

# ***NEW YORK STATE OFFICE OF THE STATE COMPTROLLER***

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**H. Carl McCall  
STATE COMPTROLLER**

A faded, grayscale background image of a historic building with a prominent red-tiled roof and multiple windows, likely a cultural institution.

***NEW YORK CITY DEPARTMENT OF  
CULTURAL AFFAIRS  
NEW YORK CITY DEPARTMENT OF DESIGN  
AND CONSTRUCTION  
MANAGEMENT OF CAPITAL PROJECTS FOR  
CULTURAL INSTITUTIONS***

***2000-N-19***

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**DIVISION OF MANAGEMENT AUDIT AND  
STATE FINANCIAL SERVICES**

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**H. Carl McCall**  
**STATE COMPTROLLER**

**Report 2000-N-19**

Ms. Kate D. Levin  
Commissioner  
New York City Department of Cultural Affairs  
330 West 42<sup>nd</sup> Street  
New York, New York 10036

Mr. Kenneth Holden  
Commissioner  
New York City Department of Design and Construction  
30-30 Thomson Avenue  
Long Island City, New York 11101

Dear Ms. Levin and Mr. Holden:

The following is our audit report on selected aspects of the management of capital projects for cultural institutions by the New York City Department of Cultural Affairs and the New York City Department of Design and Construction.

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution; Article II, Section 8 of the State Finance Law; and Article III of the General Municipal Law. Major contributors to this report are listed in Appendix A.

*Office of the State Comptroller*  
*Division of Management Audit*  
*and State Financial Services*

November 20, 2002

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**Division of Management Audit and State Financial Services**

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## ***EXECUTIVE SUMMARY***

### ***NEW YORK CITY DEPARTMENT OF CULTURAL AFFAIRS NEW YORK CITY DEPARTMENT OF DESIGN AND CONSTRUCTION MANAGEMENT OF CAPITAL PROJECTS FOR CULTURAL INSTITUTIONS***

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#### ***SCOPE OF AUDIT***

The New York City Department of Cultural Affairs (DCA) is responsible for sustaining and promoting the quality of cultural life in New York City (City). DCA provides a variety of financial, legal, capital construction, and support services essential to the operation of cultural institutions. DCA's capital construction projects over the next several years are projected to cost about \$463 million, according to the New York City budget for 2002-03. Generally, the New York City Department of Design and Construction (DDC) administers DCA's capital projects from the design work and contracting stages through the completion of construction.

We audited selected aspects of the management of capital construction projects for cultural institutions by the DDC and DCA for period January 1, 1999 through December 31, 2001. Our audit, sought answers to the following questions with respect to these capital projects:

- Have DCA and DDC established sufficiently reliable management information systems for monitoring?
- Do the project-planning and design activities undertaken by DCA and DDC effectively minimize the need for change orders?
- Have DCA and DDC established and implemented adequate formal procedures for the review and approval of change orders?
- Do DCA and DDC adequately coordinate their respective roles?

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## **AUDIT OBSERVATIONS AND CONCLUSIONS**

We found that neither DDC nor DCA had a sufficiently reliable project management information system for capital construction projects for cultural institutions. In addition, we determined that DDC could generally not locate copies of project contracts in a timely manner. At DCA, we determined that there were neither formal job descriptions for capital project managers; nor written policies or procedures for these staff to follow. Noting that no formal records could be provided for periodic capital project progress meetings that may include DCA and DDC officials, we concluded that coordination between DDC and DCA could be improved. The deficiencies we identified diminished assurances that capital projects for cultural institutions were being effectively managed.

DDC officials could not produce an adequate list of capital construction projects because their current system has not been able to combine data from three pre-existing data systems. Furthermore, DDC's Standardized Change Order Record Entry system (SCORE) was not completely operative and included complete data only for change orders filed after January 2001. Individual change orders for the contracts registered before January 2001 had not been carried forward from prior management information systems. DDC was also not able to readily provide the contracts we asked to review. DDC took three months to provide most of the contracts we asked to examine. (See pp. 5-8)

We found a lack of formal job descriptions and written policies and procedures for DCA staff with capital project management responsibilities. In addition, although the capital project processes followed by DCA and DDC afforded a number of opportunities for the staff of these agencies to meet and coordinate activities, no documentations was provided to us to support that such coordination was effectively taking place for the projects that we examined as part of our audit. (See pp. 8-10)

We also concluded that weakness in control over change orders was significantly increasing risk for excessive or unnecessary change orders. Our review of change orders that were issued for 15 of 22 contracts for the four capital projects that we sampled, found that 93 of 205 change orders, totaling about \$1.6 million, lacked support for required approvals. (See pp. 13-15)

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### ***Comments of DCA and DDC Officials***

DCA and DDC agreed with most of our recommendations and indicated that they were already in compliance with many of them. DCA and DDC disagreed with certain statements and conclusions contained in our report.

