

# AUDIT REPORT

## Administration of Changes to Major Facilities Design and Construction Contracts

Number A-05-01

September 29, 2005



Smithsonian Institution

Office of Inspector General



# Smithsonian Institution

Office of the Inspector General

Date September 29, 2005

To Lawrence M. Small, Secretary

Cc William W. Brubaker, Director, Office of Facilities Engineering and Operations  
John W. Cobert, Director, Office of Contracting  
John E. Huerta, General Counsel  
Alice C. Maroni, Chief Financial Officer

From *Debra S. Ritt*  
Debra S. Ritt, Inspector General

Subject Report on the Audit of Administration of Changes to Major Facilities Design and Construction Contracts, Audit Number A-05-01

This report presents the results of our audit of the Smithsonian Institution's management of changes to major facilities design and construction contracts. With fewer resources to fund needed facilities investments, the Smithsonian has placed greater emphasis on ensuring that projects are delivered on time and within budget. Because contract changes can significantly increase project costs, our objective was to determine whether the Institution had effective measures in place to control such changes. We examined whether the Contracting Officer's Technical Representatives (COTRs) exceeded their delegated authority when executing contract changes and whether they obtained independent government cost estimates as a basis for evaluating the costs of proposed changes.

At the time of our audit, the Smithsonian was engaged in 13 major revitalization and construction projects with planned capital and maintenance expenditures estimated to exceed \$2 billion over the next 9 years.<sup>1</sup> Our audit focused on project changes valued at \$25,000 or more that were executed in Fiscal Years (FYs) 2003 and 2004 for 5 of the 13 projects. The five projects reviewed included the:

- Construction of the National Museum of the American Indian (NMAI), valued at \$200 million;
- Patent Office Building (POB) Interior Renewal, valued at \$104 million;
- Museum of American History's Public Space Renewal (PSR) project, valued at \$11 million;

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<sup>1</sup> Government Accountability Office, Report # GAO-05-369, *Smithsonian Institution, Facilities Management Reorganization is Progressing, but Funding Remains a Challenge*.

- Patent Office Building (POB) Exterior Renovation, valued at \$9.7 million; and
- Museum of American History's The Price of Freedom: Americans at War exhibit, valued at \$8.7 million.

Project changes executed for the five projects in FYs 2003 and 2004 totaled \$20 million. Of this amount, we examined 25 changes<sup>2</sup> totaling \$14.2 million or 71 percent of the total cost of the changes for the five projects.

## BACKGROUND

The Smithsonian's Office of Contracting (OCon) is the principal acquisition management office for the Institution and is responsible for awarding and administering contracts for renovations, repairs, and major construction of Smithsonian facilities. This responsibility is shared with the Office of Facilities Engineering and Operations (OFEO), which manages all facility-related programs and budgets. Within OFEO, the Office of Project Management oversees revitalization and construction projects and assigns a Project Executive to each major project to provide the day-to-day oversight of major construction contracts.

OCon delegates limited contract administration authority to selected COTRs through a delegation letter that delineates their commitment authority. The OCon delegation letters for the POB Interior Renewal and NMAI projects limit COTR approval authority for contract changes to \$100,000. Changes exceeding this amount must be approved by OCon before a Notice to Proceed<sup>3</sup> can be issued to the contractor. OCon has not delegated commitment authority to the COTRs for the POB exterior renovation, POF, or PSR projects. All contract changes on these projects must be executed by OCon.

Evaluating contractor price proposals is a key aspect of administering contract changes. When changes are proposed, contractors must prepare an itemized cost estimate. The Institution then evaluates the contractor's proposal to ensure the estimated cost is reasonable. When the cost of a change is expected to be over \$25,000, OFEO requires COTRs either to obtain an Independent Government Cost Estimate (independent cost estimate) *before* receipt of the contractor's proposal or, if it is obtained *after* receipt of the proposal, to certify that the estimate was independently prepared.<sup>4</sup> This certification ensures that the preparer of the independent cost estimate is not influenced by the contractor's price proposal and that the Institution negotiates a reasonable price for the work performed. If OFEO concludes that the contractor's proposed costs are reasonable, the COTR, together with the Project Executive and other OFEO staff, approve the

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<sup>2</sup> Four of the changes were for the POB Exterior Renovation, 12 were for the POB Interior Renewal, 4 were for the POF project, 1 was for the PSR project, and 4 were for the construction of NMAI. We focused on the largest dollar changes for each of the five projects

<sup>3</sup> The Notice to Proceed is a formal notification to the contractor requesting the start of the work.

