provide their bids to the CMc, who then reviews them and develops any clarifications needed to compare “apples to apples” (i.e., the CMc ensures it has all of the same information for each bid received so that it can fully assess the bids against one another). If needed, the CMc may ask a potential subcontractor to revise its bid and resubmit it.

Using the completed Scope Checklists provided by the potential subcontractors, the CMc adds the bid information it has received to a Bid Scope Summary sheet. The CMc narrows the field of bidders to two finalists whose bids are within the competitive price range, develops a recommendation as to the next steps (e.g., “Obtain best and final pricing from Subcontractor X” or “Obtain best and final pricing from Subcontractor X and Subcontractor Y”), documents the recommendation in the Bid Scope Summary sheet, and provides the Bid Scope Summary sheet to the CMA. The CMA verifies that the CMc evaluated the bids comprehensively with an “apples to apples” comparison. If needed, the CMc obtains any other information needed to complete its evaluation and resubmits the Bid Scope Summary sheet to the CMA. The CMc, CMA, and AOC conduct a Pre-GMP Submission meeting to discuss: a) the base contract scope; and b) qualified subcontractor participation, in order to ensure competitive pricing and appropriate coverage for each trade. The CMc collects each Bid Scope Summary sheet obtained for each of the phase’s scopes of work and submits them to the CMA with its phase GMP Submission.

The CMA reviews the Bid Scope Summary sheets to verify the CMc provided a soundly-reasoned recommendation for each trade based on analysis and documented bid comparisons. If needed, the CMc updates its recommendations and resubmits them to the CMA. The CMA provides the Bid Scope Summary sheets with the GMP Submission to AOC for review and acknowledgment. The AOC review team (consisting of the Contracting Officer [CO] and Project Executive) reviews the Bid

Scope Summary sheets. If the AOC disagrees with the CMc's subcontractor recommendation (e.g., "Obtain best and final pricing from Subcontractor X," "Obtain best and final pricing from Subcontractor X and Subcontractor Y"), the CMc meets with the AOC and the CMA to resolve the subcontractor recommendation disagreement. The CMc then proceeds with its recommendation to obtain the best and final pricing from one or both finalists. If the CMc obtains the best and final pricing from two finalists, the CMc selects which subcontractor it thinks should be hired and submits the subcontractor recommendation to the AOC for review and acknowledgment. Once the CMc has narrowed its search to one subcontractor, it enters into negotiations with the selected subcontractor and documents the negotiations in a Negotiation Tracking Log. Throughout the negotiations process, the CMc provides updates to the AOC and the CMA so that they may provide any comments they have regarding the negotiations. Once the CMc and subcontractor agree to contract terms, the CMc enters into a contract with the subcontractor and provides the contract—along with a Subcontract Award Confirmation Letter—to the AOC and CMA for review and acknowledgment. If needed, the CMc resolves the AOC's and/or CMA's comments regarding the subcontract.

The CMc originally chose its subcontractors based upon the best value offered for Phases 1 through 4<sup>2</sup>, but also gave itself the option to re-compete scopes of work (e.g., if a subcontractor underperformed during Phase 1, the CMc could solicit new bids for Phase 2). Therefore, at the start of a new phase, the CMc has the option to either carry over the subcontractor from the previous phase or solicit new bids. If the CMc decides to carry over the subcontractor from the previous phase, it notes the subcontractor's original bid for the upcoming phase and asks the subcontractor to propose any escalation (i.e., inflation adjustment) and other adjustment amounts in an effort for both parties to come to an agreement regarding the updated phase subcontract amount. For example, the cast-in-place concrete subcontractor may have originally bid \$1,000,000 for Phase 2 at the start of the project, but factoring in escalation, lessons learned, scope revisions, incorporated alternates etc., the subcontractor proposes \$1,200,000 to complete the Phase 2 scope of work. The CMc would then evaluate the adjustments accounting for the \$200,000 increase and, if they were to fall within an acceptable range, the CMc would accept the subcontractor's proposal and execute a subcontract for Phase 2.

As of February 23, 2021, the CMc had awarded 35 subcontracts for Phase 1 (i.e., subcontracts awarded for Phase 1 that were not carried over into Phase 2) and 30 unique subcontracts for Phase 2 (i.e., subcontracts awarded for Phase 2 that were not

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<sup>2</sup> Although the Phase 4 work has not yet been awarded, the CMc originally chose its subcontractors based on the best value offered for Phases 1 through 4, assuming the same subcontractors would be used for all four phases.

carried over from Phase 1). In addition to the Phase 1 and Phase 2 subcontracts, the CMC carried over 40 subcontractors from Phase 1 to Phase 2, awarding them new subcontracts in Phase 2.

## Internal Controls

We reviewed internal controls to obtain an understanding of the CHOBr Project team's and CMC's processes for reviewing and approving subcontractor bids and awards. We obtained our understanding by reviewing policies and contract specifications, and interviewing CHOBr Project team members from the AOC and CMA, as well as CMC employees, to determine whether controls were properly implemented and working as designed, individually or in combination with other controls. We determined that the controls over the CHOBr Project's subcontractor bid and award review and approval process were generally sufficient; however, the CHOBr Project team: 1) did not approve the CMC's subcontractors per the terms and conditions of the contract and 2) needs to improve its process for documenting subcontractor bid and award reviews.

