

**METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON
COUNTY**



**METROPOLITAN NASHVILLE
AUDIT COMMITTEE**

WORKBOOK

November 24, 2020

*"Fraud and falsehood only dread examination.
Truth invites it."
– Samuel Johnson –*

METROPOLITAN NASHVILLE
METROPOLITAN AUDIT COMMITTEE MEETING AGENDA
November 24, 2020, 4:00 p.m.

This meeting will take place via WebEx and will be broadcast live through the Metro Nashville Network, (MNN). The broadcast may be streamed live at: <http://stream.nashville.gov>.

- I. Call Meeting to Order (Brackney Reed – Committee Chairman)
- II. Approval of Minutes (Brackney Reed – Committee Chairman)
 - Approval of Minutes for September 8, 2020, meeting.
- III. New Business
 - Discussion on Director of Metropolitan Water Services, Scott Potter’s request for an audit of the Metropolitan Water Services Metering, Meter Reading, and Billing received September 9, 2020. (Lauren Riley – Metropolitan Auditor)
 - Discussion on the Metropolitan Nashville Public Schools Capital Projects Process issued September 29, 2020. (Lauren Riley – Metropolitan Auditor)
 - Discussion on the Audit of the Davidson County Criminal Justice Center Construction Project issued November 4, 2020. (Bill Walker – Principal Auditor)
 - Tentative Discussion on the Audit of the Metropolitan Beer Permit Board. (Bill Walker – Principal Auditor)
- IV. Internal Audit Project Status (Lauren Riley – Metropolitan Auditor)
 - On-going projects
 - Recommendation implementation follow-up status
- V. Other Administrative Matters
 - FY2021 budget status (Lauren Riley – Metropolitan Auditor)
- VI. Consideration of Items for Future Meetings (Brackney Reed – Committee Chairman)
- VII. Adjournment of Public Meeting – Next Regular Meeting Tuesday, December 8, 2020.
- VIII. Call for a motion to enter executive session (Brackney Reed – Committee Chairman)
- IX. Executive Session Agenda – (Brackney Reed – Committee Chairman)
 - Discussion on the ongoing audit of Metropolitan Nashville FY 2020 Financial Statements audit with Crosslin. (External Auditor)
 - Discussion of pending or ongoing audits or investigations. (Lauren Riley – Metropolitan Auditor)

METROPOLITAN NASHVILLE
METROPOLITAN AUDIT COMMITTEE MEETING AGENDA
November 24, 2020, 4:00 p.m.

Note: Upon a majority vote of committee members in attendance for the public portion of the meeting, the Metropolitan Nashville Audit Committee may hold confidential, nonpublic executive sessions to discuss the following items (T.C.A. § 9-3-405¹):

- Items deemed not subject to public inspection under T.C.A. §§ 10-7-503² and 10-7-504³ and all other matters designated as confidential or privileged under this code;
- Current or pending litigation and pending legal controversies;
- Pending or ongoing audits or audit related investigations;
- Information protected by federal law; and
- Matters involving information under T.C.A. § 9-3-406⁴ where the informant has requested anonymity.



To request an accommodation, please contact Lauren Riley at (615) 862-6111.

¹ T.C.A. § 9-3-405(d). Establishment of audit committee, Notice requirements, Open meetings, Confidential, nonpublic executive session.

² T.C.A. § 10-7-503. Records open to public inspection, Schedule of reasonable charges, Costs.

³ T.C.A. § 10-7-504. Confidential records.

⁴ T.C.A. § 9-3-406. Establishment of process for confidential reporting of suspected illegal, improper, wasteful or fraudulent activity, Retaliatory activities prohibited.

METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY
AUDIT COMMITTEE MEETING MINUTES
September 8, 2020

On Tuesday, September 8, 2020, at 4:00 p.m., the Metropolitan Nashville Audit Committee met via conference call due to the COVID-19 pandemic. The following people attended the meeting:

Committee Members

Brackney Reed, Chamber of Commerce
Charles Frasier, Tennessee Society of CPAs
Zulfat Suara, Council Member
Kevin Crumbo, Director of Finance
Thom Druffel, Council Member
Jim Shulman, Vice-Mayor

Others

Lauren Riley, Metropolitan Auditor
Theresa Costonis, Department of Law
Dell Crosslin, Crosslin
John Crosslin, Crosslin
David Hunt, Crosslin
Katie Farris, Crosslin
Monique Odom, Metro Parks Department
Phil Carr, Chief Accountant
Tom Eddlemon, Department of Finance
Jeff Roberts, Election Commission
John Griffey, ITS
Scott Nalley, KraftCPAs
Erica Hightower, KraftCPAs
Bill Walker, Office of Internal Audit
Seth Hatfield, Office of Internal Audit
Nan Wen, Office of Internal Audit

Quorum present? Yes

CALL MEETING TO ORDER

Mr. Reed called the meeting to order.

A **roll call** was conducted by Ms. Riley. The following members were in attendance:

- Brackney Reed
- Charles Frasier
- Kevin Crumbo
- Thom Druffel
- Zulfat Suara
- Jim Shulman

A **motion** to conduct the meeting using a conference call format because it was necessary to protect the safety and welfare of Tennessean's due to the COVID 19 pandemic and to conform to Governor Bill Lee's Executive Order Number 6 was made, seconded and carried. Specifically, a roll call was conducted with the following votes:

- Brackney Reed - Yes
- Charles Frasier - Yes
- Kevin Crumbo - Yes
- Thom Druffel – Yes
- Zulfat Suara - Yes
- Jim Shulman - Yes

APPROVAL OF MINUTES

A **motion** to approve the June 23, 2020, meeting minutes as presented in the Metropolitan Nashville Audit Committee Workbook for September 8, 2020, was made and seconded. A roll call was conducted with the following votes:

- Brackney Reed - Yes
- Charles Frasier - Yes
- Kevin Crumbo - Yes
- Thom Druffel – Yes
- Zulfat Suara - Yes
- Jim Shulman - Yes

The motion carried.

NEW BUSINESS

Metropolitan Nashville Audit Committee Annual Self-Assessment.

Ms. Riley discussed the annual self-assessment. The self-assessment is conducted by Office of Internal Audit staff and is required by the Metropolitan Nashville Audit Committee's bylaws. The self-assessment ascertains if the Metropolitan Nashville Audit Committee is in compliance with its established bylaws. All bylaw requirements were met except for one. The bylaws require that the Metropolitan Nashville Audit Committee meet three times during the year with the external auditor regarding the Consolidated Annual Financial Statements. The Metropolitan Nashville Audit Committee met twice. Ms. Riley stated the Metropolitan Nashville Audit Committee was on track to meet this bylaw for the current year.

Metropolitan Nashville Audit Committee and Metropolitan Nashville Office of Internal Audit Bylaws annual review.

Ms. Riley advised the Metropolitan Nashville Audit Committee is required to review and approve the Metropolitan Nashville Office of Internal Audit and the Metropolitan Nashville Audit Committee bylaws annually. Copies of both bylaws were submitted to committee members prior to the meeting. Mr. Reed asked if any changes were made from the previous year. Ms. Riley advised no changes had been made. Councilmember Druffel inquired if the recommendation follow-up protocol should be included in the bylaws. A discussion ensued and committee members agreed the bylaws included high level guidance and specific protocol should be documented in an internal policy.

A **motion** to approve the Metropolitan Nashville Office of Internal Audit Bylaws and the Metropolitan Nashville Audit Committee Bylaws was made and seconded. A roll call was conducted with the following votes:

- Brackney Reed - Yes
- Charles Frasier - Yes
- Kevin Crumbo - Yes
- Thom Druffel – Yes
- Zulfat Suara - Yes
- Jim Shulman - Yes

The motion carried.

Discussion on the Centennial Sportsplex Cash Shortage Investigation issued July 24, 2020.

Mr. Walker summarized the specific allegations, work performed, and conclusions. Councilmember Druffel asked if a communication would go into a personnel file noting what had happened in case there was a future occurrence. Ms. Odom stated one staff member did not follow proper procedures. Specifically, a supervisor did not participate in the two-person count of the safe even though they signed documentation asserting they had. Ms. Odom advised this staff member had a reprimand placed into his personnel file. Vice Mayor Shulman inquired if there were any safeguards in place to ensure there is not too much cash on hand at any one time. Ms. Odom advised Metropolitan Park Police pick up revenue collections daily for deposit.

Discussion on the Audit of the Metro Parks and Recreation Department's Relationships with Nonprofits issued August 17, 2020.

Bill Walker summarized the objectives, observations, and recommendations for the audit. Mr. Frasier noted that not collecting financial information was a critical component and important.

Discussion on the Audit of the Finance Department Treasury Collections Office issued September 3, 2020.

Ms. Riley summarized the objectives, observations, and recommendations for the audit. Councilmember Suara noted the observations were concerning, and she wished to place particular emphasis on the critical nature of ensuring the completeness of collections. Mr. Frasier concurred with Councilmember Suara's comments. Mr. Eddlemon stated that he agreed with all the recommendations in the report. Mr. Eddlemon stated the Treasury Collections Office is in the process of implementing a new system which will address many of the recommendations.

Vice Mayor Shulman asked if taxpayers submitted payments primarily through the mail or electronically. Mr. Eddlemon advised currently payments are only received through the mail or in person. The new system being implemented will allow taxpayers to submit payments electronically. Mr. Eddlemon stated this will be helpful due to the overwhelming amount of mail received and the limited staffing. Mr. Reed asked if a timeline would be set to follow up on recommendations. Ms. Riley advised stated the Treasury Department had set implementation dates in the near future, and once implemented, a follow-up audit would occur.