<sup>4</sup> This requirement is discussed in OFEO's *Construction Procedural Guidelines*.

proposal. The COTR then submits the change order package to OCon for final approval and processing.

## RESULTS IN BRIEF

Our audit disclosed that \$2.4 million of the \$14.2 million in change orders we sampled was executed without prior written approval from OCon and in excess of the commitment authority delegated to the COTRs. These issues appeared on four of the five projects reviewed. Of this amount, \$1.5 million<sup>5</sup> was outside the \$100,000 authority limits of the COTRs for the POB Interior Renewal and NMAI projects. The remaining \$0.9 million was attributed to the COTRs for the POF and POB Exterior Renovation projects, who had not been delegated authority to make financial commitments for the Institution. In all cases where the COTRs exceeded the limits of their authority or acted without prior written approval from OCon, COTRs submitted change requests to OCon *after* issuing Notices to Proceed or other similar notifications to the contractors.

A summary of the changes that were executed without OCon's prior written approval is provided in the following table.

**Value of Changes Exceeding Authority on Major Facilities Contracts  
During Fiscal Years 2003 and 2004  
(\$ in millions)**

Project	Total Changes	Total Cost of Changes	Number of Changes Sampled	Cost of Changes Sampled	Number of Changes Exceeding Authority	Value of Changes Exceeding Authority
POB Interior Renewal	162	\$9.56	12	\$9.30 <sup>a</sup>	2	\$.73
NMAI	309	8.72	4	3.80	1	.72
POF	33	.67	4	.60	1	.47
POB Exterior Renovation	54	.97	4	.50	3	.44
PSR	20	.09	1	.03	0	0
<b>Totals</b>	<b>578</b>	<b>\$20.01</b>	<b>25</b>	<b>\$14.23</b>	<b>7</b>	<b>\$2.36</b>

<sup>a</sup> One of the changes selected for review, a \$5.3 million change on the Patent Office Building courtyard, was ultimately converted to a separate contract.

OFEO officials indicated that project changes were discussed and sometimes made at the direction of senior management, who held monthly executive meetings. Therefore,

<sup>5</sup> The \$1.5 million was associated with \$13.1 million in changes executed by two COTRs.

OFEO officials believed that the COTRs were not acting without authority in approving project changes because they had the approval of senior management. COTRs explained to us that although they knew they should seek OCon approval in advance, they did not because OCon has been unable to respond timely, and they did not want to delay the projects.

Although executives discussed project changes, these discussions do not substitute for a technical review by an experienced contracting officer. Such a review ensures that tasks proposed in the change order are not already covered in the original scope of the agreement, and that contractors do not start work before funds are available. The Office of Federal Procurement Policy's *A Guide to Best Practices for Contract Administration* states it is imperative that the COTR stay in close communication with the contracting officer, relaying any information that may affect contractual commitments. Further, Smithsonian Directive 115, *Management Controls*, requires that key duties and responsibilities in authorizing agency transactions be separated among individuals to ensure they do not exceed or abuse their assigned authorities.

OCon officials, although generally aware that OFEO COTRs were exceeding their authority, did not enforce the delegations of authority and provided limited oversight of contract changes. OCon officials told us they focus primarily on pre-award activities and are not adequately staffed to oversee contracts once they are awarded. Consequently, they find out about many contract problems well after they occur. OCon also does not have access to OFEO's project management information, which OFEO uses to track project changes and budgets, and lacks its own capability to determine when changes are being executed without its approval. Also, language limiting COTR authority in the POB Interior Renewal contract differed from that in OCon's delegation letter, causing confusion about the scope of the COTR's authority for that project.

