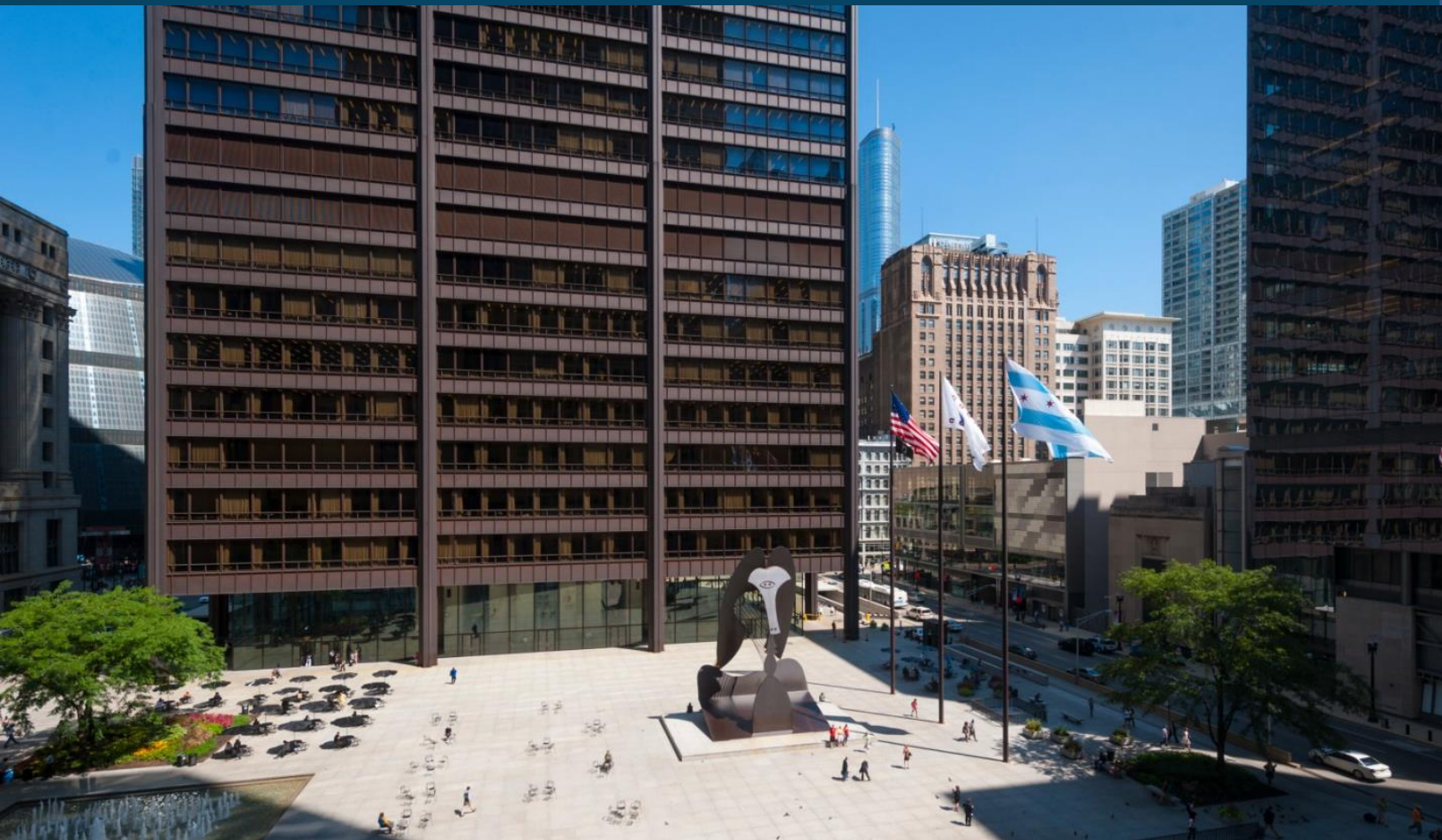


NOVEMBER 2019

CITY OF CHICAGO OFFICE OF INSPECTOR GENERAL

PUBLIC BUILDING COMMISSION CONSTRUCTION CHANGE ORDERS AUDIT FOLLOW-UP INQUIRY





JOSEPH M. FERGUSON
INSPECTOR GENERAL

CITY OF CHICAGO
OFFICE OF INSPECTOR GENERAL
740 NORTH SEDGWICK STREET, SUITE 200
CHICAGO, ILLINOIS 60654
TELEPHONE: (773) 478-7799
FAX: (773) 478-3949

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**TO THE MAYOR, CITY COUNCIL, CITY CLERK, CITY TREASURER,
AND RESIDENTS OF THE CITY OF CHICAGO:**

The City of Chicago Office of Inspector General (OIG) has completed a follow-up to its June 2018 audit of the Public Building Commission of Chicago's (PBC or the "Commission") change order review and approval process. Based on the Commission's responses, OIG concludes that PBC has substantially implemented corrective actions related to the first audit finding and partially implemented corrective actions related to the second audit finding.

