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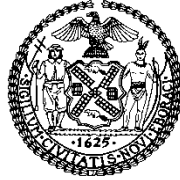
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November 12, 2019

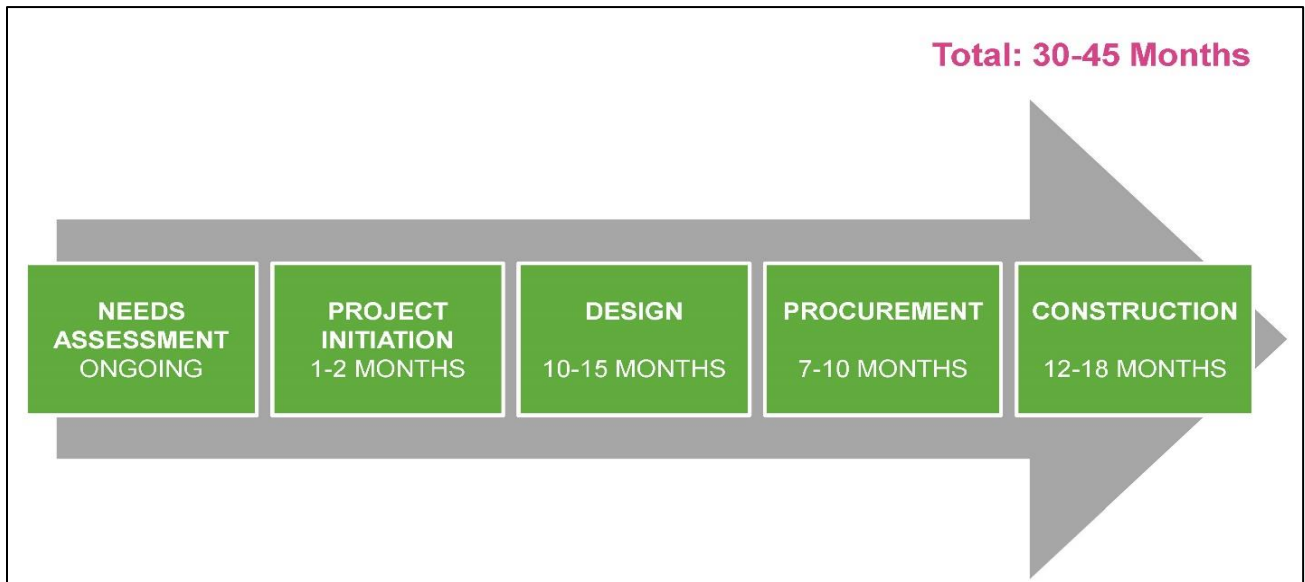
Oversight: Improving the Efficiency of Parks Department Capital Projects

Introduction

On November 12, 2019, the Committee on Parks and Recreation, chaired by Council Member Peter Koo, the Committee on Contracts, chaired by Council Member Ben Kallos and the Subcommittee on the Capital Budget, chaired by Council Member Vanessa Gibson, will hold a joint oversight hearing entitled, “Improving the Efficiency of Parks Department Capital Projects.” Representatives from the Department of Parks and Recreation (DPR), the Mayor’s Office of Contract Services (MOCS), the Department of Design and Construction (DDC), the Public Design Commission (PDC),¹ parks conservancies and alliances, parks advocates, community organizations, as well as other concerned community groups have been invited to testify.

Capital Process Overview²

DPR estimates that most capital projects take 30 to 45 months from the initial “need” identification until the completion of construction. DPR breaks down its capital process into five stages: Needs Assessment, Project Initiation, Design, Procurement, and Construction.



Source: DPR Capital Process Overview presentation (November 8, 2017)

¹ The PDC is official named the Art Commission pursuant to Chapter 37 of the City Charter.

² This section is largely adapted from DPR’s Capital Process Overview presentation to the joint City Council-Administration Capital Projects Taskforce on November 8, 2017, on file with the City Council Finance Division.

Needs Assessment is an ongoing process conducted by DPR, and also informally by community members and elected officials. Once a need is identified, DPR Capital Division prepares a cost estimate. To meet the estimated project cost, funds are requested through the Office of Management and Budget (OMB), for inclusion in the capital plan. Sometimes additional discretionary funds are requested from City Council and the Borough Presidents. Only after the estimated project cost is fully funded can the project proceed to Project Initiation.