When COTRs initiate contract changes outside their authority without prior written approval from OCon, they expose the Institution to increased financial risks. These risks arise because funds are not obligated in the Institution's accounting system until after OCon receives the change requests and, therefore, contractors may be directed to start work before funds are available. As a result, the Institution, at times, had to advance unrestricted Trust funds to the projects to cover the cost of the construction until funds from a donor's gift became available. Technical reviews of proposed changes also help to ensure that related risks, liabilities, and excessive costs are identified before OFEO issues a Notice to Proceed. We noted, with one exception, that the COTR on the NMAI project had routinely consulted OCON prior to issuing Notices to Proceed. This is a best practice that should be replicated on all of OFEO's projects.

Our audit also disclosed that COTRs generally obtained the required independent cost estimates when evaluating contractor change orders. However, \$1.1 million of the \$14.2 million in changes sampled were executed without obtaining independent cost estimates to determine the reasonableness of contractor cost proposals. As a result, COTRs approved these changes without the information needed to strengthen their

position in price negotiations with the contractors.

COTRs told us they had not independently evaluated all contractor price proposals because the \$25,000 threshold established for such evaluations generated a higher volume of proposals needing independent cost estimates than was manageable. For example, in FYs 2003 and 2004, about 100 changes over \$25,000 were executed on the five projects reviewed. To compound matters, OFEO had divided the responsibility for preparing the estimates between COTRs and construction management companies. To address this issue, in 2004, OFEO established a cost estimating group which is responsible for developing all of the required independent cost estimates. This group should enable OFEO to better manage the volume and quality of the independent cost estimates required on cost proposals.

We recommended that the Director of OFEO:

1. Ensure that changes are reviewed and approved by OCon in writing after senior management reviews the changes and prior to issuing Notices to Proceed.
2. Work with OCon to have a contracting officer detailed to work on-site with COTRs from OFEO for large-scale projects, such as the construction of the Museum Support Center Pod 5, Patent Office Building interior renewal, and Asia Trail II.

We also recommended that the Director of OCon:

3. Ensure that contract language delineating COTR commitment authority matches the limits specified in COTR delegation letters.

OFEO and OCon officials concurred with the recommendations and identified actions planned for each recommendation as well as target dates for their completion. In responding to the draft, the Director of OCon also took issue with statements made by OFEO representatives that OCon's staff could not respond timely to OFEO requests.

## RESULTS OF AUDIT

### **COTRs Made \$2.4 Million in Changes Outside Their Delegated Authority**

As set forth in individual contracts and COTR delegation letters, COTRs must obtain prior approval from OCon before executing contract changes that exceed their commitment authority. However, on four of the five projects reviewed, COTRs made financial commitments for the Institution that exceeded the dollar limits of their delegated authority by \$2.4 million. The COTRs for the POB Interior Renewal and NMAI projects executed \$13.1 million in changes, of which \$1.5 million exceeded the limits of their authority. The COTRs for the POF and POB Exterior Renovation projects made \$ 0.9 million in commitments without having been delegated authority to modify the project contracts. In all of these cases OCon did not perform a technical review or provide written approval of the changes before COTRs issued Notices to Proceed to the contractors.

#### **COTRs for the POB Interior Renewal and NMAI Projects Exceeded Their Delegated Authority Limits**

COTRs for the POB Interior Renewal and NMAI projects were delegated authority for modifications involving changes costing up to, but not exceeding, \$100,000. Their delegation letters required that changes exceeding \$100,000 be reviewed and countersigned by the Contracting Officer. However, on the POB Interior Renewal project, the COTR approved two contract changes that were approximately \$730,000 over her delegated authority. On the NMAI project, the COTR executed a change order that exceeded his delegated authority by \$720,000. These actions are described below.

**Slate flooring for the POB Interior Renewal project.** The COTR initiated a contract change involving slate flooring, issuing a Notice to Proceed for an amount not to exceed \$521,000. The notice exceeded the COTR's authority by \$421,000. According to OFEO management, this change was discussed in a monthly executive meeting with OCon officials present. However, there was no technical review or approval of the change by a contracting officer before the Notice to Proceed was issued. The Project Executive subsequently was authorized to use contingency funds to cover the cost of the change, reducing the contingency fund to a low level.

**Glass break sensors and wireless conduit for the POB Interior Renewal project.** The COTR issued a Notice to Proceed, which resulted in a contract change totaling \$410,000 that was \$310,000 above the COTR's authorized commitment limit. OFEO management indicated this change did not require prior approval because it was originally part of the base contract. We found that

documentation referring to the base contract indicated that the original task was for *installing* security glass break sensors. However, the change order added raceways for wireless technology throughout the building. Because the change order represented a materially different task, we concluded that this change order also should have received advance written approval from OCon.

