



# INSPECTOR GENERAL

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MAY 29, 2020

## **AUDIT OF THE CANNON HOUSE OFFICE BUILDING RENEWAL PROJECT'S CONTRACT MODIFICATIONS**

*Report No. OIG-AUD-2020-04*

## 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 CONTRACT MODIFICATIONS

May 29, 2020

### Objective

Cotton & Company, LLP (Cotton) assessed the effectiveness of contract modifications to the Architect of the Capitol's (AOC) Contract No. AOC13C2002 for Construction Manager as Constructor (CMc) services on the Cannon House Office Building Renewal (CHOB) Project. The Audit assessed whether contract modifications and Potential Change Orders (PCO) to the contract were:

1) reasonable, necessary, and within the scope of the contract; and 2) effectively awarded and administered.

Specifically, the audit determined if PCOs were reasonable, authorized, supported and complied with contract requirements. The review included contract modifications and PCOs from the project's Phase 0 and Phase 1.

Construction and contract audits are included in the AOC Office of Inspector General (OIG) audit and evaluation plan.

Cotton's policy requires that we obtain a management representation letter associated with the issuance of a performance audit. We requested a management representation letter from the AOC on May 4, 2020, 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 contract modification process for the CHOB Project was effective. The construction contract modifications and PCOs were generally 1) reasonable, necessary, and within the scope of the contract and 2) effectively awarded and administered by the CHOB Project team. Our assessment included selecting a sample of PCOs and reviewing the sufficiency of the supporting documentation as well as the PCOs' accuracy, reasonableness, and adherence to contractual requirements,

### Findings (cont'd)

policies and procedures. While we determined that the CHOB Project team properly issued contract modifications and PCOs, we noted several instances in which the CHOB Project team approved PCO proposals that included unallowable costs. During our review, we identified \$102,189 in unallowable costs included in approved PCOs, as well as 19 proposals that did not contain the required level of cost detail. In addition, we found that cost analysis documentation was not always retained.

### Recommendations

We made five recommendations to address the identified areas of improvements.

Specifically we recommend:

1. The CHOB Project team strengthen the PCO proposal review process to ensure that unallowable costs are not included in the approved PCO amounts.
2. The CHOB Project team work with the CMc to ensure that proposals submitted for PCOs are factually sound, contain the required cost detail and exclude unallowable costs.
3. To the extent legally and administratively possible, the CHOB Project team recover the \$102,189 of unallowable costs identified in our review.
4. The CHOB Project team perform and document all required cost analyses. The documentation should be in writing, and the CHOB Project team should retain copies of any detailed analysis performed.
5. The CHOB Project team consider amending its Change Management Plan to require that the team perform, and document performance of, a cost analysis for all PCOs with a value of less than \$100,000, unless the PCO is funded using contractor contingency funds (due to contract incentive).



# Results in Brief

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## *AUDIT OF THE CANNON HOUSE OFFICE BUILDING RENEWAL PROJECT'S CONTRACT MODIFICATIONS*

### **Management Comments**

We requested that the AOC provide comments in response to this report.

The AOC provided comments on May 15, 2020, see Appendix E. Overall, AOC management agrees with the conclusion that while the CHOBBr Project's contract modification process was effective, there were improvements needed within the review and approval process. AOC management concurred with the five recommendations.

Please see the Recommendations Table following this page.

## *Recommendations Table*

Management	Recommendations Unresolved	Recommendations Resolved	Recommendations Closed
Architect of the Capitol, Cannon House Office Building Renewal Project Team	NONE	1, 2, 3, 4, and 5	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: May 29, 2020

TO: J. Brett Blanton  
Architect of the Capitol

FROM: Christopher P. Failla, CIG  
Inspector General

*M.J. Rich* Michael J. Rich  
Deputy Inspector General  
for Christopher Failla

SUBJECT: Audit of the Cannon House Office Building Renewal  
(CHOB) Project's Contract Modifications (Report No.  
OIG-AUD-2020-04)

The Office of the Inspector General (OIG) is transmitting Cotton & Company, LLP's (Cotton) final audit report on the Cannon House Office Building Renewal (CHOB) Project's Contract Modifications (OIG-AUD-2020-04).

Architect of the Capitol (AOC) management has agreed with the report conclusion that overall, the contract modification process for the CHOB Project was effective. AOC management concurred with the five 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, May 28, 2021.

We appreciate the courtesies extended to the staff during the audit. Please direct questions to Erica Wardley, Assistant Inspector General for Audits at 202.593.0081 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 modifications to the AOC's Contract No. AOC13C2002 for CMc services on the CHOB Project. The objective of the audit was to assess the effectiveness of contract modifications. We assessed whether contract modifications and PCO to the contract were: 1) reasonable, necessary, and within the scope of the contract; and 2) effectively awarded and administered. Specifically, the audit determined if PCOs were reasonable, authorized, supported and complied with contract requirements. Although contract modifications increase the funds for the project, the audit testing focused on the PCOs since this is the mechanism that actually can approve additional money to the CMc. Our review included contract modifications and PCOs from the project's Phase 0 and Phase 1.