Discussion on the Audit of the Davidson County Election Commission Operations.

Ms. Riley summarized the objectives, observations, and recommendations for the audit. Mr. Frasier asked if mail in ballots were within the scope of the audit. Ms. Riley advised the scope focused on compliance with applicable laws, regulations, and procedures, and mail in ballots were not included.

Discussion on the Audit of the Davidson County Election Commission Information Systems.

Mr. Nalley summarized the objectives, observations, and recommendations for the audit. Mr. Frasier inquired if test work included tracing voting data through the system. Mr. Nalley stated this was not done. Mr. Nalley stated test work focused on ensuring proper restrictions and

safeguards were in place. Additionally, test work looked to ensure compliance with applicable state laws and regulations.

Councilmember Suara inquired about recommendations classified as medium risk and recommendations only partially accepted by the Davidson County Election Commission. Specifically, does this imply voter information is at risk and that the Davidson County Election Commission is not in compliance with applicable laws and regulations. Mr. Nalley advised voter information is not extremely vulnerable. Most voter information retained is public information. The medium risk classification is a function of certain State of Tennessee requirements not being met which inherently enhances the level of risk. Governmental entities are also more exposed to reputational risk. Meeting the requirements set by the State of Tennessee helps reduce reputational risk. Mr. Nalley concluded by saying there are some vulnerabilities related to voter information and there is room for improvement, but the vulnerabilities are not overly concerning.

Vice Mayor Shulman noted that one of the recommendations in the report had an implementation date that had already occurred. Vice Mayor Shulman inquired if the recommendation has been implemented. Mr. Roberts advised the recommendation had been implemented.

OTHER ADMINISTRATIVE MATTERS

Ms. Riley provided an update on the status of recommendation follow-up. Specifically, 18 recommendation implementation dates came due since the last Metropolitan Nashville Audit Committee meeting. These include high risk recommendations involving Nashville General Hospital and the Architecture & Engineering Vendor Audits. Ms. Riley advised follow up audits will be conducted.

Ms. Riley noted that Councilmember Angie Henderson was organizing a meeting to look at what actions have been taken by applicable departments on issues identified in the Collier Investigation and Architectural and Engineering Vendor Audits. Ms. Riley has been requested to participate in the presentation. Councilmember Suara noted that she has introduced four pieces of legislation that relate to the Collier Investigation and Department of Finance Procurement Division.

The next regularly scheduled meeting is November 24, 2020, at 4:00 p.m.

The public meeting adjourned after approximately 1 hour.

A **motion** was made for the Metropolitan Audit Committee to go into Executive Session and was seconded. A roll call was conducted with the following votes:

- Brackney Reed - Yes
- Charles Frasier - Yes
- Kevin Crumbo - Yes
- Thom Druffel – Yes
- Zulfat Suara - Yes
- Jim Shulman - Yes

The motion carried.

The minutes for the September 8, 2020, Metropolitan Nashville Audit Committee meeting are respectfully submitted.

Lauren Riley, Metropolitan Auditor
Secretary, Metropolitan Nashville Audit Committee



**A Report to the
Audit Committee**

Mayor
John Cooper

Director of Schools
Dr. Adrienne Battle

Audit Committee Members

Kevin Crumbo
Thom Druffel
Charles Frasier
Brackney Reed
Jim Shulman
Zulfat Suara

Audit of Metropolitan Nashville Public Schools Capital Projects Process

September 29, 2020

Metropolitan
Nashville
Office of
Internal Audit



Why We Did This Audit

The audit was conducted due to the high amount of funding that goes into Metropolitan Nashville Public Schools capital projects, and since the program has not been audited by the Metropolitan Nashville Office of Internal Audit.

What We Recommend

- Ensure all contractors are procured through a public solicitation process with the involvement of the Procurement Department.
- Consider adding a clause in construction contracts requiring workers to be paid a prevailing wage.
- Allocate invoiced project management costs to appropriate projects based on actual hours worked to ensure project costs are accurately evaluated compared to the budget.

Audit of the Metropolitan Nashville Public Schools Capital Projects Process

BACKGROUND

The Metropolitan Nashville Public Schools Facilities Planning and Construction team is responsible for overseeing all Metropolitan Nashville Public Schools capital projects. Capital projects include technology and infrastructure improvements, small repair projects, large school renovations, and new builds. The audit focused on moderate to large construction projects due to the high amount of funds going into capital projects. In the three fiscal years between 2017 and 2019, over \$309 million dollars of the Mayor's Capital Spending Plan was allocated to Metropolitan Nashville Public Schools.

OBJECTIVES AND SCOPE

The objectives of this audit are to determine if:

- Controls are in place over the identification, planning, and cost estimation of Metropolitan Nashville Public Schools capital projects.
- Controls are in place over the procurement and monitoring of capital projects.

The scope of the audit included the 2017, 2018, and 2019 capital spending plans. The audit focused on moderate to large construction projects due to the funds going into capital projects.

WHAT WE FOUND

Metropolitan Nashville Public Schools is using an effective method to prioritize the needs of school facilities to improve the health, safety, and welfare conditions of existing buildings in most need. While policies and procedures are in place to inspect and score schools to request funding for facilities, Metropolitan Nashville Public Schools does not utilize a project management system to organize and track capital projects. Metropolitan Nashville Public Schools could benefit by using a project management software to organize and maintain documentation.

GOVERNANCE

The Department of Facilities has two divisions: Facilities and Grounds Maintenance and Facility Planning and Construction. CBRE|Heery is contracted by Metropolitan Nashville Public Schools to perform the project management function for capital construction projects. The Facilities and Grounds Maintenance division, the Construction division, and the contracted project managers all report to an Executive Director of Facilities, Maintenance and Construction.

BACKGROUND

Capital Needs and Budgeting Process

Each year the Facility Planning and Construction department will work with Metropolitan Nashville Public Schools administration to prepare a Capital Improvements Budget that covers a ten-year period. Metropolitan Nashville Public Schools uses eight standards that form the basis for capital projects:

1. To improve the health, safety, and welfare conditions of existing buildings.
2. To correct overcrowding.
3. To replace worn-out buildings and components.
4. To anticipate future growth and other demographic changes
5. To accommodate the interim and long-range pupil assignment plan.
6. To replace obsolete rolling stock and equipment to improve opening and closing schedules.
7. To respond to educational program changes.
8. To make other improvements to the physical environment for learning.

The two most common reasons for a Capital Improvements Budget request are anticipated growth relating to the capacity of a school and low Facility Index Scores. The Facility Index Score is used for every school and Metropolitan Nashville Public Schools buildings. The score is comprised of four parts: physical condition, suitability, site condition, and technology infrastructure. These four parts are weighted to produce a cumulative facility condition score. These scores are reviewed every five years by an independent third party.

Once a capital project need is determined, the Facilities Planning and Construction team will begin to estimate the cost of the project. Projects are determined to be a renovation, an addition, a combination of renovation and addition, a replacement, or a new school. The cost estimate is developed in-house using a standard Metropolitan Nashville Public Schools estimate form to include all costs associated with the project. If a project is large and complex, the in-house estimate will be a temporary estimate until a contractor is procured for pre-construction services and can develop an accurate estimate. Any additional funds needed based on the pre-construction estimate can be added to the next Capital Improvements Budget request. No construction will take place until all funding is acquired.

The finalized Capital Improvements Budget is reviewed and approved by the Metropolitan Nashville Board of Education and presented to the Mayor's Office through the Planning Department. The Mayor's Office will then present a Capital Spending Plan with the annual budget that may or may not include capital projects included on the Metropolitan Nashville Public Schools' Capital Improvements Budget. Exhibit A shows the Metropolitan Nashville Public Schools' capital projects funded for fiscal years 2017 through 2019.

Exhibit A – Funded Metropolitan Nashville Public Schools Capital Projects by Spending Plan

Project	2016-17 Capital Spending Plan	2017-18 Capital Spending Plan	2018-19 Capital Spending Plan
Capital Projects	\$ 105,000,000	\$ 77,500,000	\$ 10,000,000
District-wide Projects*	45,000,000	22,050,000	50,000,000
Total	150,000,000	\$ 99,550,000	\$ 60,000,000

Source: Metropolitan Government Capital Spending Plans for Fiscal Years 2016 through 2019

*District-wide projects are smaller projects completed using capital funds, such as improved technology, bus repairs and replacements, minor construction repairs, etc.

Procurement Process

Once a project is placed on the Capital Spending Plan and provided funding, Metropolitan Nashville Public Schools will procure contractors to design, construct, and manage the projects. Depending on the size and complexity, the overall process includes one year of design, permitting, bidding, etc. and two or more years for construction.

A design consultant, generally an architecture or engineering firm, is procured through a qualifications-based selection process. For large projects, a pre-construction services contractor may be used. Once the design is complete, the project goes out for public bid for a general contractor. The solicitation is prepared and posted on the Metropolitan Nashville Public Schools website.

The evaluation committee for bids consists of the Facility Planning and Construction division, the design consultant, and project management staff. Responses are ranked and the contract is awarded to the highest score. Prior to 2016, the procurement process has been completed without the assistance of the Metropolitan Nashville Public Schools Procurement Department. All contracts are reviewed and approved by the Metropolitan Nashville Board of Education and Metropolitan Nashville Department of Law.