The purpose of the 2018 audit was to determine if PBC could provide reasonable assurance to its clients that change orders were justified and reasonably priced. Our audit found that while PBC designed a robust change order process, ineffective implementation of the process permitted errors and inconsistencies in the recording of information and recovery of damages. Because PBC allowed contractors to submit inconsistent information and did not hold architects accountable for errors, the agency could not demonstrate to its clients that it was effectively safeguarding public dollars.

Based on the results of the audit, OIG recommended that PBC improve its change order review and approval process by requiring contractors to submit cost proposals on a standardized digital form, and by implementing an electronic document control system for change order reviews and approvals. In addition, OIG recommended that PBC revise, and then consistently implement, its Errors and Omissions damage recovery policy, to ensure that damage calculations are reviewed and decision rationales are recorded.

In its response to the audit, PBC stated it had already begun to utilize a standardized electronic cost proposal form that facilitates accurate calculations and requires contractors to itemize labor and management costs. The response also described other corrective actions the Commission would take.

In August 2019, OIG inquired about corrective actions taken by PBC. Based on PBC's follow-up response, OIG concludes that PBC substantially implemented corrective actions related to the first finding and partially implemented corrective actions related to the second finding. Specifically, PBC has created standardized forms, conducted trainings, and implemented procedures to ensure that all costs in change orders are accurately identified and appropriately marked up for Overhead and Profit (OH & P). While the Commission also committed to adopting an electronic change order tracking system and making comprehensive revisions to the Errors

and Omissions (E & O) Manual, neither task has been fully implemented yet. Once fully implemented, OIG believes the corrective actions reported by PBC may reasonably be expected to resolve the core findings noted in the audit (i.e., the inability to assure the justification of cost increases or the pursuit of all appropriate recoverable damages).

We urge the Commission to fully implement the electronic project management system and the comprehensive revision of the E & O Manual. Below, we summarize our two audit findings and recommendations, as well as the Commission's response to our follow-up inquiry.

We thank the staff and leadership of PBC for their cooperation during the audit and responsiveness to our follow-up inquiry.

Respectfully,

A handwritten signature in blue ink, appearing to read 'J. Ferguson', is positioned above the typed name.

Joseph M. Ferguson
Inspector General
City of Chicago

FOLLOW-UP RESULTS

In August 2019, OIG followed up on its June 2018 Public Building Commission Construction Change Orders Audit.¹ PBC responded by describing the corrective actions it has taken and providing supporting documentation. Below, we summarize OIG's two findings, the associated recommendations, and the status of PBC's corrective actions. Our follow-up inquiry did not observe or test implementation of the new procedures; thus, we make no determination as to their effectiveness, which would require a new audit with full testing.

FINDING 1:

DUE TO INCONSISTENCIES AND ERRORS IN CHANGE ORDERS, PBC COULD NOT ASSURE ITS CLIENTS THAT ALL INCREASES IN PROJECT COSTS WERE JUSTIFIED AND REASONABLE.

OIG Recommendation 1:

OIG recommended that PBC make the following improvements to its change order review and approval procedures.

1. Ensure that each change order proposal includes all critical information and that the information is maintained electronically.
2. Immediately end the practice of allowing contractors to recover OH & P at rates exceeding those provided in the contract.
3. Strengthen its process for checking the accuracy of contractor change order proposals and adopt a default approach of seeking to recover any refund due its clients in each case where it discovers miscalculations (provided that the cost of recovery does not exceed the total collected).
4. Consider creating a system for tracking the projects in which each subcontractor participates in order to facilitate efforts to audit invoices and cost proposals in the future.
5. Use an electronic system for change order review and approval, ensuring that all change order documents are kept on file and that the recorded approval dates reflect the dates the approvals actually occurred.

¹ The 2018 PBC Construction Change Orders Audit is available on OIG's website: <https://igchicago.org/wp-content/uploads/2018/06/PBC-Change-Orders-Audit-1.pdf>.

Status of Corrective Action: Substantially Implemented

1. PBC stated it continues to use the electronic change order proposal forms implemented in response to the audit. The forms require separate line items for labor, materials, and taxes and fees. The forms also automatically apply OH & P rate to the applicable work items. PBC stated its Change Management team reviews the forms and supporting documentation for accuracy and works with the project manager and contractors if edits or clarifications are required.
2. The implemented forms support the accurate calculation of OH & P by explicitly identifying the contractual OH & P rates, thus increasing transparency and reducing the risk of excessive OH & P charges. The form further promotes transparency by separating change orders into each item of proposed work and clearly displaying OH & P calculations.
3. To strengthen the review of change orders, PBC provided multiple trainings on how to properly review and approve change orders, and has integrated this training into its onboarding for new team members. PBC reiterated its commitment to its existing, extensive change order review process and noted the inclusion of additional staff into the process to spot check for discrepancies before approval of a final change order.