Project Initiation typically takes one to two months. DPR staff and/or an outside consultant are assigned to the project. Next there is a pre-scope meeting to review the project, often including both DPR and external agencies such as the Department of Environmental Protection (DEP). A threshold decision is made as to whether a completely new specialty design is warranted or, in the case of an existing park, if it may be replaced in-kind, with a similar park. The final step of Project Initiation is a scope meeting, which brings together DPR and members of the community to determine the scope of the project.

The Design stage, which typically takes 10 to 15 months, is itself broken down into four discrete sub-stages: Design Development (two to five months), Internal Schematic Approvals (one month), External Schematic Approvals (two to three months), and Construction Document Preparation and Permit Applications (five to six months).

Design Development starts with a site analysis and a tree inventory. After a DPR coordination meeting and the development of a conceptual design that identifies the project's main elements, pre-applications are made to external agencies as needed, including the State's Department of Environmental Conservation (DEC) and Department of Transportation (DOT), as well as the City's Department of Buildings (DOB). Design Development ends with the development of a schematic design that fully articulates the program for the space.

Internal Schematic Approvals are the high-level review and approval of the schematic design, first by the Deputy Commissioner for Capital Projects and then by the DPR Commissioner. In the case of specialty designs, but not in the case of replacements-in-kind, these internal approvals are followed by External Schematic Approvals, first by the local Community Board, and then simultaneously by the Public Design Commission (PDC) and the Landmarks Preservation Commission (LPC).

Construction Document Preparation and Permit Applications starts with a second coordinating meeting. Once construction documents are about 80 percent developed, there is a landscape construction review, a maintenance and operations review, and a constructability review, followed by the submission of a certificate to proceed to OMB. Once construction documents are about 90 percent developed, the project is submitted to final review by the PDC and the LPC, followed by Minority and Women Owned Business Enterprise (WMBE) review and, finally, submission of all permit applications. Once construction documents are about 98 percent developed, there is final sign off and submission to landscape construction and forestry review. Only then are the complete construction documents submitted to the Department's Map File division.

The Procurement stage, which typically takes seven to ten months, is broken down into four discrete sub-stages: Pre-Solicitation Review (two to three months), Solicitation (one to one and a half months), Pre-Award (three to four and a half months), and Award and Registration (one month).

Pre-Solicitation Review starts with the contract being entered into the DPR's Automated Procurement Tracking (APT) system. The contract next undergoes legal reviews: in the case of contracts subject to a project labor agreement or a contract estimate exceeding \$5 million, it is first

reviewed by the Mayor's Office of Contract Services (MOCS), and in the case of all contracts they reviewed by DPR legal followed by the Law Department. Then the project is scheduled to advertise a request for proposals.

Solicitation of Proposals starts with a pre-bid meeting with contractors, where applicable, and a question and answer period. Addenda to the request for proposals may be issued as well. Only then the request for proposal is opened for bids.

The Pre-Award Process starts with bid tabulation. Bids are simultaneously reviewed for responsiveness by the DCP chief contracting officer, DPR legal, and MOCS, and also for responsibility, by the same mentioned entities, as well as by the Department of Investigation (DOI) and the Department of Labor Services (DLS). Several outcomes are possible. If bids are found to be non-responsive or non-responsible, contractors may appeal to the DPR general counsel. If bids come in higher than the original certificate to proceed price, DPR can ask to amend the certificate, subject to review by the DPR General Counsel. Only if a bid is found responsive and responsible will DPR make a recommendation for award and an award letter will be issued.

The Award and Registration process begins with the chosen contractor executing a contract and providing insurance, and, if applicable, bonds. DPR then submits the package to the City Comptroller. Once the Comptroller registers the contract, DPR will publicly notice the award to the contractor. Simultaneous with Comptroller review, DPR and the contractor can undertake pre-construction planning.

The Construction stage typically takes 12 to 18 months. Pre-Construction Planning by the contractor and DPR continues for one to four months until the Order to Work date, which DPR sets as official start date for construction. Since the majority of DPR's construction is weather

dependent, Order to Work dates are typically scheduled in the spring, summer, or fall, when the weather is warmer.

Construction typically takes 12 to 18 months and is closely supervised by DPR staff who oversee the daily operations of the project to ensure that it is built to contract specifications and to resolve any issues that arise. Construction supervision responsibilities include subcontractor approvals, submittals, change orders and overruns, and payments, which occur simultaneously on a project. Construction staff submit weekly progress reports with percent completion information and are published to the Capital Tracker.