Project Management Process

Metropolitan Nashville Public Schools has contracted with CBRE | Heery for project management services for twenty years; each contract being publicly bid and set for a five-year period. CBRE | Heery project managers utilize the project budget, manage the expected time frame, monitor and maintain documentation, project costs, and track and resolve any issues that arise.

CBRE | Heery does not utilize a project management software. Microsoft products, such as Microsoft Project and Microsoft SharePoint are used for tracking time and maintaining documentation.

The method of approving invoices depends on the size of the project. For small capital projects, invoices can be approved solely by the assigned project manager. For large projects, the invoices are approved during a meeting with the owner, the general contractor, and the architect. For construction projects, the architect will walk the site to verify completion of the work and recommend approval of the invoice to the project manager.

Change orders are reviewed and approved in a similar process to invoices, with further requirements. In a meeting with the owner, the general contractor, and the architect, change orders will be reviewed and discussed. Because change orders involve changing the contract price, these will also be reviewed and

approved by the Metropolitan Nashville Board of Education. When a change order is approved, the contract will be amended to the new contract price. Project managers will maintain all project documentation and track the project’s progress through to close out.

Audit Methodology

The scope of the audit included the Capital Spending Plans for fiscal years 2017 through 2019. A judgmental sample of three construction projects of moderate to large size were selected for review. The projects selected for review and the design and general contractors for each project can be found below in Exhibit B.

Exhibit B – Capital Projects Sampled for Review

Project	Project Type	Architect	General Contractor	Budget
Hillsboro High School	Replace	ARTiface	American Constructors	\$ 97,794,996
McMurray Middle School	Renovation	HMK Architects	Orion Building Corporation	\$ 20,750,000
East Nashville Magnet – Bleachers & Concessions	Stadium Upgrade	EOA Architects	Romach General Contractors	\$ 3,022,258

Source: Metropolitan Nashville Public Schools Facilities Maintenance and Construction division.

The McMurray Middle School renovation and the East Nashville Magnet School stadium upgrade were completed and closed out at the time of this audit. The Hillsboro High School addition and renovation project is ongoing. Cost estimation and procurement documents, invoices, change orders, and all supporting material were reviewed for completeness for each project.

AUDIT OBJECTIVES AND CONCLUSIONS

1. *Were controls in place over the identification, planning, and cost estimation of Metropolitan Nashville Public Schools capital projects?*

Yes. Metropolitan Nashville Public Schools utilizes a scoring and assessment process to effectively prioritize capital projects based on facility condition, capacity utilization, and expected enrollment. For the three fiscal years during the audit period, all three capital improvement budget requests prioritized funding for projects with the lowest facility condition scores and schools near or above capacity. Controls are in place to review and score facilities by a third party as well as in-house by the Facilities Maintenance and Construction team to ensure the scoring system is fair and accurate.

The Facilities Maintenance and Construction team uses a cost estimation form to determine the estimated budget and necessary funds to complete each capital project. While current cost estimation processes are in place, Facilities Maintenance and Construction management changed at the beginning of the audit period, and cost estimation documentation was not retained by previous management for one sampled project. However, reviews of sampled projects after the change in management show documentation was being maintained properly.

2. *Were controls in place over the procurement and monitoring of capital projects?*

Generally, no. A review of procurement documentation for six contractors found that the Department of Facility Planning and Construction procured all six contractors without the involvement or oversight of the Metropolitan Nashville Public Schools Procurement Department. Two contractors (33 percent) did not go through the public solicitation process. The Procurement Department should be involved in the solicitation, review, and selection of capital project contractors.

Contractors were not required to pay their employees prevailing wages on Metropolitan Nashville Public Schools capital projects. The Metropolitan Nashville Government's Procurement Code requires prevailing wage clauses be included in all construction contracts. Metropolitan Nashville Public Schools elects not to follow the Metropolitan Nashville Government's Procurement Code. However, since Metropolitan Nashville Government funds are received for capital projects, the Metropolitan Board of Education should consider adding this prevailing wage requirement to Metropolitan Nashville Public Schools construction contracts.

Project management costs are budgeted to account for 4% of a large construction project's budget. However, small capital projects do not include a budget for project management costs. Rather than allocating project management expenditures to individual projects based on the actual hours worked, the current process is to allocate project management costs to the oldest projects with available project management funds. Project management costs should be allocated to projects where the hours were actually worked. Budgets and cost estimations should be adjusted to account for the estimated hours. (See Observations A, B, C.)

AUDIT OBSERVATIONS

Internal control helps ensure entities achieve important objectives to sustain and improve performance. The Committee of Sponsoring Organizations of the Treadway Commission (COSO), Internal Control – Integrated Framework, enables organizations to effectively and efficiently develop systems of internal control that adapt to changing business and operating environments, mitigate risks to acceptable levels, and support sound decision-making and governance of the organization. See **Appendix B** for a description of the observation *Assessed Risk Rating*.

Observation A – Procurement

A review of procurement documentation related to the Hillsboro High School renovation, McMurray Middle School facility renovation, and East Nashville Magnet High School stadium upgrade found that six contractor procurements were handled entirely by the Facilities Planning and Construction Department without the involvement or oversight from the Metropolitan Nashville Public Schools Procurement Department. Two out of six contractor procurements (33 percent) did not go through a public solicitation process. The two contractors were ARTifice and EOA Architects. As of August 13, 2020, ARTifice has been paid \$4,616,188 for architectural services on the Hillsboro High School renovation. EOA Architects was paid \$138,278 for architectural services for the East Nashville Magnet High School stadium upgrade. Additionally, the bid scores were collected and averaged by a single member of the same evaluation committee. The scores should be tallied and averaged by someone who was not a member of the evaluation committee to prevent bias.

Criteria:

- COSO Principle 10: The organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.

Assessed Risk Rating:

High

Recommendations for management of Metropolitan Nashville Public Schools:

1. Ensure all contractors for capital projects are procured through a public solicitation process and with the involvement of the Procurement Department.
2. Ensure the person who tallies score sheets is not a member of the evaluation committee.

Observation B – Prevailing Wages

Metropolitan Nashville Public Schools does not require capital projects contractors to pay prevailing wages to their employees. The Davis-Bacon Act requires contractors and subcontractors to pay their workers no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area for federally funded projects. Prior to 2014, the Metropolitan Nashville Government’s Procurement Code required contractors on Metropolitan Nashville Government construction projects to pay their workers no less than the wages specified in the federal Davis-Bacon Act. Due to Tennessee Code Annotated changes in 2013, the Metropolitan Nashville Government’s Procurement Code was amended to require Metropolitan Nashville Government contractors on construction projects to pay their workers no less than the wages specified in the Tennessee Occupational Wage Report published by the Tennessee Department of Labor and Workforce Development, Employment Security Division. The Metropolitan Nashville Government’s Procurement

Code states that the requirement is to be put in all construction related solicitations and contracts and gives the Procurement Agent the authority to request payroll records from contractors to ensure compliance with minimum wage requirements.

Metropolitan Nashville Public Schools is not required to follow the Metropolitan Nashville Government's Procurement Code, and Metropolitan Nashville Public Schools elects not to include the wage requirements in construction project contracts. However, since Metropolitan Nashville Government funding is allocated to Metropolitan Nashville Public Schools capital projects, the Board of Education should consider amending their procurement regulations to include a similar prevailing wage requirement. Adding a prevailing wage clause can reduce the chance of contractors paying their employees less than a living wage.

Criteria:

- COSO Principle 10: The organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.

Assessed Risk Rating:

Medium

Recommendation for management of the Metropolitan Nashville Public Schools:

Consider amending Metropolitan Nashville Public Schools procurement regulations to include a prevailing wage requirement similar to the Metropolitan Nashville Government's Procurement Code.

Observation C – Project Management Allocation

CBRE|Heery contracted with Metropolitan Nashville Public Schools as the project manager for capital projects and construction work for 24 years. For large capital projects, cost estimation includes a 4% budget for project management. Small capital projects do not include a project management budget. All CBRE|Heery invoices are broken down to indicate the hours worked by each project manager on each project. However, the project management costs are not being properly allocated to projects based on the actual hours worked. Rather, the invoices are being allocated to the oldest open projects with availability in their project management budget. Project management costs should be allocated to projects based on actual hours per project, and project budgets should be adjusted to include estimated project management costs to ensure that the hours and costs spent are reasonable for the size and complexity of each individual project.

Criteria:

- COSO Principle 12: The organization deploys control activities through policies that establish what is expected and procedures that put policies into action.

Assessed Risk Rating:

Medium

Recommendations for management of the Metropolitan Nashville Public Schools:

1. Ensure all projects have estimated budgets for project management costs. Allocate invoiced project management costs to appropriate projects based on actual hours worked to ensure project costs are accurately evaluated compared to the budget.
2. Consider implementing the use of a project management software to organize, track, and maintain documentation across various capital projects.

GOVERNMENT AUDITING STANDARDS COMPLIANCE

We conducted this performance audit 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 observations and conclusions based on our audit objectives.

METHODOLOGY

To achieve the audit objectives, auditors performed the following steps:

- Reviewed Metropolitan Nashville Government Code of Laws and ordinances, and Metropolitan Nashville Public Schools policies and procedures.
- Reviewed Metropolitan Nashville Public Schools contracts with the construction manager, other major contractors, the project manager, and subcontractors.
- Interviewed key personnel within the Department of Facilities Planning and Construction and the project management firm.
- Reviewed prior audits performed by the Metropolitan Nashville Office of Internal Audit and by other jurisdictions.
- Reviewed and analyzed financial data to determine compliance with contract, fiscal, and best practices.
- Evaluated internal controls currently in place.
- Considered risk of fraud, waste, and abuse and information technology risks.
- Detail-tested sampled project costs and other transactions.