## Criteria

To determine whether subcontractors' Phase 1 and Phase 2 contracts: 1) were awarded in accordance with the solicitation requirements and AOC's policies and procedures; 2) align with industry standards; and 3) were supported by the subcontractors' bids, as well as to assess the effectiveness of the subcontractor bid and award review and approval process, we relied upon relevant criteria from the following sources.

The following excerpt from the Base Contract relates to Finding A:

- Base Contract (AOC13C2002) Section C.12.c.12.c – *The AOC reserves the right to attend all bid openings and the results of competitive pricing shall be made available to the AOC. **The AOC shall participate in and approve the selection of subcontractors.** For items or work where three sources are not available due to circumstances such as uniqueness of the item, limited sources, or regional shortages, the CMC shall substantiate this situation to the satisfaction of the AOC. The CMC shall make recommendations for change or substitution of these items to promote the maximum competition available. The CMC will canvas the market to evaluate subcontractor interest, keeping in mind the AOC Small Business subcontracting goals as delineated elsewhere in the solicitation, and prepare a source list of potential bidders or Offerors.* [Emphasis Added]

The following excerpts from the Base Contract relate to Finding B:

- Base Contract (AOC13C2002) Section C.3.B.2 – *It is noted that the lowest price subcontractor does not necessarily have to be chosen by the CMc. Should there be good and compelling reasons that a subcontractor other than the lowest price subcontractor be selected, a letter explaining this choice will be forwarded to the CO listing such reasons. Such a choice will be approved, given the explanations are rational and reasonable.*
- Base Contract (AOC13C2002) Section C.3.B.4.a – *A minimum of three and preferably five competitive bids are required for each trade including work for which the CMc desires to self-perform.*
- Base Contract (AOC13C2002) Section C.12.C.12.c – *For items or work where three sources are not available due to circumstances such as uniqueness of the item, limited sources, or regional shortages, the CMc shall substantiate this situation to the satisfaction of the AOC.*
- Base Contract (AOC13C2002) Section C.12.C.12.e – *The CMc must prepare all solicitation documents, the Statements of Work with performance requirements, the cost estimates, price negotiation memorandums, and other documents as required by the [Contracting Officer's Representative (COR)].*

The following CHOBr Project COR's solicitation requirements relate to Finding B:

- *[CMc] to create a Statement of Work with performance requirements to provide to bidders.*
- *Provide the AOC a bid cost evaluation and recommendation of which subcontractor to work on the project.*
- *Provide the AOC a copy of the subcontractor and [CMc] agreements with exhibits.*
- *Provide the AOC a copy of the executed contract.*
- *Provide Subcontractor Award Confirmation Letter to the CO.*
- *Create a Subcontract Tracker to keep track of costs and which subcontractors perform what scope.*

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## Audit Results

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We determined that, overall, the subcontractors' Phase 1 and Phase 2 contracts: 1) were awarded in accordance with the solicitation requirements and the AOC's policies and procedures; 2) align with industry standards; and 3) were supported by the subcontractors' bids. However, we concluded that the CHOBr Project team did not approve the CMc's subcontractors per a selection requirement of the contract and needs to improve its process for documenting subcontractor bid and award reviews.

During our review, we found the CHOBr Project team did not approve the subcontractors selected by the CMc. Per the AOC's base contract with the CMc, "*The AOC shall participate in and approve the selection of subcontractors.*" The CHOBr Project team stated it generally acknowledges but does not approve subcontractors selected by the CMc due to its belief that formally approving the selection of subcontractors could increase the AOC's liability on the project, although the CO may decide to approve subcontractors in certain situations (e.g., work involving Historic Preservation). Additionally, we found the CHOBr Project team needs to improve its documentation of: a) situations requiring the AOC's especially in instances where fewer than three bids were received; b) situations requiring the CO's approval of the CMc's rationale when hiring a subcontractor other than the lowest bidder; and c) the CMc's compliance with COR solicitation requirements.

We concluded that the CHOBr Project team's review and approval process for subcontractor bids and awards was adequate overall; however, it is essential that the CHOBr Project team refine its documentation process to obtain greater assurance that the CMc's subcontractors were selected in accordance with solicitation requirements, the AOC's policies and procedures, and the terms and conditions of the CMc's contract with the AOC. If the AOC does not: 1) ensure that the CMc contract terms and conditions are appropriate for the project; and 2) refine the review and approval documentation process, there is a potential risk that the CMc could award subcontracts for the CHOBr Project's scopes of work that do not align with all contractual requirements.

As such, we made four recommendations for improving how the CHOBr Project team reviews, approves and supports subcontractor bids and awards.

## Finding A

### **CHOBBr Project Team's Approval Process for Subcontractor Contracts Did Not Adhere to a Selection Requirement of the CMc Contract**

We determined that the CHOBBr Project team's approval process of subcontractor contracts did not adhere to a selection requirement from the AOC's contract with the CMc. We found that the CMc contract terms and conditions stated that the CHOBBr Project team was required to approve subcontractors hired by the CMc. As specified in the Criteria section, "*The AOC shall participate in and approve the selection of subcontractors.*" However, we determined that—while the CHOBBr Project team reviewed subcontractor proposals, provided comments and acknowledged the CMc's subcontracting decisions—in most cases, the CHOBBr Project team did not actually approve the subcontractors selected by the CMc.