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Summary of Change Orders for Sampled Projects

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Major Contributors to This Report

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Comments of Department of Cultural Affairs Officials

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Comments of Department of Design and Construction Officials

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# INTRODUCTION

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## Background

The New York City (City) Department of Cultural Affairs (DCA) is responsible for sustaining and promoting the quality of cultural life in the City. DCA provides a variety of financial, legal, capital construction and support services essential to the operation and monitoring of City-owned cultural institutions, including well-known museums, performing arts centers, and libraries. According to the City budget for the 2002-2003 fiscal year, capital commitments total \$462.6 million through the fiscal year ending June 30, 2006. DCA, in conjunction with the City Council, identifies the capital projects to be undertaken and their related budgets and timeframes. Current plans identify capital projects for 104 cultural institutions in all five City boroughs. DCA's Capital Projects Unit is involved with the initial planning for capital projects, and provides executive level guidance and monitoring over the life of the projects. When a DCA capital project is scheduled to begin, DCA refers it to the City Department of Design and Construction (DDC).

DDC administers DCA's capital projects as well as the capital projects for many other City agencies. DDC strives to complete projects in an expeditious, cost-effective manner, while maintaining a high degree of architectural, engineering and construction quality. DDC's Division of Structures (Division) is responsible for the development of adequate architectural plans and designs prior to the start of construction work. During construction, the Division verifies design accuracy and construction integrity and safety. In addition, the DDC must follow rules established by the City's Procurement Policy Board (PPB Rules) to help prevent waste, fraud and abuse in the administration of contracts with design and construction firms. Through the life of capital projects for cultural institutions, the DCA and the DDC must coordinate their respective roles to provide necessary assurances that projects will be completed as planned and within cost and time budgets.

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## ***Audit Scope, Objectives, and Methodology***

We audited selected aspects of the management of capital projects for cultural institutions by DDC and DCA for the period January 1, 1999 through December 31, 2001. The objectives of our performance audit were to determine if DDC and DCA had sufficiently reliable management information systems to monitor the progress of projects and associated contracts, effective project planning and design activities to minimize the need for contract change orders, and adequate procedures and practices for the review and approval change orders. We also assessed whether DDC and DCA adequately coordinated their roles in the management of capital projects for cultural institutions. Our audit did not address the management of capital projects that were funded through the “pass-through” contract method. This method generally is used by DDC to reimburse cultural institutions for the costs of capital projects that were administered directly by the institutions.

Our audit included a sample of four DDC-administered capital projects for cultural institutions. We selected these projects judgmentally because of their very high dollar value. The projects selected were: the Flushing Town Hall Interior, the State Island’s Children’s Museum Barn, the Jamaica Arts Façade Restoration, and the City Center Façade. These four projects included 22 contracts totaling \$31.3 million. To perform our audit we interviewed DDC officials responsible for administering capital projects and contracts and we interviewed DCA officials with monitoring and oversight responsibilities for capital projects. We reviewed pertinent records at DDC and DCA for the projects in our sample. In addition, we visited and interviewed several contractors who performed work on the projects we examined. During these visits we reviewed contract change orders for contracts awarded for the projects we sampled.

As is our standard practice, we request a representation letter in which agency management provides assurances, to the best of their knowledge, concerning the relevance, accuracy and completeness of the evidence provided to auditors during the course of the audit. The representation letter is intended to confirm oral representations made to the auditors and to reduce the likelihood of misunderstandings. In the representation letter, agency officials assert that, to the best of their knowledge, all relevant financial and programmatic records and related data

have been provided to the auditors. Agency officials further affirm that either the agency has complied with all laws, rules and regulation applicable to its operations that would have a significant effect on the operating practices being audited or that any exceptions have been disclosed to the auditors.

However, officials at the New York City Mayor's Office of Operations have informed us that, as a matter of policy, DDC and DCA will not provide representation letters in connection with Office of the State Comptroller audits. As a result, we lack assurances from DDC and DCA officials that all relevant information was provided to us during the audit. We consider this refusal to provide a representation letter to be a scope limitation on our audit. In addition, during the course of this audit, DDC management did not always provide us with timely access to complete information. We consider this impediment to our audit methodology to also be a scope limitation. Therefore, readers of this report should consider the potential effect of these scope limitations on the findings and conclusions presented in this report.

Except as noted in the previous paragraph, we conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to adequately assess those operations that are included in our audit scope. Further, these standards require that we understand the DCA and DDC internal control structures and compliance with those laws, rules and regulations that are relevant to the operations included in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting and operating records and applying such other auditing procedures, as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments and decisions made by management. We believe our audit provides a reasonable basis for our findings, conclusions and recommendations.

We use a risk-based approach when selecting activities to be audited. This approach focuses our audit efforts on operations that have been identified through a preliminary survey as having the greatest probability for needing improvement. Consequently, by design, finite audit resources are used to identify where and how improvements can be made. Thus, little audit effort is devoted to reviewing operations that may be

relatively efficient or effective. As a result, our audit reports are prepared on an “exception basis.” This report, therefore, highlights those areas needing improvement and does address activities that may be functioning properly.

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### ***Response of DCA and DDC Officials***

**W**e provided draft copies of this report to DCA and DDC officials for their review and formal comment. We have considered DCA and DDC comments in preparing this audit report and have included them as Appendix B and Appendix C, respectively.

Within 90 days of the final release of this report, we request the Commissioner of DCA and the Commissioner of DDC to report to the State Comptroller, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

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## GENERAL MANAGEMENT CONCERNS

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To effectively manage the many capital projects of the City's cultural institutions, DDC and DCA officials need to have reliable management information systems and timely access to complete project files. In addition, formal job descriptions should exist for the staff that must administer these capital projects, and these staff should be provided with written policies and procedures to follow in fulfilling their job descriptions. However, neither DCA nor DDC had sufficiently reliable management information systems for capital projects. In addition, DDC generally could not locate copies of contracts pertaining to capital projects in a reasonably timely manner. DCA neither had formal job descriptions for capital project managers, nor had documented policies and procedures for these staff to follow. Furthermore, we observed that coordination between DDC and DCA in the administration of capital projects for cultural institutions needed to be improved.