AUDIT TEAM

Laura Henry, CFE, In-Charge Auditor

Seth Hatfield, CPA, CIA, CFE, Assisting Auditor

Lauren Riley, CPA, CIA, ACDA, CMFO, Metropolitan Auditor

APPENDIX A – MANAGEMENT RESPONSE AND CORRECTIVE ACTION PLAN



David Proffitt, Executive Director
Facilities, Maintenance & Construction

To: Lauren Riley, Metropolitan Auditor
Re: Audit of MNPS Capital Projects Process
Date: 09/25/2020

Dear Ms. Riley,

This letter acknowledges that Metro Nashville Public Schools has received the Audit of the Metropolitan Nashville Public Schools Capital Project Process and has reviewed the comments and recommendations.

Please find attached Appendix A – Management Response and Action Plan

It was a pleasure working with your team on this project. Thank you for your time and dedication to helping us improve our processes for capital project procurement and management.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Proffitt", with a long horizontal line extending to the right.

David Proffitt, AIA
Architect
Executive Director
Facilities, Maintenance and Construction
Metro Nashville Public Schools

Cc: file
Chris Henson, MNPS COO

APPENDIX A – MANAGEMENT RESPONSE AND CORRECTIVE ACTION PLAN

We believe that operational management is in a unique position to understand best their operations and may be able to identify more innovative and effective approaches, and we encourage them to do so when providing their response to our recommendations.

Risk	Recommendation	Concurrence and Action Plan	Expected Completion Date
<i>Recommendations for management of the Metropolitan Nashville Public Schools:</i>			
H	A.1 Ensure all contractors for capital projects are procured through a public solicitation process and with the involvement of the Procurement Department.	Accepted All reviewed contracts were entered into began mid 2016. Since early 2020, all construction contracts have involved the Procurement Department.	Began in 2016, fully implemented 2020
H	A.2 Ensure the person who tallies score sheets is not a member of the evaluation committee.	Accepted	Began in 2018, fully implemented 2020
M	B.1 Consider amending Metropolitan Nashville Public Schools procurement regulations to include a prevailing wage requirement similar to the Metropolitan Nashville Government’s Procurement Code.	Rejected As noted by the Audit Report, the Metropolitan Government’s Procurement Code does not apply to MNPS. While MNPS does not have a procurement regulation requiring a prevailing wage, MNPS will consider this recommendation in conjunction with the administration and the Board of Education.	Not applicable
M	C.1 Ensure all projects have estimated budgets for project management costs. Allocate invoiced project management costs to appropriate projects based on actual hours worked to ensure project costs are accurately evaluated compared to the budget.	Accepted	In process. Will fully implement October 2020
M	C.2 Consider implementing the use of a project management software to organize, track, and maintain documentation across various capital projects.	Accepted MNPS FPC currently uses PM software (eBuilder) to track project expenses. Fully implementing the software may be considered if funding is available.	PM software may be considered if funding is available.

APPENDIX B – ASSESSED RISK RANKING

Observations identified during the course of the audit are assigned a risk rating, as outlined in the table below. The risk rating is based on the financial, operational, compliance or reputational impact the issue identified has on the Metropolitan Nashville Government. Items deemed “Low Risk” will be considered “Emerging Issues” in the final report and do not require a management response and corrective action plan.

Rating	Financial	Internal Controls	Compliance	Public
HIGH	Large financial impact >\$25,000 Remiss in responsibilities of being a custodian of the public trust	Missing, or inadequate key internal controls	Noncompliance with applicable Federal, state, and local laws, or Metro Nashville Government policies	High probability for negative public trust perception
MEDIUM	Moderate financial impact \$25,000 to \$10,000	Partial controls Not adequate to identify noncompliance or misappropriation timely	Inconsistent compliance with Federal, state, and local laws, or Metro Nashville Government policies	The potential for negative public trust perception
LOW/ Emerging Issues	Low financial impact <\$10,000	Internal controls in place but not consistently efficient or effective Implementing / enhancing controls could prevent future problems	Generally, complies with Federal, state, and local laws, or Metro Nashville Government policies, but some minor discrepancies exist	Low probability for negative public trust perception
Efficiency Opportunity	An efficiency opportunity is where controls are functioning as intended; however, a modification would make the process more efficient			



**A Report to the
Audit Committee**

Mayor
John Cooper

**Department of General Services
Director**
Nancy Whittemore

Audit Committee Members

Kevin Crumbo
Thom Druffel
Charles Frasier
Brackney Reed
Jim Shulman
Zulfat Suara

Metropolitan
Nashville
Office of
Internal Audit

Audit of the Davidson County Criminal Justice Center Construction Project

November 4, 2020



EXECUTIVE SUMMARY

November 4, 2020



Why We Did This Audit

The audit was conducted due to the important role capital projects play in the financial health of the Metropolitan Nashville Government and the significant funding required to complete the project.

What We Recommend

- Ensure a guaranteed maximum price is established within a reasonable time period and in accordance with the Metropolitan Nashville Government General Provisions for Design and Build.
- Consider including in future contracts a requirement for the prime contractor to disclose related parties.
- Ensure contractual documentation requirements for background checks on contractor personnel are consistent with internal policies and management expectations.
- Consider reducing lump sum general conditions and other charges to units of measure so reviews help ensure actual billings are at the lowest possible cost.

Audit of the Davidson County Criminal Justice Center Construction Project

BACKGROUND

The process of building the new Davidson County Criminal Justice Center began in 2015. The Metropolitan Nashville Government determined that the age and condition of the previous facility had deteriorated to the extent that safety and other operational requirements could not be met.

The Metropolitan Council approved ordinance BL2015-1142 that provided initial funding of \$113.4 million for the project. The Metropolitan Council, through several subsequently adopted resolutions, approved additional funding of \$61.6 million for a total budgeted amount of \$175 million. The \$175 million was managed by the Department of General Services. Project construction also included an additional \$3.2 million that was appropriated to and managed by the Davidson County Sheriff's Office. Total amount spent under the Department of General Services' appropriation was \$171.6 million as of March 31, 2020. The cost incurred by the Davidson County Sheriff's Office was \$3.3 million bringing total cost incurred on the project to \$174.9 million. The completed building was transferred over to the Davidson County Sheriff's Office on November 1, 2019.

OBJECTIVES AND SCOPE

The objectives of this audit are to determine if:

- Project management controls are in place to achieve successful project delivery that met management's objectives.
- Fiscal policies and industry best practices are followed to control project costs.

The scope of the audit included the review of project information from January 1, 2016, through March 31, 2020.

WHAT WE FOUND

Project management and fiscal controls generally operated to ensure that management and cost objectives were met. Stakeholders routinely conducted meetings to provide project updates and to resolve any issues. Various levels reviewed amendments, purchase order authorizations, payment applications, and other project costs to ensure transparency, reasonableness, and fiscal compliance with project objectives.

However, the audit identified areas for improvement. The guaranteed maximum price was not established until late in the life cycle of the project. The final contract did not require the prime contractor to disclose related parties. General conditions costs could be more detailed in contractual agreements to ensure lowest possible cost. Lastly, background check documentation requirements for contractor personnel were not consistent between contractual agreements and internal policy. Inconsistency in requirements led to noncompliance with contractual terms.

GOVERNANCE

The Department of General Services within the Metropolitan Nashville Government was responsible for the overall management of the Criminal Justice Center project. The Department of General Services procured the services of Capital Project Solutions to serve as the project manager on behalf of the Metropolitan Nashville Government. A design-build contract was entered into with Bell & Associates Construction, L.P. to serve as the construction manager. The organizational structure of the construction project is presented in Appendix C.

BACKGROUND

The construction of the new Criminal Justice Center was initiated due to the age of the previous center, which was built in 1982. The condition of the previous facility had deteriorated to the extent that safety and other operational requirements could not be met. A study determined that renovation of the existing facilities was not the optimum choice. The study recommended the construction of a new facility.

Initial construction plans located the new Criminal Justice Center near Harding Place. The property encompassed 163 acres and would require minimal demolition and other expenses. Citizens raised concerns about the new Criminal Justice Center's construction at the Harding Place location, and the Metropolitan Nashville Government elected to construct the new center at the original downtown location. Additional benefits to the downtown location included such things as retaining inmate processing downtown, continuing to allow auxiliary functions such as attorneys and bail bonds to operate downtown, and maximizing inmate bed count.

However, construction at the downtown location enhanced the complexity and cost of the project. Complexities included things such as environmental abatement and demolition of the existing facility, temporarily relocating inmates housed at the existing facility, enhancing inmate relocation facilities, constructing an underground parking garage, and managing more extensive traffic control due to limited staging areas.

Completing the new Criminal Justice Center at the downtown location extended the estimated completion date from January 2018 to Fall 2019. The extension resulted in market escalation impacting the value of the original funding by \$13 million. Extensive value engineering and diligent cost control mitigated much of the impact. However, the project was left with very limited contingency funds of approximately 3.5% of construction costs including a portion of temporary provisions at the Harding and Hill sites.

Bell & Associates Construction, L.P. was selected as the general contractor for the project in January 2016. The official groundbreaking occurred in early 2017. The completed building was turned over to the Davidson County Sheriff's Office on November 1, 2019.