**NMAI fourth floor exhibit space.** In November 2002, the COTR sent a Notice to Proceed letter to the contractor to begin the build-out of the NMAI fourth floor exhibit space. Although OFEO officials told us the Notice to Proceed letter authorized only the completion of shop drawings, a review of the letter disclosed that the contractor was instructed to *implement* the shop drawings that had been completed earlier. The cost of the work was not specified in the Notice to Proceed letter, but the contractor subsequently informed the COTR that he was proceeding with the work, which would cost \$820,612. The change authorized by the COTR in the November 2002 Notice to Proceed exceeded his delegated authority by \$720,612. This action occurred without OCon's approval.

Because the COTR did not coordinate this change with OCon, the Office of the Inspector General (OIG) was not able to review the cost proposal for reasonableness, which had been its practice on changes over \$500,000. The OIG reviewed the proposal 10 months after the change was approved by the COTR and determined that the cost was overstated by \$76,000.<sup>6</sup> On a positive note, we found that the COTR on the NMAI project, with one exception, generally obtained approvals from OCon prior to issuing Notices to Proceed.

### **COTRs for the POF and POB Exterior Renovation Projects Made Unauthorized Financial Commitments**

Our audit also disclosed that COTRs for the POF and POB Exterior Renovation projects approved changes even though they had not been delegated commitment authority. The delegation letters for these projects expressly stated that "the COTR is not authorized and shall not enter or execute any contract modifications involving a Supplemental Agreement to the Contract; nor shall he otherwise affect a divestiture of the Smithsonian Institution's rights under any of the clauses of the contract." However, we found that the COTR for the POF project approved \$465,192 in commitments on one change request, and that the COTR for the POB Exterior Renovation made \$443,604 in commitments on three change requests, as discussed below.

**POF display cases.** The COTR instructed the contractor to proceed with additional exhibit case work at a price of \$465,192 without prior written OCon approval or the authority to make financial commitments on behalf of the Institution. OFEO's managers stated that the exhibit cases were part of the original design-build contract and that the changes were needed to complete the

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<sup>6</sup> This was the amount sustained by management based on questioned costs of \$77,000 and unsupported costs of \$35,000.



design to 100 percent. In our opinion, this change order constituted a significant change in the scope of work, which increased the cost of the original contract by almost 50 percent. The changes included not only additional and larger cases, but also benches, scenic treatments, artwork, railings, and lighting. OFEO staff also could not produce evidence that they had verified the availability of funding with OCon to pay for the additional work prior to instructing the contractor to proceed.

**POB exterior renovation project.** The COTR on this project approved three changes totaling \$443,604 without prior written OCon approval or the authority to make financial commitments on behalf of the Institution. These changes included the installation of window cleaning anchors for \$199,867, scaffolding for \$175,000, and cornice roof work for \$68,737. Further, the COTR told us she instructed the contractor to proceed with work on these tasks based upon a letter which only confirmed the agreed-upon price. Instead, she should have followed OFEO procedures and issued a Notice to Proceed after obtaining written approval from OCon for this work.

During the audit we observed that COTRs did not consistently communicate with contractors in accordance with OFEO procedures and were not always able to promptly provide supporting documentation. For example, there were instances where COTRs did not issue a formal Notice to Proceed letter and, as an alternative, issued other documentation such as price confirmation letters. In another instance, an assistant to a COTR, who did not have official delegated authority from OCon, issued a Letter of Intent instead of a Notice to Proceed to a contractor requesting them to proceed with work on a proposed change order. The contractor requested this letter prior to ordering construction equipment and subsequently acquired the equipment based on the letter. Further, the project files did not document that funding had been approved at that time.

#### **Executive Approvals Substituted for Technical Reviews by OCon Staff**

OFEO officials indicated that major project changes were discussed and sometimes directed by senior management who held monthly meetings to review the status of projects. As a result, they believed that COTRs were not acting without authority in executing project changes because they had the approval of senior management.

