



National Association of Construction Auditors  
2022 Virtual Conference

# Helping Clients Navigate the GMP Audit

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# Overview of Presentation

This presentation is geared toward helping clients understand the key objectives and processes, as well as the underlying conceptual and contractual foundations, of a GMP audit. We will discuss managing client expectations on what to expect (and what not to expect) during a GMP audit, as well as best practices to incorporate into GMP audits for the most successful outcomes.

## Your Presenter

- **Dave Potak**

- Senior Director at FTI Consulting, Inc.
- Certified Public Accountant and Certified Construction Auditor
- 15 years of professional experience, including construction auditing, construction litigation support, government procurement consulting, external and internal auditing, and construction process improvement
- Five years with FTI; previously worked at other large consulting and public accounting firms



- **Lots of GMP audits...**

## About FTI Construction Solutions

320+

full-time professionals around  
the globe

28 experts

in Who's Who Legal  
Construction Expert  
Witnesses list (2021)

1/100

#1 Expert Witness Firms by  
Global Arbitration Review's  
GAR 100 (2020 and 2021)

FTI Consulting's Construction Solutions practice is a leading global provider of commercial management, risk-based advisory, dispute resolution services and strategic communications counsel on complex projects across all construction and engineering industries.



In large construction disputes, we provide expert analysis in program delay, damages/quantum and many other issues



We advise project owners on cost and schedule controls, risk mitigation and change order/claims analysis on large and complex industrial projects



We regularly provide guidance to owners and contractors engaged in various capital projects around the world

# Objective of the GMP Audit

The purpose of a GMP contract audit is to verify that the Contractor has invoiced its costs in accordance with the Contract terms, which are then measured against the GMP.

## Guaranteed Maximum Price (GMP) Contract

- **AIA A102 – 2017** - “Standard Form of Agreement Between Owner and Contractor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price”
- Contractor invoices for its reimbursable costs plus a fee for OH&P
  - Reimbursable costs are typically actual costs incurred or fixed costs (or rates)
  - Fee is usually fixed or percentage of Cost of Work
- Cost-plus-fee is not to exceed the GMP
  - If over GMP, Contractor bears the risk
  - If under GMP, savings accrue to Owner or Contractor or both

## Standards Under Which Audit is Performed

- AICPA Consulting Standards
- Attestation or advisory services?
- Audit is performed **on behalf** of Owner



## Polling Question No. 1

### True or False

**Under AICPA Consulting Standards, practitioners of construction audits and other advisory services are required to be independent.**

A. True

**B. False**

Practitioners are required to serve the client interest by seeking to accomplish the objectives established by the understanding with the client while maintaining integrity and objectivity. Independence is not required.

# Approach to GMP Audit

GMP audits can be performed as a “closeout” or “final accounting” audit at Project completion, or as an interim audit at a midpoint during Project construction.

## “Closeout/Final Accounting” Audit

- **Article 12.2 of AIA A102** – Provides the Owner the option of performing an audit of the **final accounting** in conjunction with the Contractor’s request for final payment
- Sometimes performed to establish shared savings
- Contractor may be responsible for the cost of the audit
- Type of audit most often performed



## Interim Audit

- **Article 11 of AIA A102 (“Audit Clause”)** – Upon reasonable notice, at any point during the Project, the Owner is permitted to audit the Contractor’s books and records related to the Project
- May be required for funding requirements or publicly traded companies
- Some **challenges** to interim audits
  - Not a final accounting of Project costs
  - GMP may change between interim audit and project closeout
  - Expected economies of scale from combining interim and closeout audits may not be realized

# Scoping the Audit

The scope of the audit should be discussed with the client at the outset of the engagement, including the costs subject to audit and performing the audit on a risk-assessed basis.

## Initial Fact-Finding

- Meet with key Project personnel to discuss significant risks and challenges
- Obtain understanding of Project financial status
- Review key Project documentation (in possession of Owner)

## Discuss Costs Subject to Audit

- Change orders testing
  - Not recommended for **negotiated or lump-sum** change orders
  - Adjustments to the GMP only
- Fixed amounts/rates in Contract
- Contingency/allowance usage

## Risk-Assessed Approach

- Identify areas of most significant risk for detailed testing and analysis
- Cost-benefit considerations
  - **Not testing every dollar**
- Sampling and testing will vary based on cost type



# Audit Success Factors

The success of the audit will largely be dictated by the effectiveness of the project controls and the history of accounting on the Project.

