

Bond Project Closeout P2 Audit

Audit Plan Code: 23.04-01.A



Assurance | Insight | Objectivity

Final Report
February 6, 2023

We identified instances where the substantial completion date was not met, and time extension requests were taken to the Board of Trustees after the Substantial Completion date had passed. We also identified instances where inspections/punch lists, and equipment certification were dated after the certificate of Substantial Completion had been executed. Additionally, some punch list items were not corrected timely.



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Abbreviations

AOR	Architect of Record
BOT	Board of Trustees
CAP	Corrective Action Plan
EPISD	El Paso Independent School District
FC	Facilities and Construction
GC	General Contractor
GCA	General Construction Agreement
SC	Substantial Completion
TAB	Testing, Adjusting and Balancing Report



Executive Summary

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We have completed the Bond Project Closeout P2 Audit. The objectives of the audit were to:

1. Determine if Substantial Completion deadlines were met according to the General Construction Agreements for the 2016 Bond Program construction projects or if extension requests were approved in accordance with Board Policy CV(Local) before the date of Substantial Completion had passed.
2. Verify inspections were performed by the Architect, EPISD, and sub-consultants, and permits were obtained prior to Substantial Completion.
3. Verify punch list items were corrected by the number of days stated on the certificate of Substantial Completion.
4. Verify General Contractor distributed maintenance manuals to EPISD and provided training to staff.

The scope of our audit was the Austin High School 2016 Bond Program Construction Project that was in the closeout phase (substantially complete).

We would like to acknowledge and thank the staff from Facilities and Construction and Jacobs Engineering who participated in this audit for their time.

What We Found

Our audit identified the following:

1. There were six (6) instances where approved Substantial Completion dates were not met and time extension requests were taken to the Board of Trustees (BOT), for approval, after the approved date had passed.
2. There were two (2) instances out of 19, where inspections/punch lists and equipment certifications were dated after the certificate of Substantial Completion (SC) had been executed.
3. Nine (9) out of the 40 sampled punch list items were not corrected within the time stated on the certificate of SC.

What We Recommend

Internal Audit made five (5) recommendations to address the findings reported. Recommendations include:

- The Executive Director of Facilities and Construction (FC) should remind the General Contractor (GC) of the General Construction Agreement (GCA) and Board Policy requirements regarding time extension requests. Additionally, the FC Department should develop a process to monitor and report project timelines and due dates to provide reasonable assurance that time extension requests are submitted to the BOT for approval, as required by Board Policy CV(Local).
- The FC Department should communicate expectations to the Architect of Record (AOR) that include ensuring that all necessary inspections/punch lists and equipment certifications have been performed/obtained prior to the date the certificate of SC is executed.

- The FC Department should develop a process to monitor the completion of pending items on the SC punch lists. The process should include ensuring items are completed/corrected within the number of days stated on the certificate of SC. The FC Department should notify the Chief Operations Officer and the Superintendent when timelines are not met.
- The FC Department should work with the AOR and GC to ensure that all pending punch list items are cleared at Austin HS prior to reaching Final Acceptance and Final Payment.
- The FC staff, along with the AOR and the GC, should ensure punch list items attached to the Certificate of Substantial Completion are in the project's scope of work, prior to signing off on the Certificate of Substantial Completion.

Management's Response

Management and leadership agreed with the audit findings. Two of the three findings in this report should be addressed through the Corrective Action Plan for the first Bond Project Closeout Audit (22.10.F). For the third finding, although the issues noted in the audit report were cleared, a recommendation was made to improve the punch list process during the substantial completion phase for future construction projects. Internal Audit will continue to perform audits of Bond Construction projects to validate that newly implemented procedures by the Facilities and Construction Department as well as controls are operating as intended.



Objective and Scope

The objectives of the audit were to:

1. Determine if Substantial Completion deadlines were met according to the General Construction Agreements for the 2016 Bond Program construction projects or if extension requests were approved in accordance with Board Policy CV(Local) before the date of Substantial Completion had passed.
2. Verify inspections were performed by the Architect, EPISD, and sub-consultants, and permits were obtained prior to Substantial Completion.
3. Verify punch list items were corrected by the number of days stated on the certificate of Substantial Completion.
4. Verify General Contractor distributed maintenance manuals to EPISD and provided training to staff.

The scope of our audit was the Austin High School 2016 Bond Program Construction Project that was in the closeout phase (substantially complete).

Results and Recommendations

We verified that the General Contractor distributed maintenance manuals to EPISD and provided training to staff.