We conducted this performance audit in Washington, DC from July 2019 through March 2020, in accordance with Generally Accepted 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.

Cotton's policy requires that we obtain a management representation letter associated with the issuance of a performance audit report citing generally accepted government auditing standards. The representations are intended to confirm representations, both oral and written, made to us during the audit. We requested a management representation letter from the AOC on May 4, 2020, 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 to the best of our knowledge." AOC management did not explain why they refused to sign the management representation letter provided nor why they were unable to make the requested representations that included routine representations such as their knowledge of any fraud or suspected fraud, instances of noncompliance with laws or regulations, and any pending or threatened litigation.

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 in Washington, DC and is fully occupied by over 2,000 people. It is one of a series of buildings occupied by the U.S. House of Representatives with Member suites, committee support offices and utility support space. The building has five stories plus a full basement. There is a multi-level parking garage in the ‘Courtyard’ area, housing approximately 300 vehicles, with car access from the south. The total square footage of the building including the parking garage is approximately 800,000 square feet.

The CHOBr Project was undertaken 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 1930’s, and many of the building’s systems are original. The CHOBr Project is scheduled to take approximately 10 years to complete, with five phases (0-4) aligned to fall between congressional move cycles.

The AOC entered into three base contracts for the CHOBr Project, Architect-Engineer (AE), Construction Manager as Agent (CMa), and the CMc. The primary and most substantial contract for Phase 0 and Phase 1 was with the CMc. The AOC contracted with a joint venture between two construction companies to perform CMc services. The AOC’s base contract with the CMc was awarded on October 25, 2012, and incorporates a guaranteed maximum price (GMP). Under this contract type, there is a cap on how much the owner (i.e., the United States Government via the AOC) will pay the contractor, and this cap is the guaranteed maximum price. The scope of the CMc contract is design assistance and preconstruction services, as well as additional contract options for a pre-installation phase (‘Option 0’), four Option periods of staged construction, each roughly addressing one of the four ‘wings’ of the building, and a “closeout” Option. Under the contract, the CMc is responsible for replacing or upgrading all major building systems to include complete modernization to meet all applicable codes.

Section 8 of the *CHOBr Project Management Plan* established a Change Management Plan (CMP) that documented how the CHOBr Project team would identify, evaluate and institute changes for the CHOBr Project. The AOC based these procedures on the AOC’s entity-wide change management instructions, as documented in the AOC Contracting Manual, Order 34-1, revised September 29, 2017, and on provisions of the base contracts with the AE, CMa, and the CMc. As

part of our audit, we reviewed these guidelines and interviewed members of the CHOBr Project team that participated in the PCO review and approval process.

Per the CMP, when a change request is initially made, a PCO is initiated and the AOC Contracting Officer (CO) and/or Contracting Officer's Technical Representative (COTR) review the PCO to determine if the proposed work is already within the scope of the contract. If the PCO is not within the scope of the contract, the CMc would deserve an entitlement for the work, and the CHOBr Project team would identify the proper funding source. Funding sources within the GMP contract include amounts for various contingencies and allowances, each designed to fund different aspects of the project. For example, the Construction Contingency component of the GMP is intended to fund unanticipated construction costs, while the GMP allowances are used to fund known scopes of work, for which the cost was not determined at the time the contract was executed.

The contingency and allowance components are used to fund PCOs. If there is sufficient funding within the GMP to execute the PCO, there is no need to process a contract modification (i.e., the AOC would process a PCO, but it would not process a contract modification because sufficient funding already exists). If sufficient funding does not exist within the appropriate funding source, the CO must execute a contract modification to add funding to the contract, this is considered funding from outside the GMP. The contract modification would add funding to the appropriate contingency or allowance account in the GMP. While the modification would increase a contingency or allowance amount in the GMP, it would not increase the amount the CMc could bill against. Subsequent to the modification adding funding to the GMP, a specific activity would be identified in a PCO, which the CMc would submit a detailed proposal for. The approval of a PCO would then allow the CMc to bill for the change work. Therefore, the most important aspect of the change management process, is the review and approval of the PCOs awarded to the CMc, since this is the mechanism by which additional money is approved.

When potential changes are identified, Rough Order of Magnitude (ROM) estimates are developed for the potential changes and submitted to the CO and COTR. The PCO number is created as soon as the CHOBr Project team recognizes the scope as a possible change condition to the contract. In some cases, this may happen before the discussion of entitlement takes place. Changes may be identified by project stakeholders, the CMc, or AOC. The CMc develops the ROM estimates, unless the change is initiated by the AOC. This is an informal process, and is developed to provide an initial impression about the impacts of the change. It is done in advance of

the formal estimate and proposal. If a change is initiated by the AOC, then the CMA will develop the ROM estimate. If the change is time sensitive, the ROM estimate will be used to issue a Not to Exceed (NTE) document to allow the CMc to start work.