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### *Management Information Systems*

Public agencies that administer capital projects as large and as numerous as those undertaken by DCA and DDC must have management information systems that provide accurate, complete and timely capital project status reporting and other essential project control information. However, when we asked DDC officials to identify from its Contract Data Base System (CDS) a listing of the capital construction contracts that DDC was administering on behalf of DCA during our audit period, they were unable to provide this requested information in a timely, complete and accurate manner. For example, the listing provided from the CDS had to be manually supplemented with certain contracts and related information including one contract totaling \$1,272,870 and another totaling \$598,000. Moreover, the listing included "pass-through" contracts, although the heading on the listing specifically indicated that such contracts were excluded. Apparently, the limitations of the CDS arise because when DDC staff developed this database from three separate information systems of three other City agencies, they were unable to obtain all required data elements, including project and contract numbers.

When we asked DDC officials to obtain from their Standardized Change Order Record Entry System (SCORE) a complete listing of change orders for the contracts included in our sample of capital projects, we also encountered system limitations. SCORE identified 159 change orders with a total dollar value of \$1.879 million, but the System did not show amounts for 33 of the change orders (21 percent). Moreover, our review of records at the construction sites for the capital projects in our sample indicated that there were actually 205 change orders for about \$2.6 million for the related contracts. Accordingly, SCORE failed to identify 46 change orders (22 percent) accounting for \$723,618. Of the missing change orders, 35 were prepared prior to January 2001 and 11 were prepared more recently.

As a result of the problems we encountered when requesting and obtaining basic contract-related information from CDS and SCORE, we conclude that DDC does not have sufficiently reliable management information systems to support the effective administration of capital projects for cultural institutions.

DDC officials explained that SCORE was not fully operative at the time our review and that data for contracts registered prior to January 2001 had not been carried forward from a prior system. DDC officials added that the City's Financial Management System (FMS), not CDS, is the official record of contracts and is the system used to process payments.

(In response to our draft audit report, DDC officials reiterated that the FMS is the official contract record for New York City. They indicated that internal systems are designed for internal management purposes only to track internal milestones and maintain basic project, contract and payment information. Officials also stated that the inability of customized auditing reports to generate all requested information does not support an assumption that internal systems are unreliable. In addition, DDC officials stated that CDS may not contain historical data pertaining to the period between 1996 and the implementation of CDS in November 1999. In addition, DDC reports making a business decision to not include contract data prior to 1996. Concerning SCORE, DDC officials indicated that this system is being updated to include change orders from fiscal year 1997 to date.)

Auditors' Comments: We understand that FMS is the official contract record for New York City. Since we were auditing management aspects of construction projects, we concluded it was appropriate to examine the internal DDC information systems supporting this management function. In this regard, we did not conclude that internal systems were unreliable. We concluded that DDC does not have sufficiently reliable systems to support the effective management of capital projects for cultural institutions. We reached these conclusions based on limitations in the reporting of basic data. We understand that business decisions may have been made affecting the extent of historical data available from internal systems. However, it should be noted that the contract information we sought generally pertained to projects that were not finalized at the time our audit work. Accordingly, we believe it was reasonable to expect that data about the contracts and change orders pertaining to such projects should have been accessible from the internal management systems.

While DCA has access to FMS and DCA staff maintains some capital project management data on spreadsheets, DCA neither has its own comprehensive capital project management information system nor does it have access to the databases maintained by DDC. Consequently, DCA has a limitation in its ability to most effectively oversee and monitor capital projects. DCA officials acknowledged that it would be helpful to have a database to track the status of their capital projects. They added that they have been discussing with DDC officials the possibility of sharing electronic information and will continue to do so.

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## ***DDC Contract Files***

**N**ew York City Policy Board Rules (PPB Rules) were established to help ensure the uniform application of policies and procedures throughout City agencies. PPB Rules require each City agency to maintain files that contain all documentation pertaining to the solicitation, award, and management of contracts and purchase orders. DDC's Agency Chief Contracting Officers (ACCOs) are responsible for organizing and supervising the staff and records related to the contracting process. In this regard, DDC staff in the Record Room are responsible for maintaining copies of capital project contracts and related documents.

Beginning in May 2001, we requested DDC officials to provide us with 20 contract files for the four capital projects included in our audit sample. However, the requested files were not in the Record Room and could not be located. It was not until August 2001 (three months later) that DDC officials provided 19 of the requested contract files. Not until December 2001, did DDC locate the remaining requested contract file. DDC staff explained that project managers may have been in possession of some of the files we requested or that some of the files may never have been sent to the Record Room in the first place. Without being able to account for and readily retrieve contract files at all times, we question how DDC can be adequately assured that it is complying with PPB Rules and is prepared to effectively administer contracts and approve change orders. To alleviate the risk associated with lost or misplaced contract files, we recommend that DDC consider using computer imaging technology to facilitate record maintenance and retrieval. Using such technology to store contract files is permitted under City Law and PPB Rules.