However, we determined:

1. The Substantial Completion (SC) dates were not met, and time extension requests were taken to the BOT after the approved SC date had passed.
2. Inspections/punch lists and equipment certifications were dated after the certificate of SC had been executed.
3. Punch list items were not corrected timely.

Detailed findings and corresponding recommendations follow.

We would like to acknowledge and thank the staff from Facilities and Construction, and Jacobs Engineering who participated in this audit for their time.

Finding 1

There were six (6) instances where approved Substantial Completion dates were not met and

The six (6) time extension requests extended the SC dates for Austin HS. When the FC Department took the time extension requests to the BOT for approval the previously approved date of SC had already passed. See Table 1 for details.

Policy CV(Local) states that "Changes to construction time exceeding 30 days in the aggregate or individually shall be presented to the Board for approval. All change orders approved by the Superintendent or designee for time extensions of less than 30 days shall be reported to the Board quarterly." When time extensions are taken to the BOT after the approved SC date has passed, they are not truly exercising their duty to approve additional days which affect a project's completion date.

extension requests were taken to the BOT, for approval, after the approved SC date had passed

According to Article II of the GCA, "If the Contractor fails to achieve Substantial Completion of the Work within the Contract Time, the Owner shall be entitled to retain or recover from the Contractor and the Contractor's surety, as liquidated damages and not as a penalty, ...per diem amounts commencing upon the first day following the expiration of the Contract Time and continuing until the actual Date of Substantial Completion." When a certificate of SC is executed, the GC is no longer liable for liquidated damages.

According to the Executive Director of Facilities and Construction, "Sometimes time extensions are gathered into a single future change order and presented at a time when there is an impact to a project's critical path schedule and the end date does need to be extended. Additionally, a GC may wait to submit a time extension request until they know exactly how many days are needed so as not to keep submitting multiple requests. After submittal by a GC, the project manager and design consultant are still required to review these requests and recommend the number of days they believe are appropriate, if any, for each request. This process can take from several days to several weeks to complete."

Table 1: Time Extension Requests Taken to BOT After Approved SC Date Had Passed

	(A)	(B)	(C)	(D)	(E)	
Project Name	Approved SC Date	Extension Request Date	BOT Approved Date	# of Days Requested (Extension)	New Approved SC Date	BOT Approval vs SC Date (Days after SC date passed) (C) - (A)
Austin HS	1/4/2021	3/4/2021	4/20/2021	112	4/26/2021	106
	4/26/2021	5/20/2021	6/15/2021	94	7/29/2021	50
	7/29/2021	7/19/2021	8/17/2021	111	11/17/2021	19
	7/29/2021	7/19/2021	8/17/2021	28	12/15/2021	19
	12/15/2021	1/11/2022	2/15/2022	73	2/25/2022	62
	2/25/2022	6/14/2022	8/16/2022	68	5/3/2022	172
Total Days Extended				486		

- (A) Approved SC date either per GCA or by the BOT through a time extension.
- (B) Date on change order document (time extension request) presented by Jacobs
- (C) Date when BOT approved time extension request change order
- (D) Number of days requested per time extension time order
- (E) New substantial completion date as approved by the BOT

Recommendation

1.1 The Executive Director of FC should remind the GC of the GCA and Board Policy requirements regarding time extension requests. Additionally, the FC Department staff should develop a process to monitor and report project timelines and due dates to provide reasonable assurance that time extension requests are submitted to the BOT for approval, as required by Board Policy CV(Local).

Action Taken: This finding should be addressed through the Corrective Action Plan for the first Bond Project Closeout Audit. As a result of the CAP (activity 1), the FC's Construction Management Procedures Manual was updated to include procedures on time extension requests. Per the manual, the GC is to notify the Architect and Owner (EPISD) in writing, within 7 calendar days of the commencement of a delay. Upon notification, the

Facilities and Construction Department will notify the Superintendent and Board of Trustees of the potential delay or request for a time extension. This procedure is intended to ensure adherence to contract compliance regarding notification of delays and time extension requests.

Finding 2

Two (2) of 19 third-party (sub-consultants) inspections/punch lists, and equipment certifications were dated after the certificate of Substantial Completion had been executed

The Mechanical, Electrical, and Plumbing (MEP) Inspection/Punch List was dated 169 days after the SC date. The Testing, Adjusting and Balancing Report (TAB) Equipment Certification/ Inspection was dated 55 days after the SC date.