The COTR and/or CO then determine if the CMc deserves an entitlement under the contract as a result of the potential change(s). If the CMc deserves entitlement under the contract and sufficient funding already exists, then the COTR and/or CO determine the most appropriate funding source (i.e., Contingency or Allowance) for the potential change(s). As previously stated, if there is already funding to execute the change(s), there is no need to process a contract modification (i.e., the AOC would process a PCO, but it would not process a contract modification). The CMc would then submit the formal proposal, which would be reviewed by the CHOBr project team. Once the PCO amount is negotiated, the PCO is awarded through a Final Directive issued by the CO. If sufficient funding does not exist, the Maximum Exposure Amount, calculated by adding all of the ROM estimates together, is used as the contract modification amount.

If a PCO funded from outside of the GMP is valued at greater than or equal to \$100,000 then the CMA must perform a price analysis by completing an independent government estimate. If the PCO value is less than \$100,000 then the CMA must perform a cost analysis. The Change Management Board (CMB) must also review and approve certain PCOs in excess of \$100,000. If a PCO is valued in excess of \$100,000 and is funded from outside of the GMP, then the CMB must approve it unanimously. If it is funded from within the contract, then the CMB must be notified.

Once the funding and determination of a PCO has been approved, then the CMc submits a proposal. The CMc proposal includes proposals from any subcontractors that will perform the work. The CHOBr Project team then reviews the proposals to determine if the amounts in the proposal are reasonable and allowable under the terms and conditions of the CMc contract. This review determines the approved amount of each PCO.

As of October 3, 2019, the AOC had executed approximately 50 modifications to its contract with the CMc. As of that same date, the CHOBr Project team had approved 269 PCOs for Phase 0 with a total net value of \$7,457,175. The CHOBr Project team also approved 462 PCOs for Phase 1 with a total net value of \$25,163,892. The net value is the sum of all PCOs that may have increased or decreased the contract funding.

## Criteria

We used the below criteria to assess the effectiveness of the contract modification by determining whether the contract modifications and PCOs to Contract No.

AOC13C2002 were: 1) reasonable, necessary, and within the scope of the contract; and 2) effectively awarded and administered.

AOC Order 34-1, Contracting Manual, dated September 29, 2017, incorporates current legislation, federal regulatory requirements, and AOC policies, orders, and best practices. It prescribes uniform policies for the acquisition of supplies, services, construction, and related services; and guides personnel in applying these policies.

The CHOBBr Project Management Plan documents how the CHOBBr Project team identifies, evaluates, and institutes changes on the CHOBBr Project. The AOC based these procedures on the AOC's entity-wide change management instructions, as documented in the AOC Contracting Manual and provisions of the base contracts.

The following are excerpts from the CMP that are relative to Findings A & B:

- CHOBBr Project Management Plan, Section 8, Change Management Plan, 8.3.4:

*CMA (As authorized by Base Contract and by CO or Construction COTR) [will] ... [p]erform independent government estimate (IGE) on changes \$100,000 or greater and cost analysis for changes < \$100,000.*

- CHOBBr Project Management Plan, Section 8, Change Management Plan, 8.5.1:

*As standard practice, the project team is responsible for working with the Contracting Officer to review change requests in terms of the contract, issue request for proposals, prepare IGEs, evaluate contractor's proposal, establish pre-negotiation objectives and negotiate fair and reasonable pricing on behalf of the AOC accordingly to the AOC Contracting Manual.*

Base Contract (AOC13C2002) lays out the terms of the AOC's contract with the CMC.

The following are excerpts from Contract No. AOC13C2002 that are relative to Finding A:

- Base Contract Section I – Contract Clauses, AOC52.243-1, Changes – Supplement (Jun 2004), para. (c) states that proposals submitted for PCOs shall include a breakout of specific items, such as direct labor costs, direct material quantities and unit prices, overhead, and profit.

Base Contract Sections B.7.1 and I – Contract Clauses, AOC52.243-1, Changes – Supplement (Jun 2004) stipulate the overhead and profit rates that the CMC and its subcontractors may use for change work. These contract sections also stipulate the types of costs that are included in the overhead rates and that the contractor therefore cannot charge as direct costs. Various other contract sections exclude specific costs (e.g., local travel).

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## Audit Results

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We determined that overall the contract modification process for the CHOBr Project was effective. The construction contract modifications and PCOs were generally 1) reasonable, necessary, and within the scope of the contract and 2) effectively awarded and administered by the CHOBr Project team. Our assessment included selecting a sample of PCOs and reviewing the sufficiency of the supporting documentation as well as the PCOs' accuracy, reasonableness, and adherence to contractual requirements, policies and procedures.

As of October 3, 2019, the AOC executed approximately 50 modifications to its contract with the CMc. As of that same date, the CHOBr Project team had approved 269 PCOs for Phase 0 with a total net value of \$7,457,175. The CHOBr Project team also approved 462 PCOs for Phase 1 with a total net value of \$25,163,892. The net value is the sum of all PCOs that may have increased or decreased the funding of the contract. We determined that the CHOBr Project team established and administered an effective CMP, which clearly defined the roles and responsibilities of the team members. The review and approval process that was in place required a review and approval from the appropriate CMA and AOC personnel prior to final approval. Overall, the documentation we reviewed during the audit supported appropriate reviews and approvals of the CHOBr Project's construction contract modifications and PCOs for the two phases.