The state-of-the-art facility sits on approximately 4 acres of land and houses a total of 816 beds and 436 cells. The new facility includes a bonds and warrants section, various administrative offices, and a new behavioral health center. The facility was awarded a Leadership in Energy and Environmental Design by the United States Green Building Council.

Project Budget and Actual Cost

Exhibit A shows the breakdown of total project budget and expenditures related to the appropriated amount managed by the Department of General Services. Exhibit B shows additional project expenditures from the Davidson County Sheriff’s Office budget appropriation.

Exhibit A - Department of General Services Project Budget and Expenditures

Capital Budget Details	Budget Amount by Fiscal Year	4% Reserve Fund	Total Budget by Fiscal Year
FY 2016 - Project Initial Budget	\$ 113,400,000	\$ -	\$ 113,400,000
FY 2017 - Criminal Justice Center Appropriation	20,000,000	-	20,000,000
FY 2018 - Project Development and Inmate Relocation	17,684,300	-	17,684,300
FY 2018 - Female Housing Unit Appropriation	8,161,000	-	8,161,000
FY 2019 - Criminal Justice Center Appropriation	10,000,000	-	10,000,000
FY 2020 - Criminal Justice Center Close Out Appropriation	5,800,000	-	5,800,000
Total Budget	\$ 175,045,300	-	\$ 175,045,300
Capital Expenditures Details	Actual Expenditures	Encumbered	Total Expenditures
Construction	\$ 118,399,649	\$ 75,805	\$ 118,475,454
Sitework	8,095,491	-	8,095,491
Architect & Engineering	9,977,779	-	9,977,779
Information Technology Services	1,384,750	-	1,384,750
Furniture, Fixtures, and Equipment	1,705,933	-	1,705,933
Temporary Provisions and Relocation (see note on “Subsequent Event” on page 3)	31,865,681	-	31,865,681
All Other	110,888	-	110,888
Total Expenditures	\$ 171,540,171	\$ 75,805	\$ 171,615,976
	Under (Over) Budget		\$ 3,429,324

Source: Metropolitan Nashville Government Oracle R12 Financial System

Exhibit B - Davidson County Sheriff’s Office Budget and Expenditures

Capital Budget Details	Budget Appropriation	Actual Expenditure	Encumbered	Total Expenditure	Under(Over) Budget
FY18 General Fund 4% Reserve	\$ 600,000	\$ 754,815	\$ -	\$ 754,815	\$ (154,815)
FY19 General Fund 4% Reserve	1,700,000	1,974,555	213,925	2,188,480	(488,480)
FY20 General Fund 4% Reserve	945,000	-	306,978	306,978	638,022
Administration Support Services	-	51,609	-	51,609	(51,609)
Totals	\$ 3,245,000	\$ 2,780,979	\$ 520,903	\$ 3,301,882	\$ (56,882)

Source: Metropolitan Nashville Government Oracle R12 Financial System

A listing of all vendors used during the project, their respective roles, and amounts paid are presented in Exhibit C below.

Exhibit C - Project Expenditures by Vendor

Construction Vendor	Role	Amount
Bell & Associates Construction, L.P.	Construction Manager	\$ 123,244,160
CoreCivic	Temporary Inmate Housing	24,237,461
HOK Architects/Others	Design and Consulting	8,621,327
Messer Construction Company	Construction and Modular Units, Temporary Provisions, Perimeter Fence	6,940,448
Capital Project Solutions	Project Manager	4,585,235
Other Vendors	Various	1,628,608
Metro ITS Vendors	Various	1,384,750
GEOTEK Engineering Company	Material Testing, Inspection, and Consulting	973,987
Totals		\$ 171,615,976

Source: Metropolitan Nashville Government Oracle R12 Financial System

Audit Approach

This audit was a combined construction program control and construction cost control engagement. Construction program control audits seek to review the processes, procedures, policies, best practices, and internal controls that surround the management of a construction project. Construction program controls, when properly designed, help to mitigate project risks and improve project return on investment.

Construction costs audits seek to review direct and indirect costs associated with the project. Direct costs include materials, labor and labor burden, supplies and equipment costs, subcontract costs, as well as other tangible and intangible costs that may be part of the contract provisions. The indirect costs include general conditions, construction management fees, and insurance and bonding as may be defined in the contract.

Subsequent Event

In March 2020, the Metropolitan Nashville Council appropriated \$5.8 million to cover additional expenditures that became necessary after the completed building was transferred to the Davidson County Sheriff’s Office on November 1, 2019. Approximately \$1.6 million of this amount was expended in October, November, and December of 2019 and is reported in ‘Temporary Provisions and Relocation’ in Exhibit A above. Additional expenditures of approximately \$3.1 million were paid after March 31, 2020, leaving approximately \$1 million to be expended. The Office of Internal Audit will complete audit procedures over the \$3.1 million in subsequent expenditures and the \$1 million remaining balance as part of follow-up audit procedures to be scheduled at a later date.

AUDIT OBJECTIVES AND CONCLUSIONS

1. *Were project management controls in place to achieve successful project delivery that met management's objectives?*

Generally, yes. The Department of General Services designed and implemented numerous controls to ensure project objectives were achieved. A study was conducted on whether to renovate the existing facility or construct a new one. The design-build project delivery method was chosen to best meet the needs of the project and was consistent with best practices. This delivery method allowed the contractor, architect, consultants, and other stakeholders to participate in the pre-construction, design, and all other phases.

The Mayor's Office and the Metropolitan Council approved all related funding through applicable capital spending plans. The solicitation and selection process for the general contractor and four major direct vendors were reviewed. Each solicitation and selection process generally complied with the Metropolitan Procurement Code and Regulations. Additionally, the Department of General Services' construction management team was involved in the Bell & Associates Construction, L.P. sub-contracting process in accordance with contractual agreements and departmental guidelines.

Internal and external stakeholders met on a routine basis during the project lifecycle. Seventeen stakeholder meetings were reviewed noting that each meeting had agendas, attendance lists, and minutes generated. Two meetings were observed by the Office of Internal Audit staff. Meeting participants discussed project status and the resolution of any issues. Capital Project Solutions utilized a project management system that comprehensively retained project related data and documentation. The Department of General Services had a dedicated contract compliance officer who monitored compliance.

Opportunities for control enhancements exist. The contract with the general contractor did not require disclosure of related party relationships. Contractual background check documentation requirements for contractor personnel were not consistent with the internal Department of General Services policy. The inconsistency led to noncompliance with contractual background check requirements. (See Observation A.)

2. *Were fiscal policies and industry best practices followed to control project costs?*

Generally, yes. The management team implemented multiple fiscal policies to ensure project costs were appropriate and controlled.

Forty-seven payment applications with schedule of values totaling \$133 million were submitted as of March 2020. A review of all 47 applications revealed payment applications were generally supported with adequate documentation, including subcontractor supporting documentation and invoices. The process of paying payment applications involved multiple layers of review and was consistent with contract provisions and applicable guidelines. Each payment application was mathematically correct. Amounts requested in the payment applications agreed to amounts in the underlying detail. Amounts billed in sub-contractor payment applications agreed to amounts billed to the Metropolitan Nashville Government by the primary contractor.

Seventeen amendments and purchase order authorizations totaling approximately \$121 million were made during the lifecycle of the project. Each amendment and purchase order authorizations were reviewed. Amendments and purchase order authorizations were supported with adequate documentation, including subcontractor support. Amendments and purchase order authorizations

were generally appropriate and in compliance with contractual terms. Labor rates agreed with contract rates where applicable.

Bell & Associates Construction, L.P. utilized 63 subcontractors during the lifecycle of the project. Contractual agreements between Bell & Associates Construction, L.P. and each sub-contractor were consistent with contractual requirements set forth in the Metropolitan Nashville Government's contract with Bell & Associates Construction, L.P. Testing of 19 subcontractor contracts totaling approximately \$104 million revealed Bell & Associates Construction, L.P. paid each subcontractor timely. Additionally, payment applications submitted by subcontractors were generally supported with adequate documentation and conformed to contract requirements.

A review of payments to four other direct vendors for a total of approximately \$33 million was performed. Each payment complied with contractual provisions and the Metropolitan Nashville Government's Procurement Code. Payments were properly reviewed and approved by authorized Department of General Services staff.

A contingency fund of \$5.3 million was established for the project. As of March 2020, \$4.5 million in contingency funds had been expended. Each of the 116 contingency requests had appropriate documentation and were properly reviewed and approved or rejected by qualified personnel in both the Department of General Services and Capital Project Solutions.

General condition costs on the project were not broken out to the lowest unit of measure. Increasing the detail in contractual agreements for general condition costs could help ensure the lowest cost. (See Observation B.)

AUDIT OBSERVATIONS

Internal control helps ensure entities achieve important objectives to sustain and improve performance. The Committee of Sponsoring Organizations of the Treadway Commission (COSO), Internal Control – Integrated Framework, enables organizations to effectively and efficiently develop systems of internal control that adapt to changing business and operating environments, mitigate risks to acceptable levels, and support sound decision-making and governance of the organization. See **Appendix B** for a description of the observation *Assessed Risk Rating*.

Observation A – Project Management Controls

The Department of General Services was responsible for oversight of the overall project with day to day monitoring and quality control activities delegated to a full time owner representative, Capital Project Solutions. The following project monitoring concerns were observed.

Establishment of a Guaranteed Maximum Price

A guaranteed maximum price was not established until a large portion of construction costs had been incurred. Construction on the project began in 2016. The guaranteed maximum price was not established until April 1, 2019. Approximately \$132 million had been incurred at this time.