The MEP inspection received was a letter and not the actual inspection report which would have shown the inspection date. As the letter was the only documentation provided, the date on the letter was used as the inspection date.

Per GCA Section 9.7.1, “Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use; provided, however, as a condition precedent to Substantial Completion, the Owner has received all certificates of occupancy and other permits, approvals, licenses, and other documents from any governmental authority having jurisdiction thereof necessary for the beneficial occupancy of the Project (or if the same cannot be delivered for reasons not the fault or responsibility of the Contractor, nevertheless all Contractor’s obligations necessary to the issuance of such certificates, permit, approvals, or licenses will have been performed.)...” If the AOR certifies that a construction project has reached SC prior to sub-consultants performing/obtaining inspections, punch lists, equipment certification, permits, and certificates of occupancy, they are not in compliance with the contractual requirements.

Per GCA Section 9.7.2, “...When the Architect, on the basis of an inspection, determines that the Work or designated portion thereof is substantially complete, the Architect will then prepare a Certificate of Substantial Completion for review and approval by the Owner, Contractor and the Owner’s Architect, which, when so approved, shall establish the Date of Substantial Completion, and shall fix the time within which the Contractor shall complete the items listed therein.”

Recommendation

2.1 The FC Department staff should communicate expectations to the AOR that include ensuring that all necessary inspections/punch lists and equipment certifications have been performed/obtained prior to the date the certificate of SC is executed.

Action Taken: This finding should be addressed through the Corrective Action Plan for the first Bond Project Closeout Audit. As a result of the CAP (activity 3), the FC’s Construction Management Procedures Manual was updated to include a procedure to notify the Architect/Engineer(s) of their contractual obligation to submit all required documentation prior to the date of Substantial Completion

Finding 3

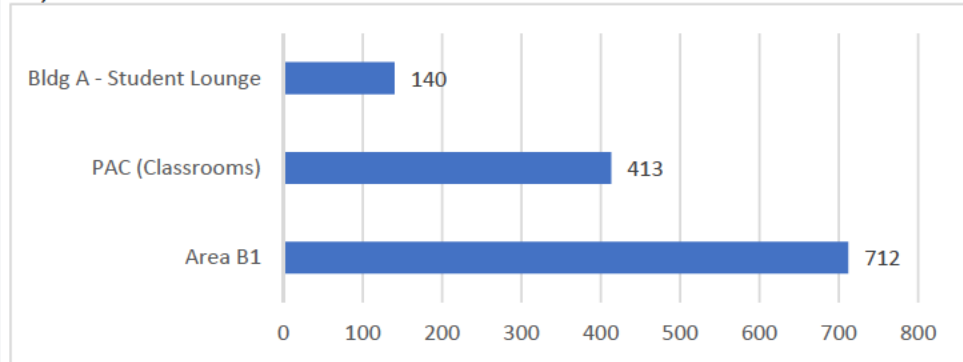
Nine (9) of the forty (40) punch list items in our

According to the certificates of SC, items on the punch lists must be corrected within the specified number of days as stated on the certificate of SC. The number of days specified on two (2) of the three (3) certificates of SC was 30 days. On the third certificate of SC, the number of days was not specified (left blank).

sample were not corrected timely

We selected a sample of four (4) punch lists which contained 40 pending items when the certificate of SC was executed. On September 20, 2022, we performed a walk-through to determine their status. We noted that three (3) of the four (4) punch lists still had nine (9) items that had not been corrected. Figure 1 provides a summary of the number of days that have passed from the date on the certificate of SC. The final payment to the GC has not yet been made.

Figure 1: Number of Days that have passed from the SC date to September 20, 2022



A letter from the AOR dated September 28, 2022, stated that all work had been completed and no items were pending. Additionally, a memo, dated December 5, 2022, was provided from the FC Executive Director stating the Austin HS project was completed as per construction documents with no pending scope items.

Internal Audit performed a second walk-through on December 6, 2022, and noted that seven (7) of the nine (9) punch list items still had not been corrected.

The following are pictures of those items in our sample that were not corrected timely:

Figure 2: Building A – Student Lounge – Stain above the door opening still visible.

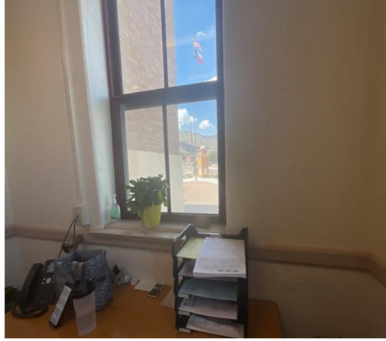


9/20/2022



12/6/2022

Figure 3: Area B1 – Business Office –New windows, dirt, and rainwater come in when the window is closed, and window coverings are not installed. The paint is bubbled on the wall due to moisture.