(In response to our draft audit report, DDC officials stated that our written request for contracts was made on July 24, 2001. DDC officials indicated that, under current procedures, the Record Room maintains copies of all contract-related files. They also stated that they have established procedures for record retention for these files. Furthermore, DDC officials indicated that will require proposals from vendors regarding the potential use of computer imaging technology to control access to contract file records.)

Auditors' Comments: Our written requests for contract files were made in May, June and July of 2001.

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## ***DCA Policies and Procedures***

**F**ormal job descriptions clarify roles and responsibilities and expectations for employees within an organization. Written policies and procedures inform employees about what they must do to accomplish their job descriptions. Together, these documents can help to assure that staff can effectively oversee and monitor capital projects.

According to DCA officials, DCA has five employees assigned with capital project management responsibilities. However, DCA has no policies and procedures documented as guidance

for these employees to follow in performing project management responsibilities. DCA officials provided us with their written request to the City Office of Management Budget (OMB) for funding to hire capital project managers as evidence of job descriptions for this position. We noted that the written request listed tasks expected of capital project managers, but the five staff assigned with capital project management responsibility generally did not perform such tasks. In fact, there was minimal written support of the capital project management that was provided by the five staff. We conclude that this diminishes assurances that DCA capital projects will be as timely and as cost-effective as possible.

(In responding to our draft audit report, DCA officials stated that they will develop formal procedures for capital project managers to follow.)

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### ***Coordination Between DDC and DCA***

**D**CA and DDC each have responsibilities for and a stake in the timely, cost-effective identification, planning and construction of capital project for cultural institutions. As a result, both agencies need to make sure that all necessary steps are taken to coordinate with each other, as appropriate. According to DCA officials, such coordination is assured through preliminary meetings with DDC to plan projects, DCA visits to capital project sites to monitor construction progress and through post-design meetings between DDC and DCA to assure projects remain on time and within budget. However, documentation of the coordination of the two agencies during these various meeting opportunities was not provided to us, and DDC staff did not routinely consult with DCA on the progress of projects through other avenues. It is not clear whether and to what extent these deficiencies may have impacted on the progress of capital projects. However, weaknesses in coordination, particularly in the design phase of projects, could increase the risk for costly change orders in the construction phase. In fact, significant change orders were required for projects in our sample. (Change orders are discussed in the next subsection of this report.)

(In response to our draft audit report, DDC officials stated that minutes of progress report meetings between DCA and DDC should be documented. DCA officials expressed agreement about having meeting minutes evidencing continued

cooperation with DDC in the administration of capital projects. DCA officials pointed out that it is DDC's responsibility to maintain minutes of project meetings.)

### **Recommendations**

#### To DDC:

1. Verify that CDS includes all appropriate information for the contracts for capital projects for cultural institutions.
2. Verify that SCORE contains all change order data for active capital projects.
3. Maintain control and accountability for the location of contract files for capital projects for cultural institutions.
4. Consider using computer imaging technology to facilitate control over and access to contract files for capital projects

(DDC officials stated that DDC is in compliance with recommendation number 1 through recommendation number 4.)

#### To DCA:

5. Work with DDC to establish access to capital project management information for cultural institutions that is available through DDC's databases.
6. Develop a formal job description for a capital project manager that includes all of the responsibilities of the position.
7. Develop formal policies and procedures for staff with capital project management responsibilities

(DCA officials agree with recommendation number 5 through recommendation number 7.)

## **Recommendations (Cont'd)**

To DDC and DCA:

8. Prepare and retain meeting minutes evidencing the continued cooperation of DDC and DCA in the administration of capital projects for cultural institutions

(DDC and DCA officials agree with recommendation number 8.)



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## CHANGE ORDERS

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The Cultural and Libraries Unit within DDC is responsible for developing adequate architectural plans and designs before construction work begins on a capital project for a cultural institution. If a project is properly surveyed, planned and executed, changes (change orders) to the original plans and estimated costs should be minimized. However, we determined that the some of the change orders for contracts pertaining to capital projects in our sample proceeded without required approvals. In addition, we found that design error and omissions may be significantly contributing to the need for costly change orders.

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### *Approvals*

In accordance with PPB Rules, the City's Director of the Office of Construction (DOC) must approve change orders once the cumulative effect of all change orders causes the original contract to exceed more than 10 percent of its original amount, or \$100,000 whichever is greater. We reviewed the change orders for 22 contracts let for the four projects in our sample. In total there were 205 change orders issued for 15 of these contacts. The cumulative change order activity for 6 of the 15 contracts caused the contracts to exceed the PPB specified thresholds (See Exhibit A). However, we found no documentation to indicate that the DOC approved any of the change orders causing the contracts to exceed the threshold amount. In total, 93 change orders, totaling \$1.6 million lacked the required DOC approval.

In addition to the requirement for DOC approval, PPB Rules require the ACCO to approve all corresponding change orders before work on the change orders commences. Also, the DDC's Client Manual requires DCA to review the status of change order work. During our audit, DCA officials verbally advised us that DCA should approve all change orders when they exceed \$50,000 in additional costs for a particular contract.

We found that DCA did not formally approve 45 change orders for the projects we selected although these change orders were significant, sometimes exceeding \$50,000. (We did note,

however, that DCA initiated one change order and, therefore, was at least aware of it.) The lack of attention to change orders by DCA results because DDC did not have a formal process to identify change orders to DCA for approval and monitoring. We also found that ACCOs had not approved any of the 205 change orders we reviewed. The lack of approval of change orders, particularly the lack of approval by the ACCO's who are independent of the Division, increases the risk for excessive and/or unnecessary change orders.