The AOC awarded the base contract with its CMc for the CHOBBr Project on October 25, 2012. The contract incorporated a pre-construction phase (Base Contract Part One and Part Two [Option]), five phases of construction (Options 0 through 4), and a one-year closeout and commissioning phase (Option 5). The CMc is required to procure qualified subcontractors (both trade subcontractors and non-trade subcontractors) utilizing open book procurement to perform construction phase work.

According to the CHOBBr Project team, the AOC and the CMc did not intend the contract to require the CHOBBr Project team to approve most subcontractors selected by the CMc. The CHOBBr Project team stated that, in general, it has not approved subcontractors selected by the CMc due to its belief that formally approving the selection of subcontractors could increase the AOC's liability on the engagement. The Project team does, however, review the subcontract recommendations, as described in detail below.

The CMc is required to procure the necessary subcontractors for the construction phases of the contract. To do this, the CMc solicits and analyzes bids from subcontractors for all required trades. The CMc provides its analysis and recommendation on the selection of the winning bidder for the



CHOBr Project team to review for each trade. The CHOBr Project team reviews the analysis provided by the CMc to verify the CMc provided a soundly reasoned recommendation for each trade based on the analysis. Once the CHOBr Project team and CMc agree which bidder should be hired, the CMc negotiates the subcontract with the selected bidder. The CMc then provides the awarded subcontract to the AOC CO. The CO may acknowledge or accept the receipt of the subcontract, but does not actually approve the subcontractor selection; however, there is one exception. The CHOBr Project team approves subcontractors selected to perform Historic Preservation work on the project. While this process of review does not adhere to certain language in the contract, it does appear to provide sufficient oversight of the selection of subcontractors. Specifically, the CHOBr Project team reviews the CMc's recommendations for subcontractors prior to the CMc executing subcontract agreements, and while they do not formally approve the selections, they do have the right to reject a selection.

## Conclusion

The CHOBr Project team stated that it did not interpret the contract language to mean it required the CHOBr Project team to approve subcontractor selections made by the CMc; however, it acknowledged that the contract language could be interpreted to require such an approval as written.

The importance of a well-written contract with clear and appropriate terms and conditions on a large, complex construction project, such as the CHOBr Project, cannot be overstated. The parties to the contract should comply with all contract terms and conditions, as non-compliance may increase risk to the AOC. Just as the CHOBr Project team concluded that approving the CMc's subcontractor selections could increase the AOC's liability on the project, so too can ambiguous contract language that appears to require such an approval. For example, contract language requiring the CHOBr Project team to approve subcontractors—combined with the extensive review the CHOBr Project team performs of the CMc's rationale for each selection, as well as the CHOBr Project team's ability to reject a subcontractor selection—could be used to argue that it is, in fact, approving subcontractors. This would contradict the CHOBr Project team's intentions, potentially exposing the AOC to the liability it sought to avoid by not formally approving the subcontractors.

Ensuring the contract terms and conditions and the CHOBr Project team's intentions align, would mitigate the liability.

It is also important for the AOC to ensure that its policies and procedures regarding the development and review of future construction contracts are sufficient to ensure contract terms and conditions clearly articulate the AOC's intent prior to implementation. This recommendation was made in a prior audit report<sup>3</sup> of the CHOBr project. The AOC agreed with the recommendation, and the recommendation has since been closed through the audit remediation process. Therefore, there is no need to make a similar recommendation in this report.

## **Recommendations**

### ***Recommendation 1***

We recommend that the Architect of the Capitol (AOC) review the terms and conditions of its Construction Manager as the Constructor (CMc) contract to ensure the contract contains the appropriate terms and conditions for the CHOBr Project. (Note: In our Audit of the Cannon House Office Building Renewal (CHOBr) Project's Contract Invoices (OIG-AUD-2020-05), we also recommended that the AOC review the terms and conditions of its CMc contract to ensure the contract contains the appropriate terms and conditions for the CHOBr Project. As part of its remediation efforts when closing out the recommendation issued in the OIG-AUD-2020-05 report, the AOC should also ensure the CMc contract includes the appropriate terms and conditions as outlined in this report.)

### ***Recommendation 1 – AOC Comment***

Concur. The CHOBr Project team stated it will modify the CMc contract to align with the AOC's intent relative to approval/acknowledgement of subcontract awards. The CHOBr Project team also stated that it has already modified the CMc's contract to address the OIG's recommendation pertaining to the definition of cost applicable to the CHOBr Project and is further discussing this issue with the OIG.

### ***Recommendation 1 – OIG Comment***

We recognize the AOC's concurrence with the recommendation. The CHOBr Project team will modify the AOC's contract with the CMc to align with the AOC's intent regarding approval/acknowledgement of subcontract awards. The AOC actions

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<sup>3</sup> Audit of the Cannon House Office Building Renewal Project's Contract Invoices (OIG-AUD-2020-05), Recommendation 3.

appear to be responsive to the recommendation. Therefore, the recommendation is considered resolved but open. The recommendation will be closed upon completion and verification of the proposed actions.