While we determined that the CHOBr Project team had properly issued contract modifications and PCOs, we noted several instances in which the CHOBr Project team approved PCO proposals that included unallowable costs. In addition, we found that cost analysis documentation was not always retained.

Our population of 731 PCOs for Phase 0 and Phase 1 had a combined net value of \$32,621,067. We reviewed a judgmental sample of 40 approved PCOs with a net value of \$6,913,277. During our review, we identified \$102,189 (1.5 percent of \$6,913,277) in unallowable costs included in approved PCOs, as well as 19 proposals that did not contain the required level of cost detail. In addition, we identified three PCOs that required a cost analysis and four PCOs that had a cost analysis performed, although not required, that did not have documentation to support that a cost analysis was conducted. The CHOBr Project team emphasized that four of the seven PCOs were approved for less than the amount proposed, which was their evidence that a cost analysis was performed. Here we noted that three of the four PCOs approved for less than the proposed amount did not require a cost analysis; however, this would

support a need to perform a cost analysis on all PCOs less than \$100,000, with consideration to reasonable exceptions.

Based on the results of our testing, it is our conclusion that strengthening the process for reviewing PCO proposals will reduce the risk of unallowable costs within the construction costs over the remaining four years of the construction project. The CHOBr Project team should continue to work with the CMc to ensure that PCO proposals are factually sound, contain the required cost detail, and exclude unallowable costs. Further, the CHOBr Project team should recover the \$102,189 of unallowable costs to the extent that this is legally and administratively possible. Lastly, the CHOBr Project team should ensure that it documents all cost analyses performed, and consider updating its CMP to require the CHOBr Project team to perform a cost analysis for all PCOs less than \$100,000, unless funded by the contractor contingency fund (due to contract incentive).

We made five recommendations to improve the CHOBr Project team's review and approval process for contract modifications and PCOs.



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## Finding A

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### Process for Reviewing PCO Proposal Amounts Needs Improvement

The CHOBr Project team's review of amounts included in PCO proposals needs improvement. Specifically, we reviewed 40 approved PCOs with a net value of \$6,913,277 and noted that the PCOs included \$102,189 in unallowable costs. In addition, we noted that the CHOBr Project team did not always require the CMc to break out its PCO cost proposals by specific items, such as direct labor costs, direct material quantities and unit prices, overhead, and profit, as required by the contract. Specifically, we reviewed approximately 200 subcontractor proposals and determined that 19 of these proposals did not contain the required level of cost detail. All but one of these proposals were for PCOs less than \$100,000.

The CHOBr Project team's CMP describes the policies and procedures for reviewing and approving PCOs related to the CHOBr Project. These procedures include reviewing the CMc and subcontractor proposals for the PCO work to ensure that the proposed amounts are reasonable and do not include contractually unallowable costs.

The CHOBr Project team's goal is to limit both the quantity and cost of project changes to the extent possible while still completing the project on schedule. However, the CHOBr Project team also recognizes that the CHOBr Project is a 100-year-old building that has never undergone a complete renovation. This fact, coupled with the size of the renovation project, indicates that the CHOBr contract will inevitably undergo numerous changes to the scope of work as the project progresses.

As of October 3, 2019, the CHOBr Project team had approved 269 PCOs for Phase 0 that may have either increased or decreased the CMc's contract funding. These PCOs had a total net value of \$7,457,175. The CHOBr Project team had also approved 462 PCOs for Phase 1 that may have either increased or decreased the CMc's contract funding. These PCOs had a total net value of \$25,163,892. The CHOBr Project team and CMc negotiated change orders under this GMP contract on a fixed price basis.

The sheer volume of PCOs requiring review and approval, and limited time available to perform the reviews, impacted the accuracy and completeness of the CHOBr Project team's review on each PCO. The CHOBr Project team stated that it had limited personnel resources available to always document or perform complete reviews of relatively low dollar value proposals.

In our review of 40 approved PCOs with a total net value of \$6,913,277, we identified \$102,189 (1.5 percent of \$6,913,277) in unallowable costs, as follows:

- In one change order, a subcontractor double-counted labor costs in its proposal, which resulted in a \$56,271 increase to the PCO amount.
- In one change order, a subcontractor's proposal included a 10 percent markup on the proposed work, for a total markup of \$31,673. The CMc then applied a 31 percent markup rate that included all subcontractor overhead and markup rates. As a result, the CMc and the subcontractor overstated the PCO amount by \$41,491 (calculated as \$31,673 + \$9,818 of the 31 percent markup).
- In one change order, a subcontractor included unallowable local travel in its proposal, which resulted in a \$2,535 increase to the PCO amount.
- In one change order, the CMc mistakenly reduced a subcontractor's proposed credit by \$1,000, which resulted in a \$1,000 increase to the PCO amount.
- In two change orders, a subcontractor included unallowable bond costs in its proposal, which resulted in an \$892 increase to the PCO amounts.

## Conclusion

While noting that we only identified a small percentage of unallowable costs within a universe of \$32 million PCOs (net), we conclude that by not strengthening the PCO review process, future PCO proposals could result in an increased amount of unallowable costs within the construction costs over the remaining four years of the construction project.