Although executives discussed project changes, these discussions do not substitute for a technical review by an experienced contracting officer to ensure that the task is not already covered in the original scope of the agreement and that contractors are not directed to start work before funds are available. The Office of Federal Procurement Policy's *A Guide to Best Practices for Contract Administration* states it is imperative that the COTR stay in close communication with the contracting officers, relaying any information that may affect contractual commitments. Further, Smithsonian Directive 115, *Management Controls*, requires that key duties and responsibilities in authorizing agency transactions should be separated among individuals to ensure they do not exceed

or abuse their assigned authorities.

COTRs explained to us that although they knew they should seek OCon approval in advance, they did not because OCon has been unable to respond timely, and they did not want to delay the projects. While each project differs, we noted that the COTR on the NMAI project was able to obtain timely approval from OCon prior to initiating contract changes, with one exception. Further, the COTR on the POB Interior Renewal project believed that she was authorized to make changes in excess of her delegated authority because the contract language gave her authority to issue instructions to contractors “if an agreement is reached on price and/or time adjustment.” We note that the contract language differed from OCon’s delegation letter, which limited the COTR’s authority to \$100,000.

In all cases where COTRs exceeded the limits of their authority or acted without prior written approval from OCon, COTRs submitted change requests to OCon after changes were executed. OCon officials were aware that COTRs, in some cases, were exceeding their authority or acting without prior approval. OCon indicated that it did not always enforce the terms of the delegations because it is not adequately staffed to oversee all contracts once they are awarded. Staffing reductions in the past few years left OCon with nine contracting officers to oversee \$283 million in contract expenditures for FY 2004. These reductions have increased responsibility for each contracting officer and resulted in less direct oversight of the change approval process. For example, the contracting officer for three of the five projects reviewed was the same person, and hundreds of changes were made on these projects. The POB Interior Renewal project alone had over 112 contract scope changes as of March 29, 2005.

The Director of OCon told us that as a result of growing work demands, his staff’s focus has been primarily on pre-award activities. He also relinquished some of his contract administration responsibility by letting COTRs issue the Notices to Proceed. We found that COTRs took this one step further and began issuing confirmation letters on contractor price proposals, which caused some commitments to be made without advanced certification of available funding. OCon officials told us they generally find out about contract problems well after they occur. OCon also does not have access to OFEO’s project management system or its own capability to determine when changes are being executed without its approval.

When COTRs initiate contract changes outside their authority, or without prior written OCon approval, they expose the Institution to increased financial risks. These risks arise because funds are not obligated in the Institution’s accounting system until after OCon receives the change requests, and therefore contractors may be directed to start work before funds are available. As a result, the Institution, at times, had to advance unrestricted Trust funds to the project to cover the cost of the construction until funds from a donor’s gift became available. Technical reviews of proposed changes also ensure that the related contractual risks and liabilities are identified and that any needed audits are performed before OFEO issues a Notice to Proceed, to protect the Institution from

contractual risks, potential litigation, and excessive costs. We noted that the COTR and Project Executive on the NMAI project had routinely consulted OCon prior to issuing Notices to Proceed. This is a best practice that should be replicated on all of OFEO's projects.

### **Independent Cost Estimates Were Generally Available to Evaluate Contractor Proposals**

To ensure that the Smithsonian pays a fair and reasonable price for contract changes, OFEO requires that COTRs obtain independent cost estimates for changes valued at \$25,000 or more. During our audit, OFEO was not able to readily provide many of the independent cost estimates for the changes sampled. However, after briefing OFEO on our audit results, they produced some of the estimates that were missing from the project files. Consequently, we concluded that all but 3 of the 24 changes over \$25,000 in our sample had independent cost estimates as required. The three changes, valued at \$1.1 million, were executed without the information needed to negotiate the best prices.

Of the three changes that lacked independent cost estimates, two were for the POB Interior Renewal project, and one was associated with the POF project.

- **POB interior renewal project.** We found two examples, totaling \$610,000, where the COTR negotiated prices without obtaining independent cost estimates—\$410,000 for improved wireless communications, and \$200,000 for pre-planning of the POB courtyard construction. OFEO managers told us that no independent cost estimates were prepared because a portion of the \$410,000 task had been part of the base contract. However, as previously discussed, the original task was for security glass break sensors, which we believe was a significantly different task from that of the wireless communications and thus required a separate independent cost estimate.