## ***Recommendation 2***

We recommend that the Architect of the Capitol (AOC) provide guidance to its contracting officers to modify contracts promptly in cases in which they find terms or conditions that are not appropriate.

### ***Recommendation 2 – AOC Comment***

Concur. The CHOBr Project team stated it will issue the recommended guidance to its contracting officers.

### ***Recommendation 2 – OIG Comment***

We recognize the AOC's concurrence with the recommendation. The CHOBr Project team will issue guidance to its contracting officers instructing them to modify contracts promptly in cases in which they find terms or conditions that are not appropriate. The AOC actions appear to be responsive to the recommendation. Therefore, the recommendation is considered resolved but open. The recommendation will be closed upon completion and verification of the proposed actions.

## Finding B

### **CHOB Project Team Needs to Improve its Process for Documenting Subcontractor Bid and Award Reviews**

The CHOB Project team's process for documenting its review of subcontractor bids and awards needs improvement. As of February 23, 2021, the CMc had awarded 35 subcontracts for Phase 1 and 30 unique subcontracts for Phase 2. Additionally, the CMc carried over 40 subcontractors from Phase 1 to Phase 2, awarding them new subcontracts in Phase 2.

We sampled 12 subcontracts that the CMc awarded for Phases 1 and 2 of the CHOB Project. Our sample consisted of four Phase 1 subcontracts, four Phase 2 subcontracts and four Phase 1 and 2 carryover subcontracts. Based on our review of the sampled subcontracts, there were three areas in the subcontractor bid and award process where we identified a lack of documentation:

- Our sample included three<sup>4</sup> subcontracts that were awarded after receiving fewer than three proposals for the scope of work. As detailed below, in each of these instances, the CHOB Project team did not document its review, including the steps taken and the information reviewed, that resulted in the CHOB Project team finding satisfaction with the situation. In two of the three instances, the CHOB Project team did not document that it was satisfied with the situation. Per the AOC's base contract with the CMc, if the CMc does not obtain competitive pricing from a minimum of three subcontractors, the CMc must substantiate the situation to the satisfaction of the AOC.
  - The CMc obtained only two bids for the Phase 2 skylights. The CHOB Project team did not document that it was satisfied with the situation or how it reached that conclusion.
  - The CMc obtained only two bids for the Phase 1 communications work, and the CMc subsequently carried over the awarded subcontractor to complete the Phase 2 communications work. The CHOB Project team did not document that it was satisfied with the situation or how it reached that conclusion. The CHOB

Project team did provide an independent government estimate (IGE) for Phase 2, but since the bid process for this work occurred during Phase 1, the Phase 2 IGE did not address the steps taken by the AOC to evaluate the bid amounts in the absence of preferred competition levels.

- The CMc obtained only two bids for the Phase 1 cast-in-place concrete work, and the CMc subsequently carried over the awarded subcontractor to complete the Phase 2 cast-in-place concrete work. The CHOB Project team provided a portion of a negotiation tracking log that shows correspondence between the CHOB Project team and the CMc regarding fewer than three bids received for the cast-in-place concrete work. The documentation indicates that the CHOB Project team was satisfied with the situation; however, it does not document how that determination was made.
- In one instance, the CHOB Project team did not provide documentation for the CO's approval of the CMc analysis recommending the selection of a subcontractor that was not the lowest bidder. Per the base contract, the CMc must submit a letter providing rational, reasonable explanations regarding why it recommended that a subcontractor other than the lowest bidder be hired (i.e., best value analysis). The contract states that such a selection will be approved, given that the explanations are rational and reasonable. The CMc submitted the best value analysis for the Project's Phase 1 electrical work (Note: The CMc subsequently carried over the awarded subcontractor to complete the Phase 2 electrical work), but the CHOB Project team did not document the CO's approval of the CMc's explanations as rational and reasonable.

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<sup>4</sup> We selected a fourth subcontract for which fewer than three bids were received; however, the subcontract was funded by Construction Contingency, a funding type which the CMc is incentivized to control because it is subject to shared savings (see Modification M036 to the base contract). Because of this, we determined that the subcontract was not subject to the same review and approval requirements as the other subcontracts for which fewer than three bids were received.

- In the Phase 2 skylights work, the CMc's recommendation to the CHOBr Project team regarding which subcontractor to hire was not documented. Per the AOC COR's solicitation requirements, the CMc is required to perform an analysis of the proposals received and to provide a recommendation to the CHOBr Project team regarding which subcontractor to select based on this analysis. The CMc provided its comparison of the proposals received for one of the subcontracts we sampled; however, this comparison did not document the CMc's recommendation regarding which subcontractor to select, as required by the COR solicitation requirements.

## Conclusion

The CHOBr Project team's Project Management Plan (PMP) does not require the CHOBr Project team to document: a) how the AOC became satisfied with situations in which the CMc obtained fewer than three bids; b) the AOC CO's approval of the CMc's rationale in situations where the CMc recommended hiring a subcontractor other than the lowest bidder; and c) that the CMc complied with the COR's solicitation requirements, which includes providing subcontractor recommendations.