(In response to our draft audit report, DCA officials indicated that the DDC Client Manual requires that DCA approve the issuance of change orders that reflect a material change from the original scope. Officials also indicated that they have no written policy requiring approval of change orders over a threshold value of \$50,000. They indicated that we are referring to requirements for pass through contracts excluded from our audit scope.)

(In response to our draft audit report, DDC officials indicated that, pursuant to a 1996 letter from the Mayor's Office of Construction, DOC approval for certain change orders was delegated to the ACCO. Specifically, DDC indicates that DOC approval is only required once the cumulative change orders reach a threshold of 10 percent or \$50,000 (whichever is greater) and the individual change order is \$50,000 or more. Also, DDC officials cite PPB rules permitting the ACCO to delegate approval authority to other employees. In addition, DDC officials dispute the need for client agencies to provide official approval for change orders. DDC officials also contend that the audit confuses requirements for pass through contracts from those pertaining to projects managed by DDC.)

Auditors' Comments: We are not confused about approval processes for pass through contracts. Our audit focus was on rules and practices for contracts managed by DDC. As stated in the DCA response to the draft audit report, the DDC Client Manual specifies that the issuance of change orders that reflect a material change from the original scope are subject to DCA approval. Accordingly, the need for client agency approval for change orders has been established by DDC. We acknowledge DCA's written response which states that no dollar value threshold exists for change order approval. However, in this regard, we conclude that a necessary factor to establish when a change order is material is its dollar value. Therefore, if the

\$50,000 value verbally provided to us during the audit is not the appropriate dollar value threshold, a correct value should still be determined.

We acknowledge the 1996 letter specifying when DOC approval responsibility for change orders may be delegated to the ACCO. However, the PPB Rules that we refer to make no reference to delegation of DOC approval. We also acknowledge that PPB rules permit the ACCO to delegate change order approval. In this regard, the PPB rules indicate that the ACCO may delegate authority to employees having the knowledge and experience necessary to exercise such authority in the City's interest. However, we found that none of the change orders examined were documented with ACCO approval and we were provided with no documentation showing that an appropriate delegation of approval took place.

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### ***Design Errors***

**W**e found that 29 (14 percent) of the 205 change orders to contracts for the projects that we sampled identified "design errors" as the reason for the change orders. In one instance, for example, a change order resulted from the omission of labor and material costs of \$50,000 – 11 percent of the original contract amount. We conclude that this rate of occurrence warrants DDC to examine the design errors (and omissions) more closely to see if they represent significant opportunities to improve design processes and to, accordingly, minimize costly change orders. Furthermore, 21 other change orders we examined lacked a documented reason. In order for DDC to fully assess the appropriateness of change orders, the reason for each change order should be recorded.

DDC officials acknowledged that all change orders should indicate the correct classification (reason) for the change order.

## **Recommendations**

### To DDC:

9. Require that the reason for all change orders be documented.

(DDC officials stated that DDC is in compliance with recommendation number 9.)

10. Examine the extent of change orders attributed to design errors and omissions to determine if costly change orders can be minimized through improvements to design processes.

(DDC officials indicate agreement with recommendation number 10.)

11. Obtain required DOC and ACCO approval for change orders and notify DCA of all change orders undertaken

(DDC officials stated that DDC is in compliance with recommendation number 11.)

### To DCA:

12. Review the status of change order work in accordance with the DDC Client Manual.

(DCA officials indicate agreement with recommendation number 12 and state that DCA is in compliance.)

13. Provide approval for change orders exceeding the \$50,000 threshold.

(DCA officials disagree with recommendation number 13 stating that the DDC Client Manual does not require a dollar value threshold.)

**SUMMARY OF CHANGE ORDERS FOR SAMPLED PROJECTS**

| Project Name                       | Contract |                    | Change Orders |                    | Percentage<br>Of Contract |
|------------------------------------|----------|--------------------|---------------|--------------------|---------------------------|
|                                    | Number   | Amount             | Number        | Amount             |                           |
| City Center Façade                 | 9449154  | \$283,400          | 7             | \$128,182          | 45.23                     |
|                                    | 98C5637  | 43,561             | 5             | 94,459             | 216.84                    |
|                                    | 98C7657  | 1,272,870          | 22            | 411,658            | 32.34                     |
| Jamaica Arts Façade<br>Restoration | 97A5799  | 246,666            | 2             | 26,265             | 10.65                     |
|                                    | 97A5819  | 99,670             | 3             | 30,971             | 31.07                     |
|                                    | 97A5791  | 443,500            | 8             | 123,596            | 27.87                     |
|                                    | 97A5784  | 1,597,000          | 28            | 413,799            | 25.91                     |
| S. I. Children's Museum Barn       | 98F5861  | 1,263,000          | 42            | 523,936            | 41.49                     |
|                                    | 98F4537  | 172,440            | 1             | 10,078             | 5.85                      |
|                                    | 98F5781  | 304,000            | 13            | 94,918             | 31.22                     |
|                                    | 98F3712  | 228,000            | 5             | 42,588             | 18.68                     |
| Flushing Town Hall Interior        | 97C5166  | 143,000            | 13            | 77,036             | 53.87                     |
|                                    | 97C5169  | 750,000            | 15            | 43,025             | 5.74                      |
|                                    | 98D5648  | 2,355,000          | 30            | 554,999            | 23.57                     |
|                                    | 97C4542  | 598,000            | 11            | 44,742             | 7.48                      |
| <b>Total</b>                       |          | <b>\$9,800,107</b> | <b>205</b>    | <b>\$2,620,252</b> | <b>---</b>                |