Regarding OIG's recommendation to adopt a default approach of seeking to recover any refund due its clients, PBC said its approach depends on the stage at which the error is discovered. If a discrepancy is found before final approval of a change order, PBC will conduct additional review and may seek clarification or further documentation from the contractor. If the error is found after final approval, PBC will consult with the client regarding its pursuit of fund recovery.

4. PBC uses B2G, a system used by the City and many of its sister agencies, to track contractor and subcontractor payment compliance. The system allows PBC to track subcontractor payments on many projects and to run comprehensive reports. While B2G tracks first tier subcontractors, it does not track further subcontracted work, nor allow PBC to audit subcontractor invoices. However, the Commission stated it is still "open to any cost-effective project tracking system on the market."
5. PBC stated that it has engaged a vendor, e-Builder, to provide a project management system and technical support services. PBC and e-Builder have worked on design, configuration, and implementation plans for the software, and anticipate its adoption in 2020.

FINDING 2:

Because PBC enforced its Errors and Omissions Policy in an inconsistent manner, the Commission could not provide adequate assurance to its clients or the public that it properly pursued recoverable damages attributable to architect errors.

OIG Recommendation:

In the short term, OIG recommended that PBC update the E & O Manual to include language requiring recording and storing in a central location all decisions made by the E & O Committee, including any damage calculations and rationales for not pursuing damages. In addition, we recommended updating the Manual, as well as the Commission's actual practices, to reflect its current organizational structure. We also recommended that PBC put in place mechanisms to ensure the E & O policies are consistently applied, including a requirement that the E & O Committee meet to make decisions regarding damages, and to ensure that Architects of Record (AORs) are notified in a timely fashion when errors are discovered.

In the long term, OIG recommended that PBC consider a comprehensive review of its E & O Manual. We also recommended that if, during the review, PBC identified policies and procedures it believed are insufficient, it should revise the E & O Manual to make it more effective. As part of the revision process, we recommended that PBC research the practices of similar organizations, such as the Illinois Capital Development Board, and determine whether to adopt them.

Status of Corrective Action: Partially Implemented

PBC did not make short-term amendments to the E & O Manual regarding storage of E & O Committee decisions and accurate organizational structure. Rather, the Commission stated it "target[s] completing a comprehensive draft update of the manual" by the end of 2019 and will issue the manual after General Counsel review. During this process, the Commission stated it "has and will continue to research and consider incorporating 'state of the art' practices from other organizations." PBC said that the E & O Committee has met, and plans to schedule regular meetings in 2020.

The Commission enhanced its E & O analysis summary template to improve documentation of the decision-making process and the rationale for assessing damages. To promote prompt and consistent

communication of E & Os to the AORs, the Commission said that it now sends letters providing notice of alleged E & Os when it files the change order documentation in PBC's electronic document management system.

MISSION

The City of Chicago Office of Inspector General (OIG) is an independent, nonpartisan oversight agency whose mission is to promote economy, efficiency, effectiveness, and integrity in the administration of programs and operations of City government. OIG achieves this mission through,

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- performance audits of City programs and operations by its Audit and Program Review Section;
- inspections, evaluations and reviews of City police and police accountability programs, operations, and policies by its Public Safety Section; and
- compliance audit and monitoring of City hiring and employment activities by its Hiring Oversight Unit.

From these activities, OIG issues reports of findings and disciplinary and other recommendations,

- to assure that City officials, employees, and vendors are held accountable for violations of laws and policies;
- to improve the efficiency and cost-effectiveness of government operations; and
- to prevent, detect, identify, expose, and eliminate waste, inefficiency, misconduct, fraud, corruption, and abuse of public authority and resources.

AUTHORITY

OIG's authority to produce reports of its findings and recommendations is established in the City of Chicago Municipal Code §§ 2-56-030(d), -035(c), -110, -230, and 240.

Cover image courtesy of the Department of Fleet and Facility Management.

PROJECT TEAM

NICK MCFADDEN, PERFORMANCE ANALYST
DARWYN JONES, CHIEF PERFORMANCE ANALYST
LISE VALENTINE, DEPUTY INSPECTOR GENERAL

PUBLIC INQUIRIES:

NATALIE A. KURIATA: (773) 478-8417 | NKURIATA@IGCHICAGO.ORG

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