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THE NEW YORK CITY COUNCIL
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SUBCOMMITTEE ON CAPITAL BUDGET
HON. VANESSA GIBSON, CHAIR

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Oversight – Front-End Planning at the Department of Design and Construction

I. Overview

On September 26, 2019, the Subcommittee on Capital Budget, chaired by Council Member Vanessa Gibson, will hold an oversight hearing on the Department of Design and Construction's (DDC) Front-End Planning (FEP) Unit. At this hearing, the Council will examine the structure, processes, and work of this unit and the impact the unit's work has had on the capital project process. The Subcommittee has invited the representatives of DDC and members of the public to testify.

II. The City's Capital Projects Process

The process by which the City executes capital projects varies from agency to agency, but in general, the capital projects process consists of three main phases – a design phase, a procurement phase, and a construction phase.

A. Design Phase

Agencies develop specific designs for each project based on the approved budget and scope of a project.¹ This work is done by in-house designers or contracted out to external designers. If contracted out, the agency selects a design vendor through a procurement process that precedes the construction procurement.² Beyond the agency itself, and depending on the project type, multiple project stakeholders provide input into designs, including the general public, community board members, neighborhood groups, and local elected officials.³ Designs must also take into account many regulatory provisions ranging from environmental requirements to

¹ See Report, Public Works Partners, *A Survey of Capital Project Management Among New York City Government Agencies* (2014), available at http://www.ny4p.org/client-uploads/pdf/Other-reports/NY4P_Capital_Projects_Management.pdf (last accessed on September 17, 2019).

² See id.

³ See id.

historic preservation laws.⁴ The final design is then used to develop construction specifications, set the final budget, obtain final approvals to move forward with construction, and procure vendors for construction contracts.⁵

B. Procurement Phase

All construction work on capital projects is contracted out to external vendors following the City's procurement process.⁶ The procurement process follows applicable State and local laws and rules, including the New York City's Procurement Policy Board rules, as well as policies and procedures implemented by the Mayor's Office of Contract Services, which ensures that agencies competitively bid and award projects to qualified contractors.⁷

After a project has completed the design phase, the agency will issue an invitation to bid and publish a notice publicly advertising its intention to solicit bids.⁸ In general, agencies will issue invitations for bids that specify the work to be completed, and vendors respond with a price that they deem to be appropriate for the scope of work and that is competitive against other bidders.⁹ The agency will review the bids, conduct due diligence, and make an award to the lowest responsive and responsible bidder.¹⁰

A contractor awarded a contract would be required to submit additional documentation to the agency, and the agency would need to submit a registration package to the New York City Comptroller's Office (the "NYC Comptroller") for registering the contract.¹¹ Once the NYC Comptroller registers the contract, the procurement process is completed.

⁴ *See id.*

⁵ *See id.*

⁶ *See id.*

⁷ *See generally* N.Y.C. Charter §§ 310-335.

⁸ *See* N.Y.C. Charter § 313.

⁹ *See id.*

¹⁰ *See id.*

¹¹ *See* N.Y.C. Charter § 328.

C. Construction Phase

The selected vendor will proceed with executing the capital project based on the specifications of the scope of work to be performed on the contract. Agency project managers will oversee the day-to-day construction to ensure that the project is being implemented to the contract specifications, and to resolve any issues that arise.¹² Other agencies may contract this function out to a construction management firm, as necessary. Agency staff will also make determinations on changes to the capital project, mainly related to subcontractor approvals, submittals, change orders and overruns, and payments, which occur simultaneously on a project.

III. The Department of Design and Construction

DDC was established in 1996 to consolidate within one agency the responsibility for the design, procurement, construction, and coordination of capital projects in the City of New York.¹³ Capital projects under the charge and control of DDC include, but are not limited, to streets and highways, bridges and tunnels, parks and recreational facilities, sewers and sewage disposal plants, water supply and distribution structures, waste management facilities, correctional facilities and all other public buildings, structures and facilities.¹⁴

In Fiscal 2020, DDC staffs approximately 1,489¹⁵ individuals to manage over 3,883¹⁶ agency projects. It has no capital budget of its own, and all projects provided to DDC must be fully funded by the sponsoring agency when DDC takes them on.¹⁷

¹² See N.Y.C. Charter § 333.

¹³ See L.L. 77/1995.

¹⁴ See N.Y.C. Charter § 1202(a).

¹⁵ See New York City Council, Finance Division, *Report of the Finance Division on the Fiscal 2020 Preliminary Plan, Fiscal 2020 Preliminary Capital Commitment Plan, and the Fiscal 2019 Preliminary Mayor's Management Report for the Department of Design and Construction* (2019) available at <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2019/03/850-DDC-2020.pdf> (last accessed on September 19, 2019).