Additionally, according to the CHOBr Project team, the AOC reviews the bid documentation package and looks for any indicators that the CMc did not make a good faith effort to obtain the desired level of competition. The AOC would then communicate to the CMc any questions it developed during its review, but would not necessarily complete an in-depth evaluation for each subcontractor.

If the CHOBr Project team does not sufficiently document its review of: a) situations requiring the AOC's satisfaction when fewer than three bids are received; b) situations requiring the AOC CO's approval of the CMc's rationale when the CMc recommends hiring a subcontractor other than the lowest bidder; and c) the CMc's compliance with COR solicitation requirements, then it increases risk to the project in a variety of ways. Not fully documenting how reviews are performed increases the risk that the reviews may be insufficient, inconsistent, improper or not performed at all. Clearly documenting reviews that are performed as part of administering the CMc contract allows project personnel and stakeholders to determine how reviews were performed throughout the project, regardless of staff turnover. Standardizing documentation requirements in the reviews would help ensure reviews are both performed and performed appropriately. It will also lessen the burden on the CHOBr project team if it is required to substantiate details of reviews or decisions made

during the project, which may be requested during project audits or general project oversight.

## **Recommendations**

### ***Recommendation 3***

We recommend that the Cannon House Office Building Renewal (CHOBr) Project team consider updating its Project Management Plan (PMP) to include procedures to ensure that, for each scope of work, the Architect of the Capitol (AOC) has maintained written documentation of:

- The conditions for satisfaction in situations where the AOC received fewer than three bids; specifically, the steps it took to evaluate the bid amounts in the absence of preferred competition levels.
- The Contracting Officer's (CO's) approval of the Construction Manager as the Constructor's (CMc) rationale in situations where the CMc recommended hiring a subcontractor that was not the lowest bidder.
- The CMc's compliance with the Contracting Officer Representative's solicitation requirements, which require the CMc to perform an analysis of the proposals received and to provide a recommendation to the CHOBr Project team regarding which subcontractor to select based on this analysis.

### ***Recommendation 3 – AOC Comment***

Concur. The CHOBr Project team stated it agrees that specifically maintaining documentation for the items covered in the recommendation would be beneficial, so it will update the PMP.

### ***Recommendation 3 – OIG Comment***

We recognize the AOC's concurrence with the recommendation. The CHOBr Project team will update the PMP to ensure it maintains documentation for the items covered in the recommendation. The AOC actions appear to be responsive to the recommendation. Therefore, the recommendation is considered resolved but open. The recommendation will be closed upon completion and verification of the proposed actions.

***Recommendation 4***

To ensure consistency during the subcontractor bid and award process, we recommend that the Cannon House Office Building Renewal (CHOB) Project team develop a checklist or other template describing the steps the CHOB Project team should take to meet satisfaction requirements in situations where the Construction Manager as the Constructor (CMc) obtained fewer than three bids for a scope of work.

***Recommendation 4 – AOC Comment***

Concur. The CHOB Project team stated it has already initiated development of the recommended checklist, which will include the steps it has routinely taken to review the CMc's recommendations (e.g., reviewing the CMc's solicitation, scope analysis, bid and best value analyses, rationales, eligibility to serve as a subcontractor, and recommendations).

***Recommendation 4 – OIG Comment***

We recognize the AOC's concurrence with the recommendation. The CHOB Project team will develop the recommended checklist. The AOC actions appear to be responsive to the recommendation. Therefore, the recommendation is considered resolved but open. The recommendation will be closed upon completion and verification of the proposed actions.

COTTON & COMPANY LLP



Jason Boberg, CPA, CFE  
Partner  
August 30, 2021



## Appendix A

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### Scope and Methodology

The scope of this performance audit was the subcontractor bids and awards from Phases 1 and 2 of the CHOBr Project for Contract AOC13C2002 (awarded on October 25, 2012). We conducted this performance audit of the CHOBr Project, located in Washington, D.C., from October 2020 through April 2021, in accordance with Generally Accepted Government Auditing Standards (per the 2018 revision of the GAO's *Government Auditing Standards*). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We reviewed the CHOBr Project team's documented policies and procedures for the review and approval of subcontractor bids and awards and concluded regarding the adequacy of those procedures. We discussed and documented the roles and responsibilities of those responsible for reviewing and approving subcontractor bids and awards. We tested a sample of 12 subcontracts to identify the policies and procedures actually followed. We selected the sampled subcontracts on a judgmental basis. The Phase 1 period of performance was January 2017 to November 2018, while the Phase 2 period of performance was January 2019 to November 2020.

Construction and contract audits are included in the AOC OIG audit and evaluation plan.

### Review of Internal Controls

*Government Auditing Standards* require auditors to obtain an understanding of internal controls that are significant within the context of the audit objectives. For internal controls deemed significant within the context of the audit objectives, auditors should assess whether the internal control has been properly designed and implemented, as well as perform procedures designed to obtain sufficient and appropriate evidence to support their assessment about the effectiveness of those controls. Information system controls are often an integral part of an entity's internal control. The effectiveness of significant internal controls is frequently dependent on the effectiveness of information system controls. Thus, when obtaining an

understanding of internal controls significant to the audit objectives, auditors should also determine whether it is necessary to evaluate information system controls.