## Recommendations

### *Recommendation 1*

We recommend that the CHOBr Project team strengthen the Potential Change Order (PCO) proposal review process to ensure that unallowable costs are not included in the approved PCO amounts.

### *AOC Comment*

Concur. The CHOBr program executive and contracting officer will re-evaluate the proposal review process and make any changes that are appropriate. In addition, prior to the beginning of each phase, the contracting officer or his/her designee will

provide refresher training to project staff who are responsible for reviewing proposals.

### ***OIG Comment***

We recognize the AOC's concurrence with the recommendation. The AOC's proposed actions to re-evaluate the proposal review process by December 31, 2020, and provide refresher training prior to the beginning of each phase are responsive to the recommendation. Therefore, the recommendation is considered resolved and will be closed upon completion and verification of the proposed action.

### ***Recommendation 2***

We recommend that CHOBr Project team work with the Construction Manager as Constructor to ensure that proposals submitted for Potential Change Orders are factually sound, contain the required cost detail and exclude unallowable costs.

### ***AOC Comment***

Concur. The CHOBr Project team will provide written notification to the construction contractor identifying relevant contract language that requires the contractor to submit proposals that are accurate, sufficiently detailed and do not include unallowable costs.

### ***OIG Comment***

We recognize the AOC's concurrence with the recommendation. The AOC's proposed action to provide written notification to the construction contractor on the requirements to submit proposals that are accurate, sufficiently detailed and do not include unallowable costs by June 30, 2020 is responsive to the recommendation. Therefore, the recommendation is considered resolved and will be closed upon completion and verification of the proposed action.

***Recommendation 3***

To the extent legally and administratively possible, we recommend that the CHOBr Project team recover the \$102,189 of unallowable costs identified in our review.

***AOC Comment***

Concur. The CHOBr Project team noted that recovering these funds is complicated due to legal and administrative issues associated with government claims. However, despite these challenges, the AOC will continue discussions with the contractor and make a final decision on the most prudent path forward by December 31, 2020.

***OIG Comment***

We recognize the AOC's concurrence with the recommendation. The AOC's proposed actions to continue discussions with the contractor and make a final decision on the most prudent path forward by December 31, 2020, are responsive to the recommendation. Therefore, the recommendation is considered resolved and will be closed upon completion and verification of the proposed action.

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## Finding B

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### Cost Analysis Review Documentation is Not Retained

The CHOBr Project team may not have performed all required cost analyses and did not always document when a cost analysis was performed as part of its review of PCOs for less than \$100,000.

The CHOBr Project team's CMP contains the policies and procedures for reviewing and approving PCOs related to the CHOBr Project. These procedures include reviewing the CMc and subcontractor proposals for the PCO work to ensure that the proposed amounts are reasonable and exclude contractually unallowable costs. Procedures also include performing a cost analysis for any PCO that has a value of less than \$100,000, and requires a contract modification for additional funds outside the existing GMP contract amount. If the PCO has a value of less than \$100,000, and was funded with existing GMP contract funds, the CHOBr Project team may be required to perform a cost analysis at the CO's discretion. However, if the PCO was funded using the GMP's contractor contingency funds, the CHOBr Project team is not required to perform a cost analysis. While the CMc must provide notification on usage, the CMc is contractually responsible for allocating costs to the contractor contingency fund. The CMc is incentivized to control the costs incurred within this fund, as it will receive a portion of the unspent funds at the completion of the phase.

Our sample included 25 PCOs, which were approved for less than \$100,000. We reviewed the documentation provided by the CHOBr Project team in support of these PCOs to determine if the PCO were reviewed and awarded in accordance with the CMP.

We identified three PCOs less than \$100,000 that required a cost analysis (funded outside the GMP); however, the CHOBr Project team were unable to provide documentation to support that a cost analysis was performed. These PCOs had a total value of \$20,368. The CHOBr Project team stated that a cost analysis was most likely completed for each of these PCOs, which was evidenced by the approval of one PCO for an amount less than proposed by the CMc.

We also identified four PCOs that were less than \$100,000 and funded from within the GMP that the CHOBr Project team was unable to provide documentation showing a cost analysis was performed. These PCOs had a total value of \$106,104. A cost analysis could have been performed for each of these PCOs at the CO's discretion, but was not required. The CHOBr Project team stated that a cost analysis was most

likely completed for each of these PCOs. Specifying evidence of this, the PCO amounts for three of the four PCOs in question were less than the amounts proposed by the CMC. While we agree that the reductions in costs could have resulted from cost analyses; we cannot determine whether it was a result of other factors, such as a reduction in scope, without supporting documentation.

## **Conclusion**

Documenting the results of all cost analyses performed by the CHOB Project team will allow the team to track recurring issues with CMC proposals, and can increase the project knowledge that could otherwise be lost due to turnover on the team. Additionally, as noted above, the approved amounts for a few of the PCOs funded from inside and outside of the GMP were for less than what was proposed. This, coupled with the CHOB Project team's assertion that the approved lower PCO amounts resulted from a cost analysis, could lead one to conclude it would be prudent to perform a cost analysis on all PCOs for less than \$100,000, unless the PCO is funded using contractor contingency funds (due to contract incentive).