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## MAJOR CONTRIBUTORS TO THIS REPORT

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September 13, 2002

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Re: Draft Report 2000-N-19

Dear Mr. Barber:

I am writing on behalf of the Department of Cultural Affairs (DCA) to respond to the above draft report dated July 25, 2002 (the Report). The Report discusses your office's review of selected aspects of the management of capital projects at cultural institutions by DCA and the City's Department of Design and Construction (DDC). I will respond individually to each of the recommendations in the Report as they pertain to DCA.

**4. Work with DDC to establish access to capital project management information for cultural institutions that is available through DDC's database.**

We agree with and are in compliance with this recommendation as stated in the January 25, 2002 letter from Susan Rothschild, DCA's Deputy Commissioner, in response to the preliminary findings made by your office. However, in that DDC is currently in the process of integrating its various databases, this recommendation may take some time to implement.

**5. Develop a formal job description for a capital project manager that includes all of the responsibilities of the position.**

We agree and are generally in compliance with this recommendation as it is our policy to hire staff members on the basis of a formal job description that outlines the basic tasks to be performed. This was done in the case of the two most recently hired members of the Capital Projects unit referred to in the report (we neglected to provide copies of these job descriptions to the auditors, but would be happy to do so). In the case of the other three staff members, all of these individuals have been with the agency for over 13 years and therefore were hired

at a time when City procedures did not require the posting of job descriptions. Also relevant to this recommendation, we are currently updating the tasks and standards applicable to the positions in our Capital Projects unit.

As is noted in the Report, we did provide your auditors with a copy of the 1999 Personnel Needs Assessment that was submitted to the City's Office of Management and Budget (OMB) and contains extensive descriptions of the tasks carried out by DCA's Capital Projects Unit. We disagree with the statement made in the Report that DCA's capital project managers "generally did not perform such tasks" and provided only "minimal capital project management." This statement was not contained in the preliminary findings that your office shared with us, and no basis for this finding is given in the Report. In fact, the Personal Needs Assessment accurately describes the work of the unit, and as stated in our January 25, 2002 letter, our capital project staff carries out substantial oversight in connection with DCA-funded capital projects. This oversight includes attending job meetings with DDC and the relevant cultural organization, holding quarterly meetings with DDC to review project status, providing regular reports to elected officials as to projects funded by them, and preparing three commitment plans a year with OMB summarizing project status and schedules.

\*  
Note

**7. Develop formal policies and procedures for staff with capital project management responsibilities.**

We agree with such recommendation. As stated above, the 1999 Personnel Needs Assessment already summarizes such responsibilities and written handouts have been prepared that outline the steps involved in and requirements applicable to the various contracting methods we use. We will develop written procedures for our staff based on these documents.

**8. Prepare and retain meeting minutes evidencing the continued cooperation of DDC and DCA in the administration of capital projects for cultural institutions.**

We agree with this recommendation but would point out again that it is not DCA's responsibility either to prepare or to maintain minutes of project meetings. Rather, it is DDC's responsibility as managing agency to do so. As a general matter, we believe that DDC is in compliance with this recommendation and note that in the separate response made by DDC to this recommendation, DDC states that it will reiterate to its staff the importance of having minutes that accurately reflect the substance of the meeting.

\*  
Note

**12. Review the status of change order work in accordance with the DDC Client Manual.**

We agree with and are in compliance with this recommendation. Contrary to the statement made in the Report, there is a formal process in place for DCA review

\* See State Comptroller's Note, Appendix B-3

of change orders. DDC's Client Manual calls for weekly or bi-weekly job meetings during construction which client agencies such as DCA are expected to attend. At these meetings, the parties review among other matters the progress of the work, shop drawing logs and the status of change order work.

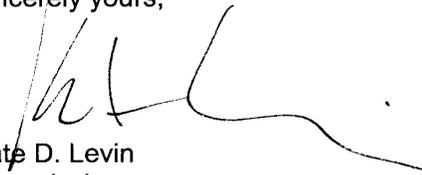
**13. Provide approval for change orders exceeding the \$50,000 threshold.**

We disagree with this recommendation as it reflects a misunderstanding of DCA policy on the part of the auditors: DCA does not have a policy requiring that we approve DDC change orders above \$50,000. As stated in our January 25, 2002 letter, we believe that the auditors took out of context a provision regarding approval of change orders that is contained in the "Criteria and Requirements for Passthrough Contracts" issued by DCA and DDC. These guidelines apply only to the passthrough contracting mechanism, a contracting process used by the City to enable a cultural organization to directly manage its own capital project. The passthrough contract guidelines are not applicable to the more traditional contracting processes through which DDC administers construction projects on behalf of DCA. It should also be noted that passthrough contracts were expressly excluded from the scope of this audit.

As stated above, the standards applicable to DDC's administration of DCA construction projects are contained in DDC's Client Manual. While that manual does not contain a dollar threshold for the approval of change orders by the client agency, it does set forth procedures for the issuance of change orders that reflect a material change from the original scope, and such change orders are subject to DCA's approval. We believe that these procedures sufficiently protect DCA's interest.