Change Orders, which arise when contractors must deviate from the construction drawings, are an important part of the construction process. They typically take up three to 12 months and are ongoing during the construction period. At a Council hearing earlier this year, DPR testified that DPR had adopted a policy that had reduced change orders by nearly 80%, only approving them if they were “directly related to the life safety or other emergency needs.”³

Once a change order is initiated by DPR, a scope and cost estimate are prepared. If additional project funds are fully covered by OMB contingency, the contractor will submit a proposal that undergoes several rounds of approval by DPR: first by the resident engineer, then by the construction director, the project designer, and the team leader. For all change orders estimated to cost more than \$15,000, an additional step is approval by a DPR change order review panel. The change order is then reviewed by the engineering audit office and the team leader (again). The change order is entered into APT and the revised budget is approved. For projects requiring additional project funds, a revised budget may be approved only after additional funds are identified, and OMB approved an amended certificate. The Chief Contracting Officer must also

³ Testimony of Matt Drury, DPR Director of Government Relations, Hearing before the New York City Council Committee on Parks & Recreation, February 7, 2019.

approve all changes orders, as must MOCS for all change orders larger than ten percent of original budget or \$500,000. Once fully approved, the change order must be registered with the Comptroller. Only then can the contractor be advised to start work executing the change order.

Substantial completion is an important construction milestone. DPR holds an inspection with the contractor and determines that the work required under the contract is substantially, but not entirely, complete and identifies a final punch list. The project is then typically open to the public while the contract closes out the open issues identified by the punch list over the next two to twelve months. There is also a Guarantee Inspection one year after Substantial Completion to ensure that the contractor work has proven durable as required under the contract.

Project Pipeline and Budget

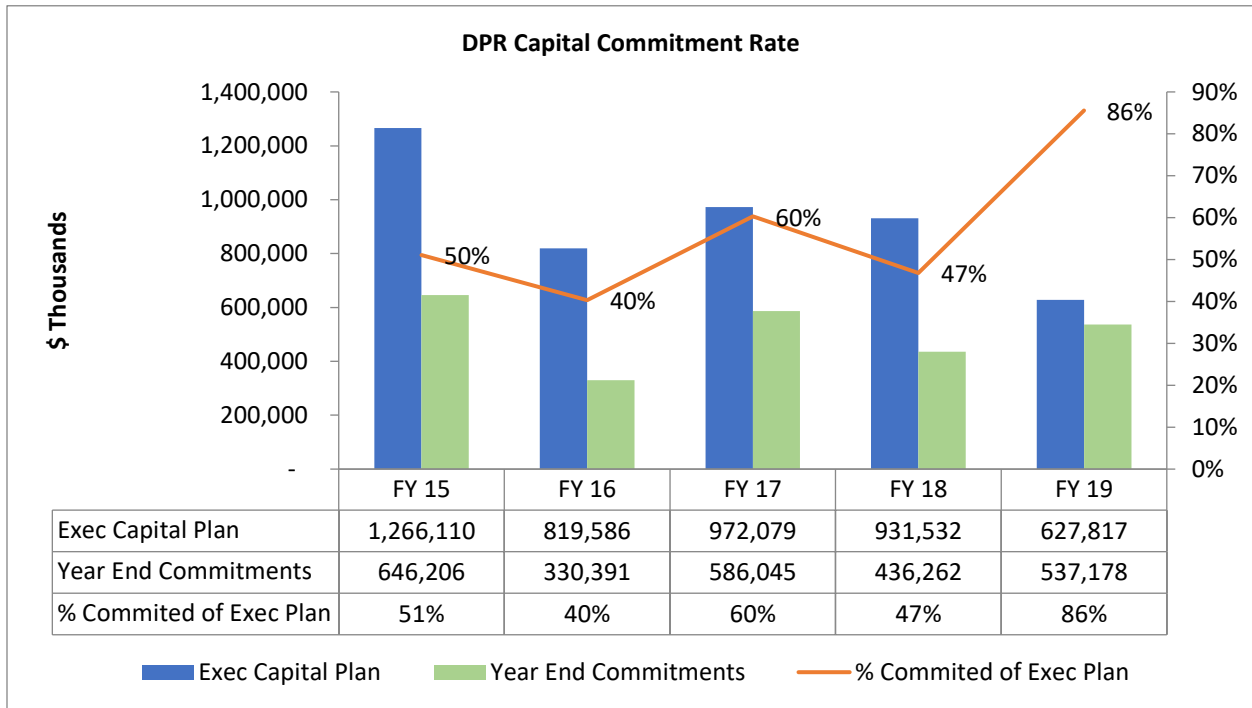
In Fiscal 2020, DPR has 619 active capital projects across the five boroughs for which it is anticipates spending almost \$2.7 billion, including both registered contracts and forecasted registrations. These numbers have been steadily increasing since Fiscal 2016.