We reviewed internal controls to obtain an understanding of the CHOBr Project team's and CMC's processes for reviewing and approving subcontractor bids and awards. We obtained our understanding by reviewing policies and contract specifications and interviewing CHOBr Project team members from the AOC and CMA, as well as CMC employees, to determine whether controls were properly implemented and working as designed, either individually or in combination with other controls.

As discussed in Findings A and B, the CHOBr Project team: 1) did not approve the CMC's subcontractors per the terms and conditions of the contract; and 2) needs to improve its process for documenting subcontractor bid and award reviews. Despite this, we determined that, overall, the controls over the CHOBr Project's subcontractor bid and award review and approval process were adequate.

## **Use of Computer-Processed Data**

We did not use a material amount of computer-processed data to perform this audit.

## **Prior Coverage**

During the last five years, the GAO issued an update to its previous report on the AOC's efforts to revise the CHOBr Project's cost and schedule estimates. In addition, the AOC OIG issued reports on its performance audits of: 1) CHOBr Project plans; 2) CHOBr Project contract modifications; 3) CHOBr Project contract invoices; and 4) CHOBr Project reimbursable costs.

## **GAO**

Report No. GAO-19-712T, "Efforts Are Ongoing to Update Cannon House Office Building's Renovation Cost and Schedule Estimates," dated September 10, 2019:

*In March 2014, the GAO issued a report recommending that the AOC incorporate additional leading practices from the GAO's Cost Estimating and Assessment Guide into its cost-estimating guidance and submit the confidence levels of project estimates (including the CHOBr Project) to Congress. As part of its monitoring of the CHOBr Project, the GAO issued Report No. GAO-19-712T, noting that the AOC had implemented the recommendations*

*from the March 2014 report. The GAO also noted that the AOC was updating its CHOBr Project cost estimate by undertaking an Integrated Cost Schedule Risk Analysis (ICSRA).*

*Note: The AOC completed the ICSRA in December 2019. The 90 percent confidence level for the revised budget estimates total costs for the CHOBr Project to be \$890.1 million, or approximately \$137.4 million over the original budget of \$752.7 million.*

## **AOC OIG**

Report No. A-2016-01, “Cannon House Office Building Renewal Project,” dated June 24, 2016:

*The AOC Chief Operating Officer requested that the AOC OIG review the CHOBr Project’s Partnering Fee Plan (PFP), Project Management Plan (PMP), and Tower Crane Procurement Plan. In its review of the PFP, PMP, and Tower Crane Procurement Plan, the AOC OIG found no significant issues in the execution of the plans. With regard to the Change Management Plan section of the PMP, the AOC OIG recommended that the CHOBr Project team further define approval responsibilities for “Priority 2 Urgent Changes” and “Priority 3 Mandatory Tier 3” (Note: The CHOBr Project team no longer uses this terminology in the current version of the Change Management Plan).*

Report No. OIG-AUD-2020-04, “Audit of the Cannon House Office Building Renewal (CHOBr) Project’s Contract Modifications,” dated May 29, 2020:

*The AOC OIG contracted with Cotton & Company LLP to examine contract modifications and potential change orders (PCOs) that the AOC’s CMc submitted on the CHOBr Project. The audit determined that overall, the contract modification process for the CHOBr Project was effective. However, we identified \$102,189 in unallowable costs included in approved PCO, as well as 19 PCO proposals that did not contain the required level of cost detail. In addition, we found that the CHOBr Project team did not always retain cost analysis documentation as part of the PCO review and approval process.*

Report No. OIG-AUD-2020-05, “Audit of the Cannon House Office Building Renewal (CHOBr) Project’s Contract Invoices,” dated August 25, 2020:

*The AOC OIG contracted with Cotton & Company LLP to examine invoices (also known as pay applications) that the AOC's CMc submitted on the CHOBr Project. The audit determined that the CHOBr Project team's review and approval process for the CHOBr Project invoices during Option Periods 1 and 2 was adequate, that the costs reviewed were allowable and supported, and that the costs reviewed appeared to be reasonable. However, we also determined that the CHOBr Project team's review and approval process did not adhere to the CMc contract requirements. The CMc contract terms and conditions for the construction phases reflected a fully cost-reimbursable GMP contract with an option to convert to a firm-fixed-price contract, but the CHOBr Project team administered the CMc contract as a hybrid cost-reimbursable/firm-fixed-price GMP contract.*

Report No. OIG-AUD-2021-04, "Audit of the Cannon House Office Building Renewal (CHOBr) Project's Reimbursable Costs," dated June 8, 2021:

*The AOC OIG contracted with Cotton & Company LLP to examine reimbursable costs that the AOC's CMc invoiced for its work on the CHOBr Project. The audit determined that overall, the CMc billed, and the AOC paid for CHOBr Project Phase 1 and Phase 2 reimbursable costs in accordance with the CMc contract terms and conditions, and the costs were generally allowable, allocable, supportable, and reasonable. We also determined that the CHOBr Project team's review and approval process for reimbursable costs was adequate overall. However, we concluded that the CHOBr Project team needs to strengthen its review and approval process for these costs and ensure support documentation for all reimbursed costs is sufficient, maintained, and readily available for examination. In its report, we noted \$54,246 in unallowable costs, \$234,383 in questioned legal costs, and \$286,933 in costs questioned because no or insufficient supporting documentation was provided during the audit.*