OFEO management also indicated that the funding for the \$200,000 task was provided by a general scope of work and contract allowance, and thus there was no need for an independent cost estimate. We do not agree that a contract allowance mitigates the need for an independent cost estimate. The cost of several items included in this change order, such as long lead-time items, market-sensitive materials, travel, and technical expertise, should have been independently estimated.

- **POF project.** The COTR did not obtain an independent cost estimate for the additional display cases, benches, graphics, security, and railings, which totaled \$465,000.

COTRs told us they did not obtain independent cost estimates for all changes over \$25,000 because the high volume of contract changes requiring independent cost

estimates created an excessive workload. For example, in FYs 2003 and 2004, 102 changes over \$25,000 were executed on the five projects reviewed. Further, during this period responsibility for developing the independent cost estimates was shared between COTRs and external construction management companies. For much of our audit period, OFEO's construction procedures did not assign responsibility for producing the independent estimates, and thus did not ensure accountability over this function. To address this issue, in FY 2004 OFEO established a cost estimating group with responsibility for producing all of the required independent cost estimates. Because this group should enable OFEO to better manage the volume and quality of the independent cost estimates, we have not made a recommendation on this issue. However, as part of our planned FY 2006 audit of capital projects, we will determine whether independent cost estimates are consistently prepared for the projects selected for review.

## **RECOMMENDATIONS**

When COTRs initiate contract changes without prior written OCon approval, they expose the Institution to increased financial risks because funds are not obligated in the Institution's accounting system until after OCon receives the change requests, and contractors may be directed to start work before funds are available. To address this issue, we recommend that the Director of OFEO:

1. Ensure that changes are reviewed and approved by OCon in writing after senior management reviews the changes and prior to issuing Notices to Proceed.
2. Work with OCon to have a contracting officer detailed to work on-site with COTRs from OFEO for large-scale projects, such as the construction of the Museum Support Center Pod 5, Patent Office Building interior renewal, and Asia Trail II.

We also recommend that the Director of OCon:

3. Ensure that contract language delineating COTR commitment authority matches the limits specified in COTR delegation letters.

## **MANAGEMENT RESPONSE**

Management officials provided formal written comments to our September 16, 2005, draft report on September 26, 2005. All offices concurred with our analyses and recommendations. Management officials identified actions planned for each recommendation as well as target dates for their completion. By September 30, 2005, the Director of OFEO will ensure that when change orders exceed the COTR's authority or

when the COTR has not been delegated authority to issue Notice to Proceed letters, the Contracting Officer should co-sign the Notice to Proceed letters prior to them being delivered to contractors. Also, the Director of OFEO and the Director of OCon agreed to explore the feasibility of assigning a Contracting Officer on site for major projects by February 1, 2006.

The Director of OCon agreed to correct the inconsistent contract language in the Patent Office Building Interior Renewal Contract to complement the COTR's limited delegation of authority by October 31, 2005. In addition, contract language and written delegations of authority to COTRs will be reviewed for consistency at the time of contract award. As a final point, the Director of OCon took issue with statements made by OFEO representatives that OCon's staff could not respond timely to OFEO requests. The full text of management's comments is included in Appendix B.

### **OFFICE OF THE INSPECTOR GENERAL COMMENTS**

Management's proposed actions are responsive to our recommendations, and we consider the recommendations resolved. As part of our planned FY 2006 audit of capital projects, we will assess the status of the implementation of our recommendations, particularly the on-site assignment of Contracting Officers for major projects.

## **APPENDIX A. OBJECTIVES, SCOPE, AND METHODOLOGY**

### **OBJECTIVES**

The objectives of this audit were to determine whether COTRs were (1) exceeding the authority delegated them by the Office of Contracting (OCon) to execute contract changes, and (2) obtaining independent government cost estimates as a basis for evaluating the cost of proposed changes.

### **SCOPE AND METHODOLOGY**

To evaluate COTR compliance with delegations of authority from OCon and determine whether COTRs obtained independent cost estimates as required by the Office of Facilities Engineering and Operations (OFEO), we reviewed a judgmental sample of 25 contract changes made during FYs 2003 and 2004 on five major facilities contracts for the

- Patent Office Building (POB) Interior Renewal,
- POB Exterior Renovation,
- Price of Freedom (POF) exhibit at the National Museum of American History,
- Public Spaces Renewal (PSR) at the National Museum of American History, and
- National Museum of the American Indian (NMAI).