¹⁶ See New York City Council, *Report of the Finance Division on the Fiscal 2020 Executive Budget* (2019), available at <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2019/06/FY20-Expense-Revenue-and-Capital-Report.pdf> (last accessed on September 19, 2019).

IV. The Front-End Planning Unit

First established by DDC in 2016, the FEP Unit was developed to perform an early review of project proposals with sponsoring agencies and to ensure that goals, budgets, scopes and schedules all align.¹⁸ Bringing architectural, engineering, cost estimating and project management tools to bear, FEP has helped sponsoring agencies understand what exactly they were asking for and how much it would cost before pursuing the project.¹⁹

DDC first receives requests from sponsoring agencies to manage capital projects through a Project Initiation (“PI”) Form.²⁰ The PI Form collects general information on a project, ranging from project scope, estimated timeline, funding source, operating expense and grant implications, and other project information. See **Exhibit 1** for the **PI Form**. Once a PI Form is submitted by the sponsoring agency, it starts the clock on DDC’s ownership of the project’s design and construction process.²¹ According to DDC, since inception, FEP has streamlined the initiation of approximately 100 projects annually.²²

For Fiscal 2020, DDC has a budgeted headcount of 34 staff in the FEP Unit, divided between the Public Buildings Division and the Infrastructure Division, with a total budget of \$2,788,587 for Personnel Service (PS) costs and Other Than Personnel Service (OTPS) costs. The total budget for front-end planning for Public Buildings is \$1,771,945, which consists of \$1,393,061 for PS costs and \$378,884 for OPTS costs. For front-end planning for Infrastructure, the total budget is \$1,016,642, which includes \$928,769 for PS costs and \$87,873 for OTPS costs.

¹⁷ See *A Survey of Capital Project Management Among New York City Government Agencies*, supra note 1.

¹⁸ See New York City Department of Design and Construction, *A Strategic Blueprint for Construction Excellence* (2019), available at https://www1.nyc.gov/assets/ddc/images/content/pages/press-releases/2019/2019_DDC_Strategic_Plan.pdf (last accessed on September 19, 2019).

¹⁹ See id.

²⁰ See id.

²¹ See id.

²² See id.

In Fiscal 2019, a term and condition was attached to DDC's budget requiring it to submit to the Council a semi-annual report on front-end planning for the Public Buildings Division.²³ Each report was required to include the number of projects begun, in progress, and completed, disaggregated by type of project. For the first half of Fiscal 2019, DDC reported 51 projects at various stages being handled by the Public Buildings FEP team,²⁴ and for the second half of Fiscal 2019 DDC reported 42 projects.²⁵

Between the issuance of the two reports, DDC informed the Council of the addition of a new step in the FEP Unit's review process known as the "Scope Verification Report." Upon review of a completed PI form, the FEP Unit will send a Scope Verification Report to the sponsoring agency for approval. The Scope Verification Report is generated by the FEP Unit, and describes what has been determined to be the complete scope necessary to fulfill the need of the project. It also provides the recommended scope based on found conditions. According to DDC, this additional step in the FEP Unit's review process will ensure that sponsoring agencies sign-off on a project scope at the very beginning of a project to assist in avoiding timeline impacts and change orders as a project progresses,. Once DDC receives the approved Scope Verification Report from the client agency, the FEP Unit will continue its analysis of the project, provide an estimated project budget and timeline, and issue the "Final FEP Report." In Fiscal 2019, there

²³ See New York City Council, *Fiscal 2019 Terms and Conditions* (2018), available at <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2018/06/FY19-Terms-and-Conditions-FINAL.pdf> (last accessed September 23, 2019).

²⁴ See New York City Department and Design and Construction, *FEP Project Initiation Tracker FY19*, <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2019/03/Department-of-Design-and-Construction-Front-End-Planning.pdf> (last accessed September 23, 2019).

²⁵ See New York City Department and Design and Construction, *FEP Project Initiation Tracker FY19*, <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2019/07/Department-of-Design-and-Construction-Front-End-Planning-2-of-2.pdf> (last accessed September 23, 2019).

were approximately ten projects that had undergone the FEP Unit's initial review and received a Scope Verification Report.²⁶

The following table provides detailed budget information for the FEP Unit from Fiscal 2017 to Fiscal 2020:²⁷