## Appendix B

### Announcement Memorandum



Office of Inspector General  
Fairchild Bldg.  
499 S. Capitol St., SW, Suite 518  
Washington, D.C. 20515  
202.593.1948  
[www.aoc.gov](http://www.aoc.gov)

United States Government  
**MEMORANDUM**

DATE: September 28, 2020

TO: J. Brett Blanton  
Architect of the Capitol

FROM: Christopher P. Failla, CIG *C. Failla*  
Inspector General

SUBJECT: Announcement Memo for the Audit of the Architect of the Capitol (AOC)  
Cannon Renewal Project's Subcontractors Bid and Award (2020-AUD-009-A)

This memorandum serves as notification that the Office of Inspector General is working with the independent audit and accounting firm, Cotton & Company LLP, to initiate a construction audit of the Cannon Renewal Project's Subcontractors Bid and Award. The objective of the audit is to determine if the subcontractors' contracts for Phase 1 and Phase 2 were awarded in accordance with the solicitation requirements and AOC's policies and procedures, and align with industry standard; and the subcontractor bids support the awarded contracts.

We will be in contact with your office to set up an audit entrance conference. If you have any questions, please contact Paul Braxton, Auditor at 202.593.0107 or [paul.braxton@aoc.gov](mailto:paul.braxton@aoc.gov).

Distribution List:

Thomas J. Carroll III, Assistant to the Architect  
Peter Bahm, Chief of Staff  
William O'Donnell, Chief Administrative Officer  
Peter Mueller, Director, Planning & Project Management  
Joseph Campbell, Acting Superintendent, House Office Buildings  
Anthony Hutcherson, Chief Acquisition & Material Management Officer  
Mary Jean Pajak, Senior Advisor

## Appendix C

### Cotton & Company's Management Representation Letter

*Insert AOC letterhead*

[Date of Report and Completion of the Performance Audit]

Christopher P. Failla  
Inspector General  
Architect of the Capitol  
Office of Inspector General  
499 S Capitol St. SW, Suite 518  
Washington, DC 20515

Attention: Mr. Failla

We are providing this representation letter in connection with Cotton & Company's performance audit of Phase 1 and 2 subcontracts awarded by the Construction Manager as Constructor (CMc) on the Architect of the Capitol's (AOC) Cannon House Office Building Renewal (CHOB) Project.

Certain representations in this letter are described as being limited to matters that are significant. Significance is defined as the relative importance of a matter within the context in which it is being considered, including quantitative and qualitative factors. Such factors include the magnitude of the matter in relation to the subject matter of the audit, the nature and effect of the matter, the relevance of the matter, the needs and interests of an objective third party with knowledge of the relevant information, and the impact of the matter to the audited program or activity. Items are considered significant regardless of size if they involve an omission or misstatement of information that, in the light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would be changed or influenced by the omission or misstatement. The term "significant" is comparable to the term "material" as used in the context of financial statement engagements.

We confirm that, to the best of our knowledge and belief, having made such inquiries as we considered necessary for the purpose of appropriately informing ourselves, as of [date of report]:

#### Our Responsibilities

- We acknowledge our responsibility for the sufficiency of the subject matter in achieving its objectives. Specifically, management is responsible for ensuring that the CHOB Project's subcontracts: 1) are awarded in accordance with the solicitation requirements and AOC's policies and procedures, 2) align with industry standards, and 3) are supported by the subcontractors' bids.

#### Information Provided

- We assert that the information provided to you for this audit is complete and accurate to the best of our knowledge.
- We assert that we have no knowledge of any information regarding fraud, instances of noncompliance with laws or regulations, or any pending or threatened litigation related to the subcontracts awarded on the CHOB Project.
- We assert that we are not aware of any matters that it believes would invalidate our conclusions.
- Upon information and belief all known deficiencies in the design or operation of internal controls were disclosed to you by management.

*[Responsible Party and Title]*  
Architect of the Capitol

---

*[Responsible Party and Title]*  
Architect of the Capitol

cc: Jason Boberg, Cotton & Company\

## Appendix D

### AOC's Management Representation Letter



Architect of the Capitol  
U.S. Capitol, Room SB-16  
Washington, DC 20515  
202.228.1793  
[www.aoc.gov](http://www.aoc.gov)

August 13, 2021

Christopher P. Failla  
Inspector General  
Architect of the Capitol  
Office of Inspector General  
499 S. Capitol St., SW, Suite 518  
Washington, DC 20515

Dear Mr. Failla,

The Architect of the Capitol (AOC) provides this letter as requested concerning the Office of Inspector General performance audit of the Cannon House Office Building Renewal Project's Subcontractor Bids and Awards (Project No. 2020-AUD-009-A).

The information provided by the AOC as part of this audit is complete and accurate to the best of its knowledge.

Sincerely,

Peter W. Mueller, P.E., PMP  
Chief Engineer

Doc. No. 210720-18-01



## Appendix E


### Management Comments



**Architect of the Capitol**  
U.S. Capitol, Room SB-16  
Washington, DC 20515  
202.228.1793  
[www.aoc.gov](http://www.aoc.gov)

**DATE:** August 13, 2021

**TO:** Christopher P. Failla  
Inspector General

**FROM:** J. Brett Blanton   
Architect of the Capitol

**SUBJECT:** Audit of the Cannon House Office Building Renewal Project's (CHOB) Subcontractor Bids and Awards (Project No. 2020-AUD-009-A)

Thank you for the opportunity to review and comment on the Office of Inspector General's (OIG) official draft of the subject report.