9/20/2022



12/6/2022

Figure 4: Area B1 – Missing touch-up paint around columns

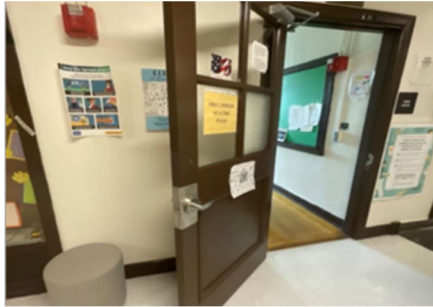


9/20/2022

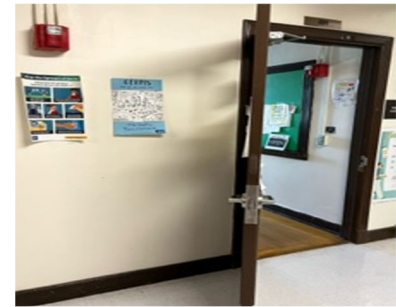


12/6/2022

Figure 5: Area B1 – Nurse’s Office door strike plate issue. Door was very hard to open. Issue has been corrected.

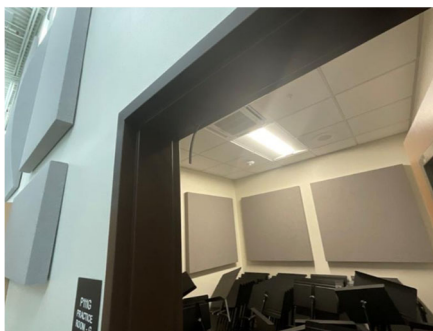


09/20/2022



12/06/2022 – Corrected

Figure 6: PAC – Band Area – Door seal coming off P11G Practice Room G



9/20/2022



12/6/2022

Figure 7: PAC – Band Area – Ceiling tiles have gaps around sprinkler heads



09/20/2022



12/20/2022

Figure 8: PAC -Orchestra Area – Door seal coming off PG110A Practice Room A. Issue has been corrected.



09/20/2022



12/06/2022 - Corrected

Figure 9: PAC - Orchestra Area – Stained tile not replaced

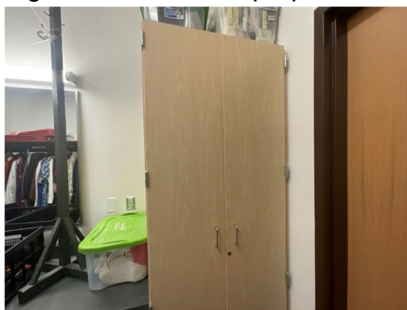


09/20/2022

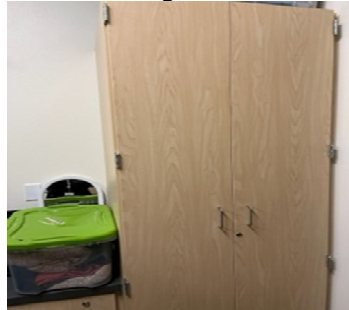


12/06/2022

Figure 10: PAC-Multipurpose Area – Cabinet doors rub together



9/20/2022



12/6/2022 Key not available to open and determine status of item

Recommendations

3.1 The FC Department should develop a process to monitor the completion of pending items on the SC punch lists. The process should include ensuring items are completed/corrected within the number of days stated on the certificate of SC. The FC Department should notify the Chief Operations Officer and the Superintendent when timelines are not met.

Action Taken: This finding should be addressed through the Bond Project Closeout Audit and its CAP Follow-up Report. As part of that audit's CAP activity 4, the FC Construction Management Procedures Manual was updated to include a procedure on a 30 and 60-day back check on the completion of punch list items. Per the manual, if the GC does not comply with their contractual requirements and fails to complete the punch list within 60 calendar days to obtain final completion, the PM will send a letter signed by the Executive Director of FC to the COO with a copy to the Superintendent. The letter will advise EPISD leadership that the GC failed to comply with their contractual requirements of completing the punch list items and obtaining final completion within 60 calendar days.

3.2 The FC Department should work with the AOR and GC to ensure that all pending punch list items are cleared at Austin HS prior to reaching Final Acceptance and Final Payment.