Active Project Count and Spending (in 000s), by Borough, by Fiscal Year ⁴	FY16		FY17		FY18		FY19		FY20	
	#	\$	#	\$	#	\$	#	\$	#	\$
Bronx	78	\$148,605	88	\$199,717	90	\$250,775	93	\$295,020	98	\$367,354
Brooklyn	94	\$240,284	113	\$354,078	118	\$422,308	129	\$548,885	152	\$722,057
Citywide	50	\$99,289	46	\$104,337	48	\$119,377	53	\$127,575	50	\$111,763
Manhattan	66	\$191,374	79	\$207,805	89	\$270,501	103	\$323,050	114	\$482,850
Queens	92	\$245,484	103	\$306,196	111	\$401,623	139	\$550,625	157	\$754,549
Staten Island	44	\$143,713	45	\$153,663	46	\$211,223	45	\$209,125	48	\$243,684
Total	424	\$1,068,749	474	\$1,325,796	502	\$1,675,807	562	\$2,054,280	619	\$2,682,257

Source: Department of Parks and Recreation

⁴ The counts and values do not include things like partially funded projects, equipment purchases, property acquisitions, pass-throughs/sole sources, or other agency managed projects, but does include money that DPR receive from other agencies in projects that it manages.

While DPR has in recent years struggled to commit more than half of the funding in its capital plan, with unmet commitment targets and significant appropriations available to roll into outyears, in Fiscal 2019 it achieved a capital commitment rate exceeding 85 percent.



Source: Office of Management and Budget

Issues and Concerns

Various concerns regarding the implementation of capital projects by DPR have been expressed by elected officials, community members and park advocates. Such concerns relate to the overall efficiency of the process, with many expressing frustration regarding delays, cost overruns and lack of communication between DPR and funders of capital projects. Often, the delays and cost overruns relate to problems securing various permits, the need to make revisions to the scope of the project and coordinating the work schedules of the various contractors.⁵ When compared to capital projects performed by public-private partnerships, DPR projects routinely take

⁵ Audit Report on the Department of Parks and Recreation’s Oversight of Capital Projects, City of New York Office of the Comptroller, Audit Report 7E12-067A, January 11, 2013, p 4.

longer to complete and cost more.⁶ For example, the Trust for Public land has built over 180 playgrounds throughout the City and has reported that its costs are about half of what DPR's typically are.⁷

Historically, delays in DPR capital projects have been significant, with large backlogs in fully funded projects. For example, in FY 2010 and FY 2011, of the 315 completed capital projects, approximately 47 percent (149 projects) were not completed according to their original timeframes.⁸ The delayed projects were 218 days late on average, with roughly 10% (30 projects) going \$10 million over budget.⁹ Such delays resulted in approximately \$13 million in additional staffing and construction costs, which included \$4 million in change orders resulting from design errors.¹⁰ More recently, in October 2014, there was a backlog of 124 DPR capital projects that had not even entered the design stage of the process and as of 2017, there were 43 projects under DPR's portfolio that were delayed by five or more years.¹¹

In an effort to limit delays, DPR has informed the Council that it holds monthly internal meetings with senior Capital Projects staff to review every project, highlight any issues that will cause a delay, and determine potential solutions. DPR also has monthly meetings with the Parks Commissioner to discuss delays that require higher level assistance. Delays can occur during design, procurement, or construction. Some typical causes of design delays include DPR receiving additional scope and funding for a project, receiving comments from other government agencies and the public that requires it to make a change to the design, discovering during site testing field

⁶ Center for an Urban Future, *A New Leaf, Revitalizing New York City's Aging Parks Infrastructure*, June 2018, p. 10, available at: https://nycfuture.org/pdf/CUF_A_New_Leaf_.pdf.

⁷ *Id.*

⁸ *Note 1* at p 8.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Testimony of Commissioner Mitchell J. Silver of the New York City Parks Department, "Oversight: Fiscal Year 2017 Preliminary Budget," March 3, 2016; *see also* note 2 at p 10.

conditions that requires changes to the design, or having issues with a design consultant. Some typical causes of procurement delays occur when DPR has to rebid a contract, extend the bid date, or secure additional funding before awarding the project. Finally, typical causes of construction delays include DPR having to address issues with a contractor, design errors or omissions, unexpected field conditions, changes in the scope of the project, change orders, or inclement weather delays.