Section 4.4.2 of the Metropolitan Nashville Government General Provision for Design and Build prevents a contractor from proceeding with construction of the project, excluding early construction work, until execution of a guarantee maximum price amendment is made by both parties. The policy was not followed.

Per management, the lack of an established guarantee maximum price was a function of the scope of the Criminal Justice Center changing dramatically during the project. The scope changes impeded the ability to establish a guaranteed maximum price. All budgetary funding for increases in the project amount were approved by appropriate parties. Additionally, all amendments to the applicable contracts were also approved by various parties.

The inability to establish a guaranteed maximum price increases the Metropolitan Nashville Government's financial risk and exposure.

Disclosure of Related Parties

The contract with Bell & Associates Construction, L.P. did not contain a requirement for the disclosure of related parties. Best practices require construction contractors who will subcontract to disclose related parties. Disclosures help avoid conflicts of interest arising out of the subcontracting process. Lack of such a requirement also violates contract provisions of the Metropolitan Nashville Government's procurement non-discrimination program.

Inconsistent Documentation Requirements for Background Checks

Contractual agreements for this project required contractor personnel performing work on-site to successfully complete a Metropolitan Nashville Police Department security background screening. Department of General Services' internal policy states only specific contractor personnel with access to specific areas complete background checks. The Department of General Services did not maintain complete documentation of compliance with contractual agreements. Background checks, especially at construction sites where employees work with heavy equipment and materials, help to keep workers and workplaces safe and free of accidents consistent with regulations and standards set by the Occupational Safety and Health Administration.

Lack of Policies and Procedures over Contingency Fund Management

Formal policies related to construction contingency funds were not present. The construction contingency fund for this project was established at approximately \$5.3 million. The fund was managed by the construction manager and administered and approved by the Department of General Services. As of March 2020, a total of \$4.5 million was approved and expended.

As of March 2020, the Department of General Services had 11 contingency requests totaling approximately \$1.4 million pending further review and justification. No formal contingency fund policy for capital projects exists. Contingency funds are inherently high risk. Accordingly, best practices require the establishment of formal policies for contingency fund activity. Policies should include establishing a contingency usage form, creating dollar approval thresholds, and creating a contingency log. The contractor maintained a contingency log, but the pending items were not adequately supported by documentation for the pending items.

Criteria:

- COSO, Control Activities—Principle 10—The organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.
- Metropolitan Nashville Contract Numbers 376568 (Bell), 368939 (CPS), 355078 (CoreCivic), 19693 (GEOTEK), 377145 (Messer)
- Metropolitan Nashville Procurement Code and Regulations

Assessed Risk Rating:

High / Medium

Recommendations for management of the Department of General Services:

1. Ensure the guaranteed maximum price is established within a reasonable time period and in accordance with the Metropolitan Nashville Government General Provision for Design and Build.
2. Ensure contractual requirements pertaining to contractor background checks are consistent with internal policy and management expectations.
3. Establish a written policy and procedures over contingency fund management so actual results can be evaluated.

Recommendation for management of the Department of Finance:

4. Consider including requirements in contract solicitations for the disclosure of related parties, especially those for construction contracts.

Observation B – General Condition Costs

A more detailed analysis and line item determination of what costs should be classified as allowable under general conditions was not performed. Approximately \$3.9 million was paid to the construction manager for general conditions costs. The costs relate to project field personnel and were negotiated as a lump sum during the contracting phase. Lump summing of general conditions costs tends to be more expensive than the alternatives due to the potential masking of the underlying cost structure without clarifying which costs are allowable or unallowable. Detailed contractual costs enhance the ability to ensure the amounts charged are correct and at the lowest rate. Additionally, the impact of schedule changes may be difficult, if not impossible, to compute.

Criteria:

COSO, Control Activities—Principle 10—The organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.

Assessed Risk Rating:

Low

Recommendation for management of the Department of General Services:

Consider reducing lump sum general conditions and other charges to units of measure so they can be reviewed to help ensure actual billings are at the lowest possible cost.

GOVERNMENT AUDITING STANDARDS COMPLIANCE

We conducted this performance audit 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 observations and conclusions based on our audit objectives.

METHODOLOGY

To achieve the audit objectives, auditors performed the following steps:

- Reviewed Metropolitan Nashville Government Code of Laws and ordinances, Metropolitan Nashville Government policies, and Department of General Services guidelines and policies.
- Reviewed Metropolitan Nashville Government contracts with the construction manager, other major contractors, the project manager, and subcontractors.
- Interviewed key personnel within the Department of General Services, the project managing firm, and the construction manager's office.
- Reviewed prior audits performed by the Metropolitan Nashville Office of Internal Audit and by other jurisdictions.
- Reviewed and analyzed financial data to determine compliance with contract, fiscal, and best practices.
- Evaluated internal controls currently in place.
- Toured the substantially completed facility.
- Considered risk of fraud, waste, and abuse and information technology risks.
- Detail-tested sampled project costs and other transactions.

AUDIT TEAM

Laura Henry, CFE, Assisting Auditor

Innocent Dargbey, CPA, CMFO, CICA, In-Charge Auditor

Bill Walker, CPA, CIA, CFE, Principal Auditor

Lauren Riley, CPA, CIA, ACDA, CMFO, Metropolitan Auditor

Metropolitan Government
of Nashville and Davidson County

John Cooper, Mayor
Nancy Whittemore, Director



Department of General Services

Richard H. Fulton Campus
730 2nd Avenue South
P.O. Box 196300
Nashville, TN 37219-6300
615-862-5050, 615-862-5035 (fax)

October 9, 2020

Ms. Lauren Riley
Metropolitan Auditor
Office of Internal Audit
404 James Robertson Parkway, Suite 190
Nashville, Tennessee 37219

RE: Audit of the Davidson County Criminal Justice Center Construction Project

Dear Ms. Riley:

This letter acknowledges that the Department of General Services has received the Audit of the Davidson County Criminal Justice Center Construction Project and has reviewed the comments and recommendations.

The Department of General Services will implement the recommended improvements.

It was a pleasure working with you and your team on this project. We specifically thank Mr. William Walker for his guidance, and Mr. Innocent Dargbey for his exceptional attention to detail reflected in the audit report.

Sincerely,

A handwritten signature in cursive script that reads "Nancy Whittemore".

Nancy Whittemore, Director
Department of General Services

APPENDIX A – MANAGEMENT RESPONSE AND ACTION PLAN

We believe that operational management is in a unique position to understand best their operations and may be able to identify more innovative and effective approaches, and we encourage them to do so when providing their response to our recommendations.

Risk	Recommendation	Concurrence and Action Plan	Expected Completion Date
Recommendations for management of the Department of General Services:			
H	<p>A.1 Ensure the guaranteed maximum price is established within a reasonable time period and in accordance with the Metropolitan Nashville Government General Provision for Design and Build.</p>	<p>Accept: The existing design-build contract template (General Provisions for Design Build) includes a provision for the establishment of a guaranteed maximum price (GMP) before proceeding with construction, excluding early construction work. The timing of incremental funding authorized for the CJC project hindered the ability to adhere to this best practice. The adoption of Bill BL2019-77 on December 20, 2019 requiring disclosure of full cost itemizations prior to submission of capital expenditure authorization legislation to the Metropolitan Council will address this issue in the future.</p>	Completed
M	<p>A.2 Ensure contractual requirements pertaining to contractor background checks are consistent with internal policy.</p>	<p>Accept: The Department of General Services did follow internal policy requirements for background checks even though requirements included in the solicitation were not consistent with this language.</p> <p>General Services, in partnership with the Procurement Division of the Metro Finance Department, will ensure contractor background check requirements are appropriately referenced in all future solicitations and contracts.</p>	Completed
M	<p>A.4 Establish a written policy and procedures over contingency fund</p>	<p>Accept: As of August 2020, design-build construction contracts will include language describing allowable uses for construction contingency and</p>	Completed