Action Taken: At a meeting held with Internal Audit on December 15, 2022, the Executive Director of FC stated that they would work to ensure all punch list items were corrected by January 13, 2023. Internal Audit conducted a third walk-through of Austin High School on January 17, 2023, to verify that punch list items had been corrected. Of the 60 punch list items tested, six (6) appeared to not have been corrected. The list of items was provided to the Director of FC to provide an explanation. The Facilities and Construction Director obtained the following responses from the Architect and General Contractor-

Of the six items:

- One (1) item had been removed from the scope of work. A change order was provided (PCO #99/Change Order #10) in the amount of \$8,621.19 to credit the item being removed.
- One (1) item had been completed according to the scope of work.
- Three (3) items were not in the scope of work of the General Contractor even though they were included in the Architect's punch list. Contract documents were reviewed to verify they were not in the scope of work.
- One (1) item could not be verified. In speaking with the FC Project Manager, there were a specific number of chalkboards to be converted to whiteboards per area. For one classroom the punch list stated "Missing: new whiteboards" yet only one whiteboard was visible. Verification could not be made on the number of whiteboards for this classroom.

The Executive Director of FC is in the process of implementing a new punch list standard form that includes before and after photographs of punch list items and completion dates. This form will be implemented in order to improve the punch list process and will be submitted to the BOT.

3.3 We recommend FC staff, along with the AOR and the GC, ensure punch list items attached to the Certificate of Substantial Completion are in the project's scope of work, prior to signing off on the Certificate of Substantial Completion.



Background

On November 8, 2016, El Paso voters approved a \$668.7 million bond program (2016 Bond) for the modernization and rightsizing of the District. On January 18, 2017, the District entered into a contract with Jacobs Project Management Co. (hereinafter referred to as Jacobs/Program Manager) to provide bond program management services. The 2016 Bond funded 17 construction projects, of which 16 are managed by Jacobs and one (1) by the EPISD Facilities and Construction Department (Facilities and Construction).

Jacobs' Role

As stated in the Contract for Bond Program Management Services (the contract) section 2.3.2, "In general, the Program Manager shall have primary management responsibility for Projects assigned to it and more specifically shall coordinate all such Project matters with a goal to attain the completion of Projects on time and within budget." Additionally, per Article IV in the contract, "the Program Manager will undertake many of the daily and routine functions that might otherwise be performed by District staff."

El Paso Independent School District's (EPISD) Role

As stated in Article IV of the contract, "the District intends to manage the Program utilizing a limited number of internal facilities management staff, primarily intended to perform policy, oversight and approval functions." Currently, the Executive Director of Facilities and Construction along with the Chief Operations Officer provide oversight and approval over bond projects managed by Jacobs.

Substantial Completion

As stated in section 9.7.1 of the General Construction Agreement (GCA), "Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use; provided, however, as a condition precedent to Substantial Completion, the Owner has received all certificates of occupancy and any other permits, approvals, licenses, and other documents from any governmental authority having jurisdiction thereof necessary for the beneficial occupancy of the Project. Without limiting the foregoing, in general, the only remaining Work following Substantial Completion shall be minor in nature, so that the Owner could occupy the Project on that date and the completion of the Work by the Contractor would not materially interfere or hamper the Owner's normal business operations."

The Facilities and Construction Bond Project Closeout P2 Audit was approved by the Board of Trustees as part of the 2022-2023 Internal Audit Plan.

Methodology

To achieve our audit objective(s), we:

1. Researched relevant Board policies and the department manual/guidelines.
2. Used internal control questionnaires and performed walkthroughs to obtain an understanding of the Substantial Completion and Closeout processes in place.

3. Obtained and reviewed copies of the Contract for Bond Program Management Services, General Construction Agreement and General Services Agreement for Architect Services for the six bond projects in our scope.
4. Performed a risk assessment based on our understanding of the substantial and closeout process and controls in place.
5. Obtained and analyzed time extension requests, substantial completion and final acceptance forms, inspections/punch lists, permits, certificates of occupancy, maintenance manuals, and training sign-in sheets for the scope period.

Because of the inherent limitations in a system of internal controls, there is a risk that errors or irregularities occurred and were not detected. Due professional care requires the internal auditor to conduct examinations and verifications to a reasonable extent. Accordingly, an auditor is able to obtain reasonable, but not absolute, assurance that procedures and internal controls are followed and adhered to in accordance with the federal, state, local policies, and guidelines.



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Internal Audit

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