Thank you for providing DCA with the opportunity to respond to the Report. Please contact Susan Rothschild at (212) 643-3924 if you have any questions regarding this response.

Sincerely yours,



Kate D. Levin  
Commissioner

\*State Comptroller's Note

Certain matters addressed in the draft report were revised or deleted in the final report. Therefore, some agency comments included as Appendix B may relate to matters no longer contained in this report.

cc: Ken Holden  
Peggy Rose Viera  
Susan Chin  
Susan Rothschild



City of New York **Department of Design and Construction**

**Kenneth Holden**  
Commissioner

**Anne Papageorge, R.L.A.**  
First Deputy Commissioner

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August 26, 2002

Mr. Jerry Barber  
Audit Director  
State of New York  
Office of the State Comptroller  
110 State Street  
Albany, New York 12236

Re: NYS Comptroller's Draft Audit on New York  
City Department of Cultural Affairs New  
York City Department of Design and Construction  
Management of Capital Projects for Cultural  
Institutions # 2000-N-19

Dear Mr. Barber:

Thank you for the opportunity to respond to the NYS Comptroller's Draft Audit report before its public release with regard to the New York City Department of Cultural Affairs ("DCA") and the New York City Department of Design and Construction ("DDC") Management of Capital Projects for Cultural Institutions.

DDC takes exception to the overall negative tone of the draft audit report because we believe the auditors misstated facts and made assumptions that were not supported by facts. Moreover, the auditors, for reasons unknown to DDC, failed to understand the difference between the City's official contract recording system and DDC's supplementary internal management tracking tools.

DDC questions the statement in the draft audit report that claims that it took three months (the preliminary draft report claims that it took four months) to locate most of the contract records. The auditors were directed to send any requests for information to DDC's Director of Internal Audit. As stated in our December 21, 2001 response to the preliminary draft report, the auditors submitted a written request for copies of 20 contracts on July 24, 2001. Approximately three weeks later on August 17, 2001, DDC forwarded copies of 19 of the 20 contracts files to the auditors. The contract that was unavailable at the time of this audit has been retrieved by DDC's Records Management Office and is available for your review.

In addition, DDC questions the statement in the draft audit report that states the following: "As a result of the problems we encountered when requesting and obtaining basic contract-related information from CDS and

**Appendix C**

SCORE, we conclude that DDC does not have sufficiently reliable management information systems to support the effective administration of capital projects for cultural institutions.” At the start of the audit, DDC advised the auditors that DDC’s informational systems were in different stages of development and may not contain data before the systems were implemented. In addition, the auditors were informed that the official contract record for The City of New York is the Financial Management System (“FMS”) and that FMS should be used for their auditing purposes. However, the auditors chose to ignore this information by relying on DDC’s informational systems when they requested customized reports. These customized auditing reports were unable to generate all the information requested by the auditors. This, however, should not in any way support the assumption that DDC’s internal informational systems are unreliable. DDC believes that this assumption by the auditors is not supported by a review or audit of our systems and violates sound auditing practices and guidelines.

Listed below are the draft audit recommendations relating to DDC and DDC’s responses:

***Recommendation # 1:*** Verify that CDS includes all appropriate information for the contracts for capital projects for cultural institutions.

***DDC’s Response:*** DDC is in compliance with this recommendation. Please be advised that DDC’s internal computer database systems: Contract Data System (CDS), Project Info and Paylog are not the official record of contracts. New York City’s FMS is the official record of contracts and the system used to process contracts and payments. DDC’s internal systems were designed for internal management purposes only to track internal milestones and maintain basic project, contract and payment information. Accordingly, DDC believes that the auditors misunderstood the supplementary tracking tools that DDC has created.

As described to the auditors during the audit, the following is a brief description of the enhanced supplementary tools that DDC has created or are in the design phase:

CDS is a multi-phase Information Technology (IT) initiative. Phase I, completed in November 1999, created a tracking system that provides the Agency Chief Contract Office (ACCO) with the ability to monitor the status of new contracts as they pass through the various milestones in the procurement process. Data, for all contracts that began the procurement cycle after the implementation of Phase I, has been entered accurately into CDS.

For contracts initiated between the time of the DDC’s inception in 1996 and the implementation of CDS, DDC has made a good faith effort to incorporate historical data from various stand-alone sources. However, complete information may not be available for these contracts since CDS contains new fields for data never before tracked by the ACCO. Further, a business decision was made not to enter historical contract data prior to DDC’s inception since most projects were virtually completed or nearing their completion. Please be advised that all of the contracts associated with this audit were all initiated prior to the creation of CDS.

Phase II of CDS, implemented in June 2001, incorporated tracking task orders issued on requirements contracts. DDC’s staff is currently in the analysis of phase III that will enhance the tracking of contractor and sub-contractor performance evaluations.

DDC has reviewed the agency’s data retrieval and reporting capabilities and determined that they are sufficient. However, DDC’s IT unit is strengthening internal reporting capability by integrating the agency databases. Furthermore, to ensure the integrity of internal systems, DDC periodically reconciles agency databases with FMS.

DDC’s policy and procedure requires that staff regularly update information on their projects. On a monthly basis, IT staff generates exception reports that independently verify that systems have been updated. These procedures are available for review upon request.