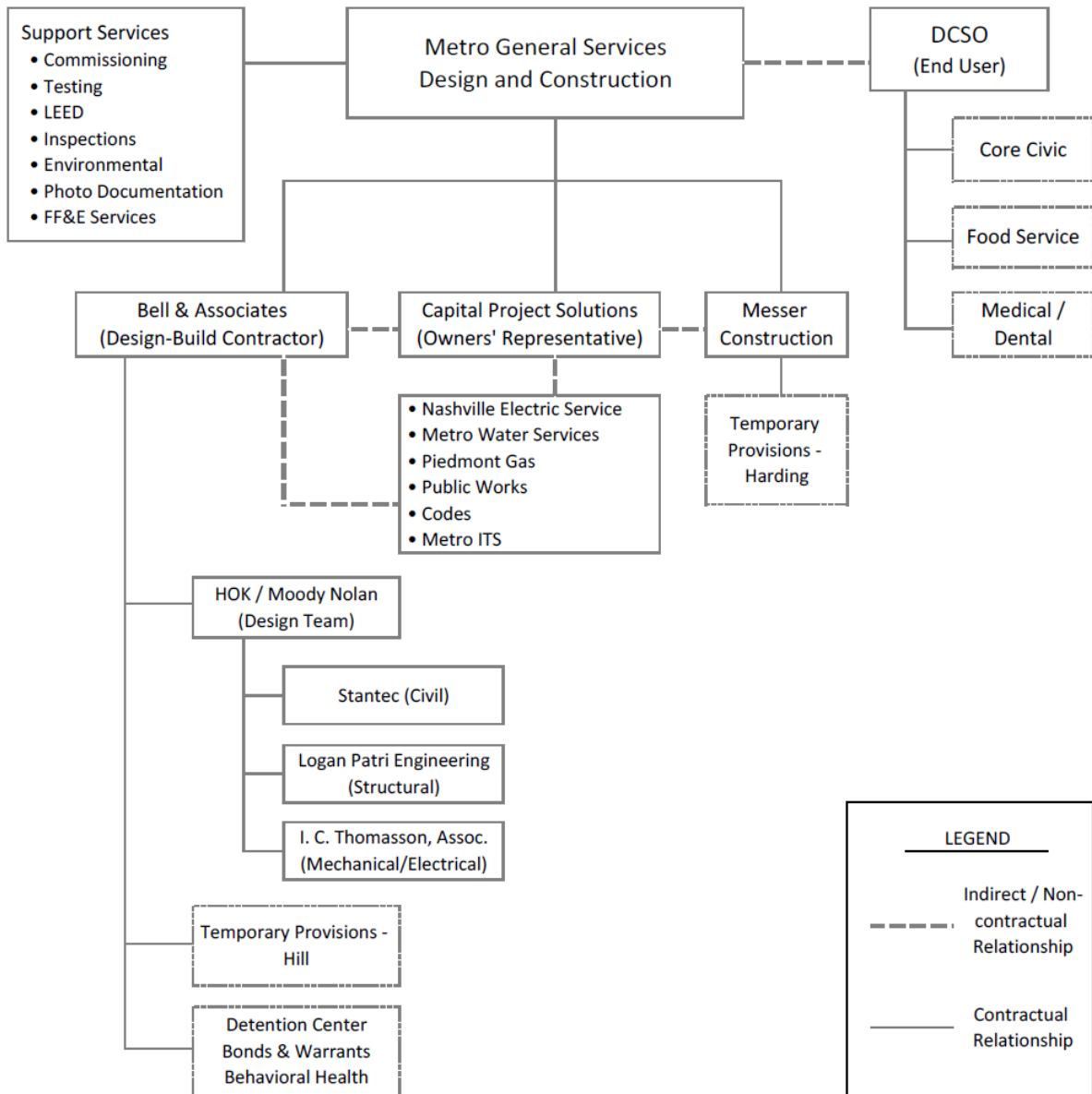
	management so actual results can be evaluated.	<p>the approval process by Metro. The management process is described in the language copied below:</p> <p>“Contractor shall submit a detailed monthly report to Metro indicating how the Construction Contingency was used in the reporting period, and the status of the Construction Contingency. Metro has the authority to reject any use of the Construction Contingency after it has been submitted if Metro believes, in its reasonable judgement, that some or all of the amount included in the use of the Construction Contingency is not a legitimate expense for the Project.”</p>	
L	B.1 Consider reducing lump sum general conditions and other charges to units of measure so they can be reviewed and benchmarked against market or industry rates.	Accept – Although general conditions were submitted in a competitive bid format with each proposal evaluated against the others to determine the best value for Metro, General Services will modify the bid form template to include specific units of measure.	Completed
<i>Recommendation for management of the Department of Finance:</i>			
M	A.3 Consider including requirements in contract solicitations for the disclosure of related parties, especially those for construction contracts.	Accept -The Purchasing Division will consider the manner with which any requirement related to recommended disclosures are included in solicitations, along with any implication on the Procurement Regulations which would require action of the Procurement Standards Board.	June 30, 2021

APPENDIX B – ASSESSED RISK RANKING

Observations identified during the course of the audit are assigned a risk rating, as outlined in the table below. The risk rating is based on the financial, operational, compliance or reputational impact the issue identified has on the Metropolitan Nashville Government. Items deemed “Low Risk” will be considered “Emerging Issues” in the final report and do not require a management response and corrective action plan.

Rating	Financial	Internal Controls	Compliance	Public
HIGH	Large financial impact >\$25,000 Remiss in responsibilities of being a custodian of the public trust	Missing, or inadequate key internal controls	Noncompliance with applicable Federal, state, and local laws, or Metro Nashville Government policies	High probability for negative public trust perception
MEDIUM	Moderate financial impact \$25,000 to \$10,000	Partial controls Not adequate to identify noncompliance or misappropriation timely	Inconsistent compliance with Federal, state, and local laws, or Metro Nashville Government policies	The potential for negative public trust perception
LOW/ Emerging Issues	Low financial impact <\$10,000	Internal controls in place but not consistently efficient or effective Implementing / enhancing controls could prevent future problems	Generally, complies with Federal, state, and local laws, or Metro Nashville Government policies, but some minor discrepancies exist	Low probability for negative public trust perception
Efficiency Opportunity	An efficiency opportunity is where controls are functioning as intended; however, a modification would make the process more efficient			

APPENDIX C – ORGANIZATIONAL STRUCTURE OF THE CONSTRUCTION PROJECT



**Metropolitan Nashville Office of Internal Audit
2020 Recommended Work Plan Status
As of November 15, 2020**

*Co-source	CY 2019 Audits In Progress	Budget	Actual
1	General Services - Downtown Detention Center and the Behavioral Care Center Construction Project	200	781
2	Metropolitan Nashville Public Schools - Capital Projects Program (Need, Estimates, Approval, Contracting, Monitoring)	800	1,456
3*	Election Commission Operations and Information Systems	800	886
4	Treasury Department - Collections Office	300	639
5	Metropolitan Nashville Government Collaboration with Nonprofit Entities	600	610
6	Library – Building Security	150	303
7	Davidson County Drug Court	0	9
CY 2020 New Audit Areas			
1	Beer Permit Board	400	710
2	Metropolitan Nashville Employee Benefit Board Pension Investments	800	
2	Emergency Communications Center	600	365
4	Juvenile Court Clerk Cash Collections and Trust Management	600	1,004
5	Metro Water Services - Water Billing and Revenue Collection	600	338
6	Fund Restrictions, Commitments, and Assignments	800	
7	Metro Nashville Police Department Fiscal Management	800	
8	Departmental Fuel Card Management	600	558
9	Barnes Fund Operations and Follow-Up	800	
10	Public Works Revenue Collections	600	
11	Office of Internal Audit Peer Review	100	
12	Hotel Occupancy Tax Audits – 2020	400	122
Information Technology Risk			
13*	Enterprise Assessment of Departmental Information Security	400	
14*	Health Department – Information Technology Security Management and Governance	200	
Audit Recommendation Follow-up			
15	Recommendation Implementation Follow-Up Audits	800	100
	Total Audit Services	11,350	7,881

Total Recommended 2020 Audit Services Effort		Budget	Actual
	Audit Services	11,350	7,881
	Investigation Services	1,500	676
	Special Projects	400	29
	Unforeseen Requests	800	
	• Office of the Trustee Audit Request		659
	Total	14,050	9,245

**Metropolitan Nashville Office of Internal Audit
Audit Project Status
As of November 16, 2020**

Audit Plan Year February 2020 to January 2021 Projects	Planning	Fieldwork	Report	Report Phase	
				Draft	Final
1) A&E External Audit Support (4 Vendor Reports)					Feb-20
2) State Trial Courts - Drug Court 4					Feb-20
3) General Services - Downtown Detention Center Construction					Nov-20
4) Metro Nashville Collaboration with Nonprofit Entities					Aug-20
5) Treasury Department - Collections					Sep-20
6) Election Commission Operations					Sep-20
7) Library Building Security					May-20
8) Election Commission Information Systems (Outsourced to KraftCPAs)					Sep-20
9) Metro Nashville Public Schools - Capital Projects Program					Sep-20
10) Hotel Tax Audits (Ongoing)					
11) Juvenile Court Clerk Cash Collections and Trust Management		✓			
12) Beer Board			✓	Nov-20	
13) Departmental Fuel Card Management - Codes			✓	Nov-20	
14) Trustee's Office			✓	Nov-20	
15) Emergency Communication Center		✓			
16) Metro Water Services Water Billing		✓			
17) Fire Marshal's Office Follow-Up		✓			
Completed Investigations					Final
1) MNPS East Magnet Concessions					Apr-20
2) MNPS Conflict of Interest					Apr-20
3) Metro Parks and Recreation Safe					Jul-20
Metro Integrity Line Alerts - February 2020 to February 2021			Total	Closed	Pending
Metro Hotline Alerts (Fraud, Waste, & Abuse)			2	2	0

Note: Goal to complete 17 audit projects for Plan Year 2020. Currently 9 audit projects, 4 hotel audits and 3 investigations are completed. Currently 3 audit projects are in the draft report phase.

