

# Audit Highlights



Highlights of performance audit report on the Nevada System of Higher Education, Capital Construction Projects issued on January 12, 2023.

Legislative Auditor report # LA24-04.

## Background

The Nevada System of Higher Education (NSHE) oversees all state-sponsored higher education in the state of Nevada. The mission of NSHE is to provide higher education to the citizens of the State at an excellent level of quality consistent with the State's resources. Sections 4 and 7 of the Nevada Constitution vest governance and administration of NSHE in the Board of Regents (Board). The Chancellor is appointed by the Board, and is responsible for NSHE administration and financial management, and implements Board policies and directives.

The net value of capital assets for NSHE was approximately \$2.2 billion according to the fiscal year 2021 audited financial statements. NSHE capitalizes all expenditures for constructing a new building, including major improvements, additions, or major building alterations that involve an expenditure of at least \$250,000. Funding for capital construction comes through a variety of sources including state, federal, institution, and private funds.

## Purpose of Audit

The purpose of the audit was to determine if the University of Nevada, Las Vegas and the University of Nevada, Reno managed capital construction projects in accordance with laws, policies, and appropriate management standards. Our audit included a review of capital construction projects that were solicited, in progress, or completed between fiscal years 2019 and 2021.

## Audit Recommendations

This audit report contains four recommendations to improve compliance with state laws and sound budgeting practices regarding capital construction financing and management, nine recommendations to help control change orders and strengthen project close out practices, and five recommendations to strengthen procurement practices.

NSHE accepted the 18 recommendations.

## Recommendation Status

NSHE's 60-day plan for corrective action is due on April 10, 2023. In addition, the 6-month report on the status of audit recommendations is due on October 10, 2023.

# Capital Construction Projects

## Nevada System of Higher Education

### Summary

The Nevada System of Higher Education needs to enhance its policies and procedures to ensure institutions' capital construction project funding and management practices comply with state laws, NSHE policies, and contract terms. Funding of some capital construction projects used state-appropriated operating funds, and institutions did not have authority to manage some state-funded projects. In addition, change order documentation was not always adequate to ensure contractors' billed amounts complied with contract terms, and some unallowed amounts were billed. Furthermore, better project planning is needed to limit unnecessary modifications to construction contracts' scopes of work. Proper controls over construction project management are critical for ensuring compliance with applicable state laws and NSHE policies, and to safeguard financial resources.

Better controls over project solicitation and procurement practices are needed to ensure compliance with state law and NSHE practices. Specifically, some project solicitations did not comply with state law regarding the disclosure of selection criteria weights. In addition, delays in evaluating contractor proposals and reviewing contract documents added \$1.8 million to a project contract. Furthermore, institutions used some nontraditional procurement methods for capital construction projects. Current practices associated with the use of these methods may limit institution control over project construction when compared to more traditional methods.

### Key Findings

The University of Nevada, Las Vegas (UNLV) and the University of Nevada, Reno (UNR) used almost \$5 million in state operating funds to help pay for capital construction. For 10 of 27 (37%) projects tested, UNLV and UNR used state operating funds. The Appropriations Act designates these funds for instructional and operating costs, and not capital construction. Institutions use of these funds was often done so they would not revert to the State. (page 7)

UNLV and UNR's management of capital construction projects using state operating funds did not always comply with state laws and NSHE policy. State law requires that contracts for the construction of NSHE projects with 25% or more state appropriations use the construction management services of the Department of Administration, State Public Works Division (SPWD). For 3 of 27 (11%) projects tested, the use of state funds represented more than 25% of the total project funding. Neither the institutions nor NSHE requested authority from SPWD to manage these projects. (page 11)

Change order documentation was often not adequate to determine compliance with contract terms. When a change to a project is needed, involving contract amount or timing, change orders are required to amend construction contracts. We tested 49 change orders worth \$8.3 million related to 27 capital projects. For almost \$3.1 million (37%), supporting documentation did not include detailed labor, material, equipment, or overhead and profit markup fees. In addition, unallowed costs or incorrect markup fees were charged. For change order items with adequate documentation, we found 38 of 49 (78%) change orders included unallowed costs or incorrect markup fees. This resulted in over \$200,000 in inappropriate payments to contractors. (page 17)

Scope modifications to the original construction contract increased project costs by \$5.5 million and resulted in additional overhead and profit markup fees of more than \$800,000. These changes to the projects' scopes could have been included in the original solicitation process with better project planning. When a project's scope is modified through change orders, noncompetitive pricing and overhead and profit markup fees drive up the cost of these changes. (page 22)

Institutions' project closeout processes did not ensure compliance with state law regarding reporting requirements or ensure important documentation was received prior to the final project payment. In addition, excess project funding was not transferred timely. (page 25)

Institutions are using nontraditional procurement methods to complete capital construction projects. For one project, a public-private partnership was used for the construction of a new \$125 million medical education building, at a cost of \$25 million to the State. However, it is unclear whether institutions have statutory authority to use this method. In addition, the use of nontraditional methods compared to traditional methods resulted in less control and oversight over construction project management and financial activities. (pages 29)