The Architect of the Capitol (AOC) is pleased the OIG found that overall, the Construction Manager as Constructor's (CMc) subcontracts 1) were awarded in accordance with the solicitation requirements and the AOC's policies and procedures; 2) align with industry standards; and 3) were supported by the subcontractors' bids. In addition, the AOC is pleased that the OIG found the CHOB Project team's review and approval process for subcontractor bids and awards was adequate overall, appears to provide sufficient oversight, and that the team provided an extensive review of CMc's rationale for each selection.

Although the AOC concurs with the OIG's findings and recommendations, it believes that the AOC is at very low risk of the potential adverse consequences indicated in the draft report related to having used the word "approval" in the contract and the documentation issues the OIG identified. Federal Acquisition Regulation (FAR) Clause 52.244-5, which is applicable to the CHOB Project, clearly places the responsibility for subcontractor selection on the CMc. The CMc is fully responsible for subcontractor performance, pricing and alignment with the terms and conditions in the AOC's contract with the CMc and is incentivized to make appropriate subcontractor selections.

#### Recommendation 1

We recommend that the Architect of the Capitol (AOC) review the terms and conditions of its Construction Manager as the Constructor (CMc) contract to ensure the contract contains the appropriate terms and conditions for the CHOB Project. (Note: In our Audit of the Cannon House Office Building Renewal (CHOB) Project's Contract Invoices (OIG-AUD-2020-05), we also recommended that the AOC review the terms and conditions of its CMc contract to ensure the contract contains the appropriate terms and conditions for the CHOB Project. As part of its remediation efforts when closing out the recommendation issued in the OIG-AUD-2020-05 report, the AOC should also ensure the CMc contract includes the appropriate terms and conditions as outlined in this report.)

#### AOC Response

The CHOBr Project team will modify the CMc contract to align with the AOC's intent relative to approval/acknowledgement of subcontract awards. It has already modified the CMc's contract to address the OIG's recommendation pertaining to the definition of cost applicable to the CHOBr Project and is further discussing this issue with the OIG.

#### Recommendation 2

We recommend that the Architect of the Capitol (AOC) provide guidance to its contracting officers to modify contracts promptly in cases in which they find terms or conditions that are not appropriate.

#### AOC Response

The AOC will issue the recommended guidance.

#### Recommendation 3

We recommend that the Cannon House Office Building Renewal (CHOBr) Project team consider updating its Project Management Plan to include procedures to ensure that, for each scope of work, the Architect of the Capitol (AOC) has maintained written documentation of:

- The conditions for satisfaction in situations where the AOC received fewer than three bids; specifically, the steps it took to evaluate the bid amounts in the absence of preferred competition levels.
- The Contracting Officer's (CO's) approval of the Construction Manager as the Constructor's (CMc) rationale in situations where the CMc recommended hiring a subcontractor that was not the lowest bidder.
- The CMc's compliance with the Contracting Officer Representative's solicitation requirements, which require the CMc to perform an analysis of the proposals received and to provide a recommendation to the CHOBr Project team regarding which subcontractor to select based on this analysis.

#### AOC Response

Although the CHOBr Project team believes its overall acknowledgement of the CMc's subcontractor selections constitutes documentation of the CMc's conformity to all contract requirements, including those cited above, it agrees that specifically covering the items above would be beneficial. The CHOBr Project team will update the Project Management Plan. However, it is important to note that the CHOBr Project team reviews the CMc's analyses of proposals and only does its own independent evaluation of proposals if it is determined necessary.

#### Recommendation 4

To ensure consistency during the subcontractor bid and award process, we recommend that the Cannon House Office Building Renewal (CHOB) Project team develop a checklist or other template describing the steps the CHOB Project team should take to meet satisfaction requirements in situations where the Construction Manager as the Constructor obtained fewer than three bids for a scope of work.

#### AOC Response

The CHOB Project team has already initiated development of the recommended checklist. The CHOB Project team points out that the checklist will include the steps it has routinely taken to review the CM's recommendations. These steps include review of the CM's solicitation, scope analysis, bid and best value analyses, rationales, eligibility to serve as a subcontractor and recommendations.

#### Attachment

Doc. No. 210720-18-01

## **Acronyms and Abbreviations**

AE	Architect-Engineer
AOC	Architect of the Capitol
CHOB	Cannon House Office Building Renewal
CMA	Construction Manager as Agent
CMc	Construction Manager as Constructor
CO	Contracting Officer
COR	Contracting Officer's Representative
Cotton	Cotton & Company LLP
GAO	Government Accountability Office
GMP	Guaranteed Maximum Price
ICSRA	Integrated Cost Schedule Risk Analysis
IGE	Independent Government Estimate
OIG	Office of Inspector General
PCO	Potential Change Order
PFP	Partnering Fee Plan
PMP	Project Management Plan



## OFFICE ON THE INSPECTOR GENERAL

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