Front End Planning Analysis - PB

| Fiscal Year | Unit | PS Budget | | PS Spend | Budgeted Head Count | OTPS Budget | | OTPS Spend | Total Budget | Total Spend |
|--------------|------|-----------|---------------------|---------------------|---------------------|-------------|---------------------|-------------------|---------------------|---------------------|
| | | Code | | | | Code | | | | |
| FY20 | PB | 8400 | \$ 1,393,061 | \$ 176,510 | 19 | 8401 | \$ 378,884 | \$ 24,876 | \$ 1,771,945 | \$ 201,386 |
| FY19 | PB | 8400 | \$ 1,367,299 | \$ 936,329 | 13 | 8401 | \$ 366,709 | \$ 54,084 | \$ 1,734,008 | \$ 990,413 |
| FY18 | PB | 8400 | \$ 905,166 | \$ 815,806 | 9 | 8401 | \$ 517,937 | \$ 140,567 | \$ 1,423,103 | \$ 956,373 |
| FY17 | PB | 8400 | \$ 302,500 | \$ 295,897 | 9 | 8401 | \$ 104,404 | \$ - | \$ 406,904 | \$ 295,897 |
| Total | | | \$ 3,968,026 | \$ 2,224,542 | | | \$ 1,367,934 | \$ 219,526 | \$ 5,335,960 | \$ 2,444,069 |

* FY 20 Information is Year to Date

** Prior Year Headcount is as of June 30th of the particular Fiscal Year

*** FY 19 Budget Headcount includes 4 positions for Building Assessment

Front End Planning Analysis - Infra

| Fiscal Year | Unit | PS Budget | | PS Spend | Budgeted Head Count | OTPS Budget | | OTPS Spend | OTPS Budget | OTPS Spend |
|--------------|-------|-----------|---------------------|---------------------|---------------------|-------------|-------------------|-------------|---------------------|---------------------|
| | | Code | | | | Code | | | | |
| FY20 | Infra | 8500 | \$ 928,769 | \$ 122,754 | 15 | 8501 | \$ 87,873 | \$ - | \$ 1,016,642 | \$ 122,754 |
| FY19 | Infra | 8500 | \$ 910,937 | \$ 779,602 | 9 | 8501 | \$ 72,539 | \$ - | \$ 983,476 | \$ 779,602 |
| FY18 | Infra | 8500 | \$ 885,941 | \$ 710,619 | 9 | 8501 | \$ 70,776 | \$ - | \$ 956,717 | \$ 710,619 |
| FY17 | Infra | 8500 | \$ 7,500 | \$ 30,182 | 9 | 8501 | \$ 126,001 | \$ - | \$ 133,501 | \$ 30,182 |
| Total | | | \$ 2,733,147 | \$ 1,643,157 | | | \$ 357,189 | \$ - | \$ 3,090,336 | \$ 1,643,157 |

* FY 20 Information is Year to Date

** Prior Year Headcount is as of June 30th of the particular Fiscal Year

V. Expansion of the Front-End Planning Unit

In January 2019, DDC released its Strategic Blueprint for Construction Executive Excellence (the “Strategic Blueprint”), a plan to transform how DDC manages capital construction projects from start to finish to deliver City infrastructure and public buildings on time and on budget.²⁸ In the Strategic Blueprint, DDC provides a roadmap for ways that it plans to improve project

²⁶ See id.

²⁷ The data included in the table was provided to NYC Council, Finance Division, by the New York City Department of Design and Construction.

²⁸ See *New York City Department of Design and Construction, A Strategic Blueprint for Construction Excellence, Progress Update* (July 2019), available at https://www1.nyc.gov/assets/ddc/images/content/pages/press-releases/2019/2019_Strategic_Blueprint_Update.pdf (last accessed on July 19, 2019).

delivery, including, among other things, the expansion of the FEP unit to cover all capital projects managed by DDC.²⁹

In July 2019, DDC issued a Six-Month Blueprint Progress Update (the “Blueprint Update”) summarizing some of the significant changes made since releasing the Strategic Blueprint and provided an update on its progress in expanding the FEP Unit.³⁰ According to the Blueprint Update, every new project is now systematically reviewed by the FEP Unit before it is officially accepted by DDC.³¹ In Fiscal 2019, DDC reviewed approximately 170 projects, working, as DDC described, collaboratively with sponsoring agencies to further develop scope and/or ensure additional funding for 69 of those projects.³² DDC also claims to have worked with sponsoring agencies to clearly understand the scope of a project and make sure the budget is adequate for the task, limiting last-minute additions and changes, allowing project initiation to proceed sooner, with greater clarity, and with fewer obstacles later on.³³

DDC also reported in the Blueprint Update that it finalized an agreement with the NYC Office of Management and Budget, allowing the final report issued by the FEP Unit to serve as an official Certificate to Proceed (“CP”) submission material to be submitted to OMB for review, so that the CPs can get processed more quickly.³⁴ According to DDC, this change has eliminated a step in the process and shaved off several weeks in the project initiation phase for Public Buildings projects.³⁵

²⁹ *See id.*

³⁰ *See id.*

³¹ *See id.*

³² *See id.*

³³ *See id.*

³⁴ *See id.*

³⁵ *See id.*

VI. Conclusion

At this hearing, the Subcommittee on Capital Budget looks forward to learning more about the work and expansion of FEP, and how it has streamlined the review process to effectively scope and budget City capital projects.

Exhibit 1

Project Initiation Form