## **Recommendations**

### ***Recommendation 4***

We recommend that the CHOB Project team perform and document all required cost analyses. The documentation should be in writing, and the CHOB Project team should retain copies of any detailed analysis performed.

### ***AOC Comment***

Concur. The AOC contracting officer will provide instructions to the CHOB Project team to perform and document all required cost analyses by June 30, 2020. In addition, the contracting officer will see that documentation evidencing implementation of this instruction is occurring on each applicable action.

### ***OIG Comment***

We recognize the AOC's concurrence with the recommendation. The AOC's proposed actions to provide instructions to the CHOB team to perform and document all required cost analyses by June 30, 2020, and to provide oversight to ensure implementation are responsive to the recommendation. Therefore, the

recommendation is considered resolved and will be closed upon completion and verification of the proposed action.

### ***Recommendation 5***

We recommend that the CHOBr Project team consider amending its Change Management Plan (CMP) to require that the team perform, and document performance of a cost analysis for all PCOs with a value of less than \$100,000, unless the PCO is funded using contractor contingency funds (due to contract incentive).

### ***AOC Comment***

Concur. The CHOBr Project team will revise the CMP as recommended by December 31, 2020. It is important to recognize that the extent of detailed cost data required from the contractor and the nature and extent of the cost analyses performed are likely to vary based on the complexity and dollar value of the proposed change. However, the contracting officer will ensure that documentation is prepared and maintained evidencing that any required cost analyses have been done.

### ***OIG Comment***

We recognize the AOC's concurrence with the recommendation. The AOC's proposed actions to revise the CMP as recommended by December 31, 2020, and provide oversight by the contracting officer are responsive to the recommendation. Therefore, the recommendation is considered resolved and will be closed upon completion and verification of the proposed action.

COTTON & COMPANY LLP



Michael W. Gillespie, CPA, CFE

Partner

May 29, 2020

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## Appendix A

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### Scope and Methodology

The scope of this performance audit was the contract modifications and PCOs issued during Phase 0 and Phase 1 of the project Cannon House Office Building Renewal (CHOBBr) for the Project Construction Manager as Constructor (CMc) Contract AOC13C2002 (awarded October 25, 2012). We conducted this performance audit of the Cannon House Office Building located in Washington, DC from July 2019 through March 2020 in accordance with Generally Accepted 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 and analyzed the CHOBBr Project's contracts, contract modifications, PCOs, and project management documentation. Throughout the audit, we interviewed CHOBBr Project team members from the AOC and CMA who are responsible for reviewing and issuing contract modifications and PCOs; however, we did not interview officials representing the contractors/subcontractors.

In addition, we tested a judgmental sample of 40 PCOs (15 from Phase 0 and 25 from Phase 1) that had a net value of \$6,913,277. Phase 0's period of performance was January 2015 to December 2016, while Phase 1's initial period of performance was January 2017 to November 2018. We also reviewed approximately 200 subcontractor proposals that comprised the 40 PCOs selected for testing.

Construction and contract audits are included in the 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 that are significant within the context of the audit objectives, auditors should assess whether the internal control has been properly designed and implemented and should 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 systems 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 systems controls.

We reviewed internal controls to obtain an understanding of the AOC’s processes for modifying the CHOBr Project contract and for reviewing and approving PCOs. We obtained our understanding by reviewing AOC policies and contract specifications and interviewing CHOBr Project team members from the AOC and the CMA to determine if controls were properly implemented and working as designed, individually or in combination with other controls.

The AOC Contracting Manual documents uniform entity-wide policies and practices for processing contract modifications and change orders on AOC projects, while the CHOBr Project’s CMP documents policies and practices specific to the CHOBr Project. We determined that overall, the controls over the CHOBr Project’s contract modification and PCO review and approval process were sufficient. However, we did note that the PCO proposal review process could be strengthened to ensure that the CHOBr Project team does not permit unallowable costs in the approved PCOs and that it documents and retains documentation of all cost analyses performed. We also noted that the CHOBr Project team should consider amending the CMP to require that the team perform and document performance of a cost analysis for all PCOs with a value of less than \$100,000, unless the PCO is funded using contractor contingency funds.

## 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 Government Accountability Office (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 a report on its performance audit of three CHOBr Project plans.

### **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 the AOC's 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 ICSRA was completed in December 2019. The 90 percent confidence level for the revised budget estimates total costs for the CHOBr Project to be \$890.1 million, which is approximately \$137.4 million over the original \$752.7 million budget.

## ***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. Regarding 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: This terminology is no longer used in the current version of the CMP).

## 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: August 13, 2019

TO: Christine Merdon, P.E., CCM  
Acting Architect of the Capitol

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

SUBJECT: Audit – Cannon Renewal Project’s Contract Modifications  
(2019-AUD-004-A)

This memorandum serves as notification that the Office of Inspector General (OIG) is working with the independent audit and accounting firm, Cotton & Company LLP to initiate a construction audit of the Cannon Renewal Project’s Contract Modifications. The objective is to assess the effectiveness of contract modifications. Specifically, the audit will determine whether the change orders are reasonable, authorized, supported and comply with contract requirements. The scope of this audit will include contract modifications from the project’s preconstruction services (Phase Zero) and Phase 1.