Implementation Status Update as of November 15, 2020

Audit Department List	Year	# Accepted	Open Recommendations Before Follow-Up	Implementation Due by 11/24/2020	Open Recs After Response	Notes
Industrial Development Board	2013	6	1		1	
Assessor's Office	2014	14	3		3	
Historic Zoning and Historical Commission Work Force	2015	7	1		1	
Parks and Recreation Maintenance Division	2015	2.5	1		1	
General Government Occupational Safety Program	2017	24	23		23	
DCSO Information Technology Security Practices (CONFIDENTIAL)	2017	45	2	X	2	No response
Finance Department Procurement And Business Assistance Office	2018	13	2		2	
ITS Software Asset Management	2018	4	1		1	
Metro Water Services Fire Hydrant Inspections	2018	10	2		2	
Development Conditions	2019	5	5		5	
Metro General Government Benefits	2019	4	3		3	
Fire Marshal's Office	2019	10	2	X	2	Follow-Up Audit in Progress
NGH Pharmacy Operations	2019	17	1	X	0	
Public Library Security	2020	4	4	X	1	Revised date of Dec. 2020
Metro Parks and Recreation Relationships with Nonprofits	2020	3	2		2	
Treasury Collections	2020	11	11		11	In process
Election Commission Operations	2020	3	2		2	
Election Commission Information Systems	2020	8	3		3	
MNPS Capital Projects Process	2020	4	2		2	
Criminal Justice Center Project	2020	5	1		1	
			72		68	

**Open Recommendations Due During Period
As of September 1, 2020**

Audit/Investigation Name	Responsible Entity	Observation	Response	Due Date	Risk	Latest Update	Open or Closed
NGH Pharmacy Operations	Nashville General Hospital	Develop a methodology for reconciling the third-party reimbursement checks from insurance carriers to claims processed in the WinRx Pharmacy Management Software to ensure accuracy and completeness.	Accept – The Compliance Department is working with the Pharmacy Department to develop a method to reconcile third party reimbursement checks from third party payors.	12/31/2019	High	We have implemented the recommendation and have drafted a policy and an audit plan for this.	Closed
Nashville Public Library - Security	Nashville Public Library	A.1 - Develop and document criteria to value all items in the special collection and Metro Archives areas. Consider insuring high value or rare items.	Accept - NPL will take an annual inventory of the items in both Metro Archives and Special Collections. Additionally, NPL will request the items of value be added to NPL's Special Insurance Rider. NPL will request help from Metro Law Department, Division of Insurance & Claims to find the appropriate vendor for appraisal.	9/30/2020	High	NPL has a complete list of all the special items in both the Archives and Special Collections areas. NPL has been in contact with Metro Legal, Insurance and Claims. Archives items are currently included in the library's statement of values for insurance purposes. NPL will add the Special Collections' items when the special rider policy is renewed per Metro Legal Insurance and Claims Division.	Closed
Nashville Public Library - Security	Nashville Public Library	A.2 - Develop and document criteria to prioritize storage of special collection and Metro Archives items in secured areas.	Accept - NPL will develop criteria for all high value or rare items to be secured in locked storage rooms that have limited access by staff or a safe in a secured storage room. All high value items will be properly inventoried annually or by-annually to ensure the safety of the items.	9/30/2020	High	In process. Revised Estimated Date: December 31, 2020	Open
Nashville Public Library - Security	Nashville Public Library	B.1 - Establish procedures to ensure badge access is terminated when the associated worker leaves the Nashville Public Library system. Procedures should include routine comparisons of active badges to current staff listings.	Accept - NPL will develop procedures that quarterly compare current badge access holders to current NPL and NPLF employee and volunteer rosters. When notified by either NPL or NPLF or Volunteer Services staff of a resignation, termination or retirement, the employee or volunteer's badge access should be terminated on their last official day at work.	6/30/2020	Med	NPL has completed an comparison of current badge holders listed in our Lennel access system to current NPL, NPLF and Volunteer rosters. Persons who have either terminated, retired or left NPL, NPLF employment or as a volunteer have had their badge access cancelled. NPL will do a reconciliation of badge access quarterly.	Closed
Nashville Public Library - Security	Nashville Public Library	C.1 - Establish a retention schedule and maintain supporting documentation for the required period.	Accept - NPL will establish procedures for retaining Security Guard logs and work with Metro Records for proper retention schedule. Logs will be kept for the current and last fiscal year on NPL premises. Logs older than two years will be sent to Metro Records with appropriate retention and destruction schedule.	6/30/2020	Low	NPL will keep current fiscal and prior fiscal year on site. Logs older than two years are being sent to Metro Records correct RDA number and destruction schedule.	Closed
DCSO Information Technology (CONFIDENTIAL)	DCSO	Patch management (redacted)	Accept	10/31/2017	Med	Revised Date of 10/31/2020	Open
DCSO Information Technology (CONFIDENTIAL)	DCSO	Configuration management (redacted)	Accept	10/31/2017	Med	Revised Date of 10/31/2020	Open

**Office of Internal Audit Budget versus Actual
GSD General Fund as of November 16, 2020
FY 2021 Approved Budget**

		FY 2021 Budget	Actual	Difference	Notes
Total Salaries & Fringe		\$ 1,194,500	\$ 319,852	\$ 874,648	
Other Expenses					
Professional & Purchased Services		\$ 195,800	\$ 7,242	188,558	
Building Rent Parkway Towers		\$ 55,500	\$ 23,355	32,145	
Other Expenses		\$ 78,000	\$ 21,535	56,465	
Internal Service Fees		\$ 43,500	\$ 18,120	25,380	Information Technology
TOTAL EXPENSES		\$ 1,567,300	390,105	\$ 1,177,195	25% of budget used to date

Office of Internal Audit Budget History				
For the year ending June 30,	Co-sourcing Audit Budget	Total Budget	Co-sourcing Percent of Budget	FTE
2008	\$ 500,000	\$ 1,477,000	34%	10
2009	231,000	1,481,600	16%	13
2010	112,000	1,262,000	9%	12
2011	234,000	1,359,800	17%	11
2012	165,000	1,265,400	13%	10
2013	156,200	1,277,900	12%	10
2014	60,200	1,179,300	5%	10
2015	45,100	1,214,900	4%	10
2016	75,100	1,290,400	6%	10
2017	125,100	1,382,900	9%	10
2018	248,000	1,545,700	16%	10
2019	248,000	1,566,100	16%	10
2020	248,000	1,574,900	16%	10
2021	195,800	1,565,100	13%	10

Metropolitan Nashville Office of Internal Audit

Executive Team

Lauren Riley

MAcc, CPA, CIA, ACDA, CMFO
Metropolitan Auditor

Project and Office Management Leadership

(Vacant Position)

Principal Auditor

William (Bill) Walker

CPA, CIA, CFE

Principal Auditor

Project Quality, Milestone/Project Budget Monitoring, Hotline Support,
Training Plans, GAGAS Compliance, Office Support, etc.

Audit Talent Pool

Seth Hatfield

MAcc, CPA, CIA, CFE
Senior Auditor

James Carson

MBA, CIA, CFE
Senior Auditor

Mary Cole

MAcc, CPA, CFE, CISA,
CGFM
Senior Auditor

Innocent Dargbey

MS-Finance, MBA,
CPA, CMFO
Senior Auditor

Laura Henry

MAcc, CFE
Auditor II

Nan Wen

MS-Info Sys, MS-
Acctg, CPA
Auditor II

(Vacant Position)

Auditor I

**METROPOLITAN NASHVILLE AUDIT COMMITTEE
2020 MEETING PLAN**

Meeting Date	Proposed Agenda Topics
February 11, 2020 (Tuesday)	<ul style="list-style-type: none"> • Office of Internal Audit Annual Performance Report • Internal Audit Annual Work Plan approval • Internal Audit issued report discussion • Open Audit Recommendations Status
April 14, 2020 (Tuesday)	<ul style="list-style-type: none"> • Election of Chairman and Vice Chairman • External Audit Single Audit and Management Letter presentation • Information Security Program Update • Internal Audit issued report discussion
June 23, 2020 (Tuesday)	<ul style="list-style-type: none"> • FY2019 External Audit plan and required communications • Internal Audit issued report discussion • Metropolitan Auditor performance review
September 8, 2020 (Tuesday)	<ul style="list-style-type: none"> • Metropolitan Audit Committee self-assessment • Bylaws annual review • Internal Audit issued report discussion • Open Audit Recommendations Status • External Audit Comprehensive Annual Financial Report Audit Progress Executive Session
November 24, 2020 (Tuesday)	<ul style="list-style-type: none"> • Internal Audit issued report discussion • External Audit Comprehensive Annual Financial Report Audit Progress Executive Session
December 8, 2020 (Tuesday)	<ul style="list-style-type: none"> • External Audit Comprehensive Annual Financial Report • Internal Audit issued report discussion

**Metro Nashville Red Flag
Fraud, Waste, and Abuse Hotline**

Call 877-270-8334

or

<https://www.redflagreporting.com/nashville>



Metropolitan Nashville Audit Committee

Executive Session Checklist

- The published agenda must disclose the general nature of the items to be discussed in executive session.
See, T.C.A. §9-3-405(f)
- All business which is public in nature shall be conducted first.
See, T.C.A. §9-3-405(g)(1)
- During the regular public session committee must vote to go into private executive session. Must obtain a majority to be successful.
See, T.C.A. §9-3-405(d)
- Chair must announce during the public portion of the meeting that no business other than the matters stated generally on the published agenda shall be considered during the confidential executive session.
See, T.C.A. §9-3-405(e)
- Adjourn the public portion of the meeting.
See, T.C.A. §9-3-405(g)(2)
- Only individuals whose presence is reasonably necessary in order for the committee to carry out its executive session responsibilities may attend the portion of the executive session relevant to that person's presence.
See, T.C.A. §9-3-405(h)

Permissible Executive Session Subject Matter

1. Items deemed not subject to public inspection under §§ 10-7-503 and 10-7-54, and all other matters designated as confidential or privileged under this code
2. Current or pending litigation and pending legal controversies
3. Pending or ongoing audits or audit related investigations
4. Information protected by federal law
5. Matters involving information under § 9-3-406 where the informant has requested anonymity
See, T.C.A. § 9-3-405(d)