## Schedule of Values

- What shape is the Schedule of Values in at the end of the Project?
  - **“Schedule of values got out of control”**
  - Cost shifts
  - Line-item splits
- How were change orders, contingencies and allowances tracked?
- **G703 vs. G703-CW**





# G703 vs. G703-CW

## AIA G703-1992

**Continuation Sheet**

AIA Document G702<sup>®</sup>, Application and Certificate for Payment, or G732<sup>™</sup>, Application and Certificate for Payment, Construction Manager as Adviser Edition, containing Contractor's signed certification is attached. Use Column I on Contracts where variable retainage for line items may apply.

| A<br>ITEM NO. | B<br>DESCRIPTION OF WORK | C<br>SCHEDULED VALUE | D<br>WORK COMPLETED                              |                  | F<br>MATERIALS PRESENTLY STORED<br><i>(Not in D or E)</i> | G<br>COMPLETION DATE |
|---------------|--------------------------|----------------------|--------------------------------------------------|------------------|-----------------------------------------------------------|----------------------|
|               |                          |                      | D<br>FROM PREVIOUS APPLICATION<br><i>(D - E)</i> | E<br>THIS PERIOD |                                                           |                      |
| GRAND TOTAL   |                          |                      |                                                  |                  |                                                           |                      |

## AIA G703 CW-2021

**Continuation Sheet for Cost of the Work Projects**

AIA Document G702<sup>®</sup>CW, Application and Certification for Payment without GMP, or G702<sup>®</sup>GMP, Application and Certificate for Payment with GMP, containing Contractor's signed certification is attached. Use Column I on Contracts where variable retainage for line items may apply.

| A<br>ITEM NO. | B<br>DESCRIPTION OF WORK | C<br>SCHEDULED VALUE |                                         |                          |                                        | D<br>WORK COMPLETED                              |                  | G<br>COMPLETION DATE |
|---------------|--------------------------|----------------------|-----------------------------------------|--------------------------|----------------------------------------|--------------------------------------------------|------------------|----------------------|
|               |                          | C1<br>ORIGINAL       | C2<br>CHANGE FROM PREVIOUS APPLICATIONS | C3<br>CHANGE THIS PERIOD | C4<br>CURRENT<br><i>(C1 + C2 - C3)</i> | D<br>FROM PREVIOUS APPLICATION<br><i>(D - E)</i> | E<br>THIS PERIOD |                      |
| GRAND TOTAL   |                          |                      |                                         |                          |                                        |                                                  |                  |                      |

# Audit Success Factors

The success of the audit will largely be dictated by the effectiveness of Project controls and the history of accounting on the Project.

## Accounting Records

- How was support for actual costs provided during the life of the Project?
- Job cost report
  - Ledger printout or “invoice listing”
  - Include requirement in Article 11 for **electronic accounting records**
- Pay apps **and** lien waivers
  - Conditional or unconditional
- Payroll records
  - Batched labor or labor distribution reports
- Owned equipment log and tickets
- Support for “other” costs



## Polling Question No. 2

### True or False

**According to a 2018 survey, effective project controls system led to more successful projects.**

**A. True**

81% of respondents with a fully integrated project controls system met all or most of their Project objectives, compared to 64% of respondents that stated their Projects underperformed or failed without effective project controls.