An OIG auditor will be in contact with your office to set up an audit entrance conference. If you have any questions, please contact Erica Wardley, Assistant Inspector General for Audit, at 202.593.0081.

Distribution List:

Thomas J. Carroll III, Assistant to the Architect  
Michelle Kayon, Acting Superintendent House Office Buildings  
Peter W. Mueller, Director Planning & Project Management  
Mary Jean Pajak, Senior Advisor to the Chief Operating Officer

## Appendix C

### Cotton & Company's Management Representation Letter

*Insert AOC letterhead*

[Date of Report and Completion of the Performance Audit]

To Cotton & Company LLP  
635 Slaters Lane, 4<sup>th</sup> Floor  
Alexandria, Virginia 22314

Attention: [Cotton and Company Partner]

We are providing this representation letter in connection with your performance audit of potential change orders (PCO) and modifications to the Architect of the Capitol's (AOC) Contract No. AOC13C2002 for Construction Manager as Constructor (CMc) services on the Cannon House Office Building Renewal (CHOB) Project for the period from January 2015 to October 2019.

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:
  - Managing the CHOB Project, which includes managing PCOs and modifications to the AOC's contract for CMc services, and achieving its objectives.
  - Preventing and detecting fraud, improper payments, waste and abuse relating to PCOs and modifications to the AOC's contract for CMc services on the CHOB Project, including responsibility for designing, implementing, and maintaining internal control to prevent and detect fraud, improper payments, waste and abuse.
  - Designing, implementing, and maintaining internal control over the review and approval of PCOs and modifications to the AOC's contract for CMc services on the CHOB Project.
  - Complying with laws, regulations, and the terms and conditions of the contract, related to PCOs and modifications to the AOC's contract for CMc services on the CHOB Project.

#### **Information Provided**

- To the best of our knowledge, we have made available to you:
  - All records, documentation, and information relevant to PCOs and modifications to the AOC's contract for CMc services on the CHOB Project.
  - Unrestricted access to and full cooperation of personnel within the entity from whom you determined it necessary to obtain evidence.

- We have identified to you all previous audits, attestation engagements, and other studies that relate to the objectives of this performance audit, including whether related recommendations have been implemented.
- We have no knowledge of any known matters contradicting your conclusions.
- We have no knowledge of any information regarding fraud, suspected fraud, allegations of fraud, waste, or abuse that affects PCOs and modifications to the AOC's contract for CMc services on the CHOBr Project.
- We have no knowledge of any officer of the AOC, or any other person acting under the direction thereof, having taken any action to fraudulently influence, coerce, manipulate, or mislead you during your performance audit.
- We have disclosed to you all deficiencies in the design or operation of internal control that could adversely affect PCOs and modifications to the AOC's contract for CMc services on the CHOBr Project. A deficiency in internal control exists when the design, implementation, or operation of a control does not allow management or personnel to achieve control objectives and address related risks. A deficiency in design exists when a necessary control is missing or is not properly designed so that even if the control operates as designed, the control objective would not be met. A deficiency in implementation exists when a control is properly designed but not implemented correctly in the internal control system. A deficiency in operating effectiveness exists when a properly designed control does not operate as designed or the person performing the control does not have the necessary competence or authority to perform the control effectively.
- We have disclosed to you all known instances of noncompliance or suspected noncompliance with laws, regulations, or the terms and conditions of the contract, whose effects should be considered in the performance audit.
- We have disclosed to you all known actual or possible pending or threatened litigation, claims, and assessments that relate to PCOs and modifications to the AOC's contract for CMc services on the CHOBr Project.

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[Responsible Party and Title]  
Architect of the Capitol

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[Responsible Party and Title]  
Architect of the Capitol

## 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)

May 27, 2020

Michael Gillespie  
Partner  
Cotton & Company LLP  
635 Slaters Lane, 4th Floor  
Alexandria, Virginia 22314

Dear Mr. Gillespie,

We are providing this management representation letter in connection with your performance audit of potential change orders (PCOs) and modifications to the Architect of the Capitol's (AOC) Contract No. AOC13C2002 for the Cannon House Office Building Renewal (CHOB) Project for the period from January 2015 to October 2019 (AOC Office of Inspector General Project No. 2019-AUD-004-A).

The information the AOC provided for this audit is complete and accurate to the best of our knowledge.

Sincerely,

Peter W. Mueller, PE, PMP  
Director, Planning and Project Management

Doc. No. 200507-18-01 A

## Appendix E


### Management's Comments



**Architect of the Capitol**  
U.S. Capitol, Room SB-16  
Washington, DC 20515  
202.228.1793  
www.aoc.gov

DATE: May 15, 2020

TO: Mr. Christopher Failla  
Inspector General

FROM: J. Brett Blanton  
Architect of the Capitol 

SUBJECT: Audit of the Cannon House Office Building Renewal Project's (CHOB) Contract Modifications Project No. 2019-AUD-004-A

Thank you for the opportunity to review and provide a response on the subject Office of Inspector General (OIG) draft report in accordance with sections 5.2.6 and 8 of Architect of the Capitol (AOC) Order 40-1.