Recommendation # 2: Verify that SCORE contains all change order data for active capital projects.

DDC's Response: DDC is in compliance with this recommendation. As explained to the auditors the Standardized Change Order Record Entry System (SCORE) is DDC's internal database for change orders. It was also explained that SCORE was in the process of being updated to maintain information on older change orders. Presently, SCORE is being updated to maintain all change orders from fiscal year 1997 to date. Change orders prior to 1997 can be found on a mainframe application, Capital Funds System, which is use by DDC's Change Order Tracking Unit.

Recommendation # 3: Maintain control and accountability for the location of contract files for capital projects for cultural institutions.

DDC's Response: DDC is in compliance with this recommendation. DDC's current operating procedure is that the central records office maintains all contract related files. DDC's record retention procedures are available to the auditors upon request.

Recommendation # 4: Consider using computer imaging technology to facilitate control over and access to contract files for capital projects.

DDC's Response: DDC is in compliance with this recommendation. DDC has recently completed a requirement analysis to determine its management document needs. DDC is now in the process of developing a Request For Proposal (RFP), in which vendors submit their ideas on how to carry out such a task.

Recommendation # 8: Prepare and retain meeting minutes evidencing the continued cooperation of DDC and DCA in the administration of capital projects for cultural institutions.

DDC's Response: DDC is in agreement with this recommendation. It is DDC's policy and procedure to require scheduled periodic meetings with the client agencies (such as DCA). Our policy also requires that items such as change orders be discussed at such meetings and that these meetings be documented in minutes which are to be reviewed by both DDC and the client agency. However, the audit correctly points out that minutes relating to past change orders from their audit sample could not be produced by DDC. DDC's Internal Audit Office (IAO) will be reviewing the extent to which this lack of (or non-located) minutes exist. In addition, it will be reiterated to DDC staff of the importance of creating and maintaining adequate meeting minutes.

Recommendation # 9: Require that the reason for all change orders be documented.

DDC's Response: DDC is in compliance with this recommendation. DDC's IAO obtained a list from the state auditor's of change orders without classifications. These changes orders were located and their classifications were listed. These change orders are available for the state auditors to review at their convenience.

Recommendation # 10: Examine the extent of change orders attributed to design errors and omissions to determine if costly change orders can be minimized through improvements to design processes.

DDC's Response: DDC is in agreement with this recommendation. It is DDC's policy and procedure to review each change order to determine if an error is attributed to an individual party (such as a designer) and then to determine if damages were incurred. If this is the case, the New York City's Law Department is notified and

they determine how to proceed against the party at fault. This draft audit report does not indicate if the auditors found any occurrence where damages were not recovered when they should have been. IAO does plan in the future on reviewing the change order process to determine whether recoverable damages are being obtained. It should also be noted that DDC has a relatively low rate of change orders as we make a concerned effort to bring our construction projects within budget. DDC refers the auditors to the NYC's Mayor's Management Report for Fiscal 2001, in which the "Average Percentage Increase/Decrease for All Completed Construction Contracts (Excluding Programmatic Scope Changes)" is 2% and the "Average Percentage Increase/Decrease for All Completed Consultant Design and Construction Supervision Contracts (Excluding Programmatic Scope Changes)" is 1%.

Recommendation # 11: Obtain required DCO and ACCO approval for change orders and notify DCA of all change orders undertaken.

DDC's Response: DDC is in compliance with this recommendation. The City of New York's Procurement Policy Board Rules ("PPB Rules") provide in Section 1-02(i) that the Agency Chief Contracting Officer ("ACCO") may delegate his or her authority. DDC's "Guidelines for Construction Change Orders & Overruns" manual lists in the Guidelines Section III Part B the designees that the ACCO has assigned this authority to.

Furthermore, the Mayor's Office of Construction ("ODC") has delegated some of its approval responsibilities to DDC's ACCO. Pursuant to a letter dated 10/23/96, ODC "grants DDC an exception to the oversight approval currently mandated in the PPB Rules and grants the ACCO the authority to approve change orders for construction and construction related contracts that cumulatively exceed the greater of 10% or \$50,000. Specifically, the ACCO is delegated the authority to approve change orders above the 10% or 50,000 threshold if the individual change order amount is under \$50,000." Thus, ODC approval is only required once the 10% threshold has been reached and the individual change order is \$50,000 or more.

DDC's "Guidelines for Construction Change Orders & Overruns" and ODC's delegation letter are available for review by the NYS auditors at their convenience.

DDC is unaware of any City requirement or PPB Rules that states that the client agency must officially approve change orders. DDC believes that once a project is accepted from a client agency, DDC assumes full responsibility for the construction. However, DDC, as a matter of formal procedures, keeps client agencies abreast of all current matters including change orders. In fact, material changes to a project are either initiated by the client agency or their feedback and permission are obtained before proceeding. In addition, DDC must obtain notification from the client agency that funding is available once any change order exceeds the contingency fund (which is 10% of the original contract amount). DDC believes that the auditors may have misunderstood DCA's internal procedure for passthrough contracts that calls for their sign-off on change orders over \$15,000 on projects it directly manages (refer to Paragraph E of DCA's response dated January 7, 2002). DCA's internal procedure relates only to projects that they (DCA) manage directly, thus this is not applicable to any of the audited projects for they were all managed directly by DDC.

Sincerely yours,

  
Anne Papageorge

C: Kenneth Holden  
Maria Guccione