B. False

# Key Provisions in AIA A102-2017 Contract

## “Final Accounting” Audit Process

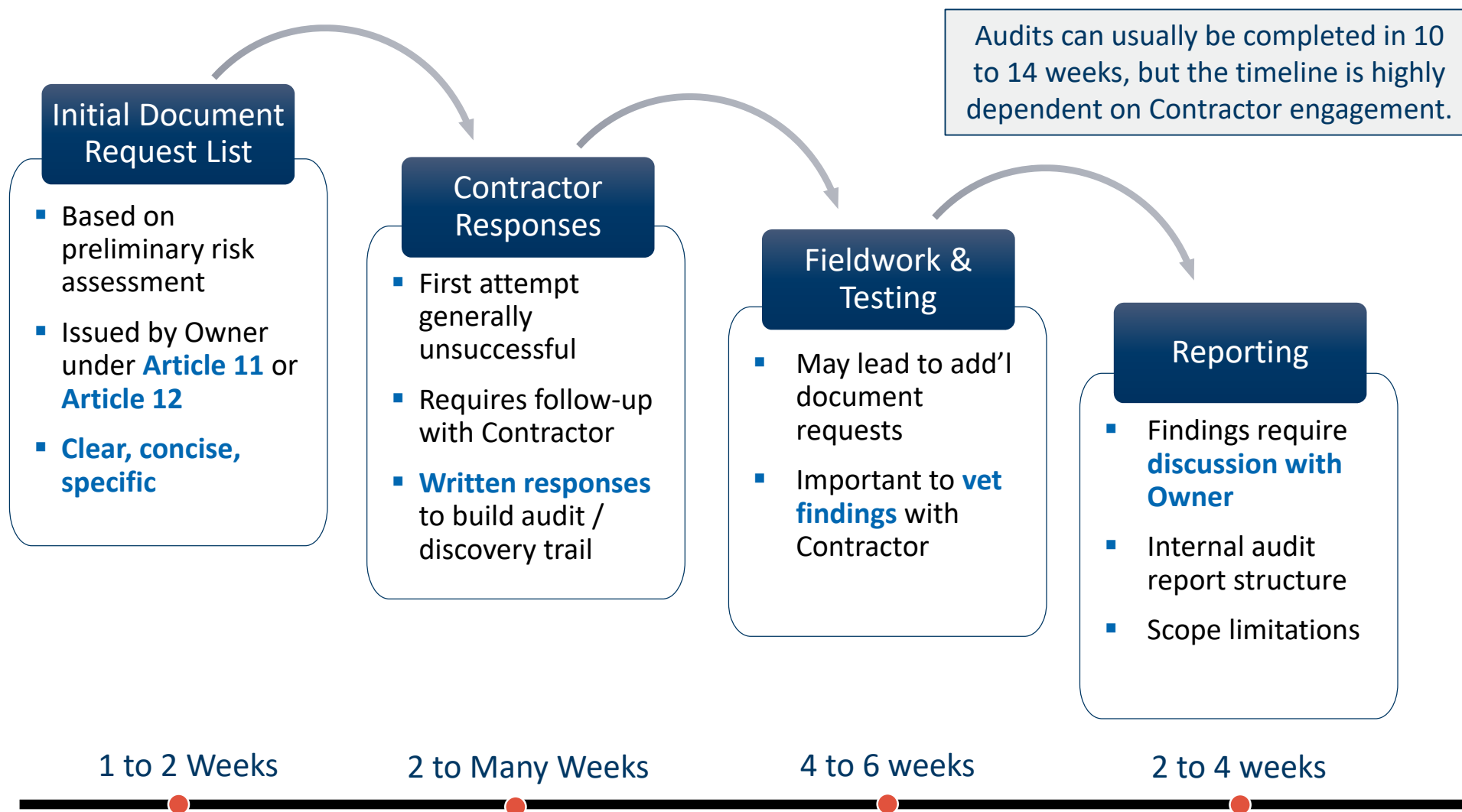
| Section               | Language                                                                                                                                                                                                                                                                                                                                                                                                                                  | Key Steps                                                                                                                                                                                      |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Article 12.2.1</b> | “Final payment... shall be made by the Owner to the Contractor when... the Contractor has fully performed the Contract... and has submitted a final accounting...”                                                                                                                                                                                                                                                                        | <ol style="list-style-type: none"> <li>1. Contractor finishes the work.</li> <li>2. Contractor submits a final accounting to the <b>Owner</b>.</li> </ol>                                      |
| <b>Article 12.2.2</b> | “Within 30 days of the Owner’s receipt of the Contractor’s final accounting... the Owner shall conduct an audit...”                                                                                                                                                                                                                                                                                                                       | <ol style="list-style-type: none"> <li>3. Within 30 days* of receiving the final accounting, the <b>Owner</b> conducts the audit.<br/>* <i>Sometimes extended to 45 or 60 days.</i></li> </ol> |
| <b>Article 11</b>     | “... the Owner’s auditors shall... be afforded access to, and shall be permitted to audit and copy, the Contractor’s records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor’s proposals, Subcontractor’s invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract.” | <ol style="list-style-type: none"> <li>4. <b>Owner’s</b> auditors will be given access to everything necessary to conduct the audit.</li> </ol>                                                |

# Key Provisions in AIA A102-2017 Contract

## “Final Accounting” Audit Process

| Section                 | Language                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Key Steps                                                                                                                                                                                                                                                                                                                                                       |
|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Article 12.2.2.1</b> | “... the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors’ findings to the Architect.”                                                                                                                                                                                                                                                                                                                                               | 5. Within 10 days of completing the audit, the <b>Owner</b> submits the audit report to the Architect.*<br><i>* Rare in practice.</i>                                                                                                                                                                                                                           |
| <b>Article 12.2.2.3</b> | “If the Owner’s auditors’ report concludes that the Cost of the Work, as substantiated by the Contractor’s final accounting, is less than claimed by the Contractor, the Contractor shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA A201-2017... Pending a final resolution of the disputed amount, the Owner shall pay the Contractor the amount certified in the Architect’s final Certificate for Payment.” | 6. If the audit report identifies overstated costs in the final accounting, and the Contractor wishes to dispute the auditors’ findings, the Contractor has the right to request mediation without going through the formal claims process (Article 15 of the A201).<br>7. Finally, resolution and final payment from the <b>Owner</b> *<br><i>* Or claims.</i> |

# Timeline of GMP Audit



## Polling Question No. 3

### Multiple Choice

According to a 2011 study, what was the top-ranked benefit for Project Owners in performing work under a GMP contract?

- a) Guarantee of avoiding budget overruns
- b) Incentive for Contractors to achieve cost savings**
- c) Expertise in design and innovative construction methods and materials
- d) Fast-tracking Project by starting construction ahead of final design

# GMP Audit Best Practices

## Do's

Do perform the **scope of work agreed to** with the client

Do report **what you did** and **what you observed**

Do use **neutral language** in your report (“unable to obtain” or “could not verify”)

Do **understand** the Contract

Do review change orders for **pricing** (if part of scope)

Do be willing to testify as a **fact witness** in litigation

Do provide your client with **brief, periodic** status updates

Do bill fees based on **actual time** and expenses

## Don't's

Do not perform the **duties of management**

Do not **make assumptions** or jump to conclusions

Do not use biased or **adversarial language** in your report (“the Contractor failed to...”)

Do not **interpret Contract terms and conditions** beyond your comfort zone

Do not review change orders or claims for **entitlement**

Do not agree to provide both **audit** and **expert witness services** concurrently

Do not forget to price **detailed status updates** into your fee estimate

Do not bill on **contingent fee basis**



# Questions?



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