The AOC is pleased that overall you found the contract modification process for the Cannon Renewal Project to be effectively managed and that contract modifications and change orders were (1) reasonable, necessary and within the scope of the contract, and (2) effectively awarded and administered by the CHOB Project team. The AOC is also pleased the change order cost issues you identified represented a small portion (1.5 percent) of the value of the change orders you reviewed. This is a reflection of the outstanding work done by the CHOB Project team (particularly considering the magnitude of the project, the number and complexity of the changes, and review and approval pace necessary to keep the project on schedule).

The AOC concurs with your findings. We will strengthen the process for reviewing change order proposals to reduce the risk of unallowable costs and ensure that (1) the construction contractor provides sufficient detail in its cost proposals, and (2) these proposals are reviewed and that the reviews are documented, as appropriate.

The AOC also concurs with your five recommendations, each of which is discussed below.

#### Recommendation 1

We recommend that the CHOB Project team strengthen the PCO (potential change order) proposal review process to ensure that unallowable costs are not included in the approved PCO amounts.

AOC Response: The CHOB Project team has already discussed the importance of reviewing PCO proposals for accuracy and inclusion of unallowable costs with the team members responsible for reviewing proposals. The CHOB program executive and contracting officer will re-evaluate the proposal review process and make any changes that are appropriate by December 31, 2020. In addition, prior to the beginning of each phase, the contracting officer or his/her



designee will provide refresher training to project staff who are responsible for reviewing proposals.

#### Recommendation 2

We recommend that CHOBBr Project team work with the CMc (Construction Manager as Constructor) to ensure that proposals submitted for PCOs are factually sound, contain the required cost detail, and exclude unallowable costs.

AOC Response: The CHOBBr Project team has discussed these issues with the construction contractor, and it has initiated action to address them. By June 30, 2020, the team will provide written notification to the construction contractor identifying relevant contract language that requires the contractor to submit proposals that are accurate, sufficiently detailed and do not include unallowable costs.

#### Recommendation 3

To the extent legally and administratively possible, we recommend that the CHOBBr Project team recover the \$102,189 of unallowable costs identified in our review.

AOC Response: The CHOBBr Project team has had preliminary conversations with the construction contractor about recovering these funds through a government claim. As recognized in the recommendation, recovering these funds is complicated due to legal and administrative issues associated with government claims. All but \$1,000 of the unallowable costs identified in OIG's draft report occurred in Phase 0. Phase 0 has been contractually closed out with the contractor. Phase 1 has been substantially closed out. Historically, Federal Agencies have had trouble recovering funds from contractors after final payments have been made. However, despite these challenges, the AOC will continue discussions with the contractor and make a final decision on the most prudent path forward by December 31, 2020.

#### Recommendation 4

We recommend that the CHOBBr Project team perform and document all required cost analyses. The documentation should be in writing, and the CHOBBr Project team should retain copies of any detailed analysis performed.

AOC Response: The contracting officer will provide instructions to the CHOBBr team to do this by June 30, 2020. In addition, the contracting officer will see that documentation evidencing implementation of this instruction is occurring on each applicable action.

#### Recommendation 5

We recommend that the CHOBBr Project team consider amending its CMP (Change Management Plan) to require that the CHOBBr Project team perform and document performance of a cost analysis for all PCOs with a value of less than \$100,000, unless the PCO is funded using contractor contingency funds (due to contract incentive).



AOC Response: The CHOB Project team will revise the CMP as recommended by December 31, 2020. It is important to recognize that the extent of detailed cost data required from the contractor and the nature and extent of the cost analyses performed are likely to vary based on the complexity and dollar value of the proposed change. For example, many change proposals are straightforward and have low dollar values, such as less than \$25,000. The AOC would not typically expect to see as much cost analysis of this type of proposed change as one that is very complex and higher in dollar value. However, the contracting officer will ensure that documentation is prepared and maintained evidencing that any required cost analyses have been done.

Thank you for the opportunity to provide comments on the draft report. Please contact Mr. Peter Mueller by telephone at 202.329.8838 or email at [peter.mueller@aoc.gov](mailto:peter.mueller@aoc.gov) if you have any questions.

Doc. No. 200507-18-01

**Architect of the Capitol**

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

**3**

## Acronyms and Abbreviations

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AE	Architect-Engineer
AOC	Architect of the Capitol
CHOB	Cannon House Office Building Renewal
CMA	Construction Manager as Agent
CMB	Change Management Board
CMc	Construction Manager as Constructor
CMP	Change Management Plan
CO	Contracting Officer
COTR	Contracting Officer's Technical Representative
GAO	Government Accountability Office
GMP	Guaranteed Maximum Price
ICSRA	Integrated Cost Schedule Risk Analysis
IGE	Independent Government Estimate
NTE	Not to Exceed
OIG	Office of Inspector General
PCO	Potential Change Order
PFP	Partnering Fee Plan
PMP	Project Management Plan
ROM	Rough Order of Magnitude



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