The 25 changes were valued at \$14.23 million and represented 71 percent of the \$20 million in changes made on the 5 projects during the 2-year period of our sample. We selected our sample of 25 changes from the five projects that had the highest dollar value changes. The sample included 12 changes from the POB Interior Renewal project, 4 from the POB Exterior Renovation project, 4 from the POF project, 1 from the PSR project and 4 from the NMAI project.

To determine whether the COTRs were exceeding their authority, we reviewed the limits on their authority stated in their letters of delegation from OCon and the contracts for the five projects. We also determined whether COTRs obtained approval from OCon before instructing the contractors to proceed with work by reviewing Notices to Proceed and change requests and by interviewing the COTRs, contracting officers in OCon, and contractor representatives.

To assess whether the COTRs were complying with OFEO requirements to obtain independent government cost estimates, we examined the contract files for 24 of the 25 contract changes sampled that were over \$25,000, and therefore, required independent cost estimates. We also interviewed contracting officers in OCon, and OFEO COTRs and Project Executives.

We conducted the audit from November 2004 through September 2005 in accordance with *Government Auditing Standards* as prescribed by the Comptroller General of the United States and included tests of internal controls as were considered necessary.

## APPENDIX B: MANAGEMENT RESPONSE



Smithsonian Institution

Memo

Alice C. Maroni  
Chief Financial Officer

Date September 26, 2005  
To Debra S. Ritt, Inspector General  
cc Kenneth Olmsted, Director, Office of Engineering Design and Construction  
From Alice C. Maroni, Chief Financial Officer  
William W. Brubaker, Director, Office of Facilities Engineering and Operations  
John W. Cobert, Director, Office of Contracting  
Subject Draft Report – Audit of Administration of Changes to Major Facilities Design and Construction Contracts, A-05-01

Thank you for the opportunity to comment on the draft report, Audit of Administration of Changes to Major Facilities Design and Construction Contracts, A-05-01. The draft report has been reviewed by the Directors and select staff in the Offices of Contracting (OCon) and Facilities Engineering and Operations (OFEO). Comments received on the findings and recommendations included in the draft report are provided below.

### The following are comments from OFEO on the Recommendations:

For action by the Director, OFEO:

1. Ensure that changes are reviewed and approved by OCon in writing after senior management reviews of the changes have occurred and prior to issuing Notices to Proceed (NTP).

Comment: We concur.

When change orders exceed the COTR's authority or when the COTR has not been delegated authority to issue NTP letters, the Contracting Officer should co-sign the NTP letters prior to them being delivered to contractors.

Target date for completion: September 30, 2005

2. Work with OCon to have a contracting officer detailed to work on-site with COTRs from OFEO for large-scale projects, such as the construction of the Museum Support Center Pod 5, Patent Office Building interior renewal, and Asia Trail II.

Comment: We concur.

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## APPENDIX B: MANAGEMENT RESPONSE

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OFEO and OCon will explore the feasibility of assigning a Contracting Officer on site for major projects.

Target date for completion: February 1, 2006

For action by the Director, OCon:

3. Ensure that contract language delineating COTR commitment authority matches the limits specified in COTR delegation letters.

Comment: We concur.

We will correct the minor inconsistent contract language in the POB Interior Renewal Contract to compliment the COTRs limited delegation of authority. In addition, contract language and written delegations of authority to COTRs will be reviewed for consistency at the time of contract award.

Target completion date: October 31, 2005

In the RESULTS IN BRIEF and RESULTS OF AUDIT sections:

OCon does not agree with statements on page 3, third paragraph, and page 9, first paragraph, that its staff could not respond timely to OFEO requests.

Thank you for the opportunity to comment prior to issuance of your final report. Please direct any questions you may have regarding the information provided in this memo to Curtis Sanchez in OCon for a coordinated response. Mr. Sanchez may be reached at telephone number 202.275.1174 or via email to [SanchezC@si.edu](mailto:SanchezC@si.edu).