A recent audit issued by the City Comptroller found that DPR's oversight over capital projects run by construction management firms (CMs) needed improvement, because such projects were routinely delayed, resulting in numerous cost overruns.¹² DPR contracts with CMs to oversee the work of construction and landscaping contractors who execute various DPR capital projects.¹³ DPR classifies CM managed projects based upon whether a project is (1) estimated to cost up to and including \$3 million; or (2) estimated to cost more than \$3 million. From 2010 through 2016, DPR entered into 12 contracts totaling \$96 million in contract capacity, with eight CMs. Each of these 12 CM contracts had a three-year term with an option for DPR to extend the term for an additional two one-year terms.¹⁴ The audit found that DPR needs to improve its oversight of CMs to ensure that such projects are completed appropriately and on time.¹⁵ According to the audit 39 percent of CM managed projects were not completed within scheduled timeframes and that such delays ranged from nine days to three years, resulting in the agency incurring \$4.9 million more in fees charged by its contracted CMs than the amounts originally budgeted, which equates to a

¹² Audit Report on the Department of Parks and Recreation's Oversight of Construction Management Consultants, City of New York Office of the Comptroller, Audit Report SE16-062A, June 15, 2018, p 6.

<https://comptroller.nyc.gov/reports/audit-report-on-the-department-of-parks-and-recreations-oversight-of-construction-management-consultants/>

¹³ *Id*

¹⁴ *Id*

¹⁵ *Id* at p 10.

cost overrun of 35 percent on such CM projects.¹⁶ Further, the audit found that DPR's oversight of CMs was performed without formal written policies and procedures in its Capital Division and without sufficient direction. The weaknesses found in DPR's controls over its CMs were evidenced by missing and incomplete construction records, flawed designs, delays securing required permits and necessary coordination with other agencies that was neglected or ineffective and that DPR lacked adequate metrics for tracking the progress of its CM managed projects.¹⁷

However, a more recent picture of the implementation process was slightly more promising. In Fiscal 2019, DPR completed construction on 162 park improvement projects.¹⁸ Of the 162 capital projects, 86 percent were completed on time and 90 percent were within budget.¹⁹ The on time percentages for Fiscal 2016, 2017 and 2018 were 86, 85 and 88 percent, respectively, with a stated target goal of 80 percent, while the percentages for projects completed within budget for Fiscal 2016, 2017 and 2018 were 88, 87 and 88 percent, respectively, with a stated target goal of 85 percent.²⁰

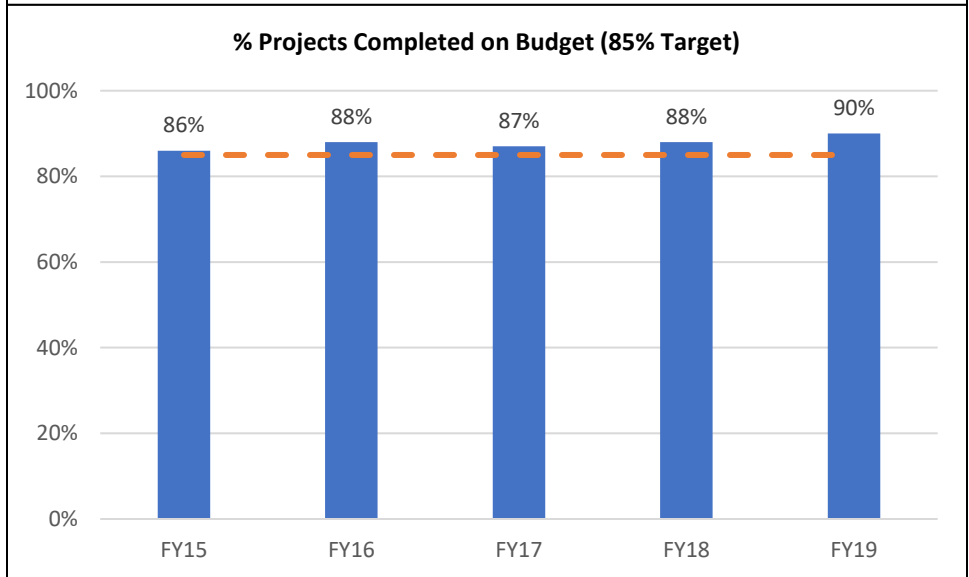
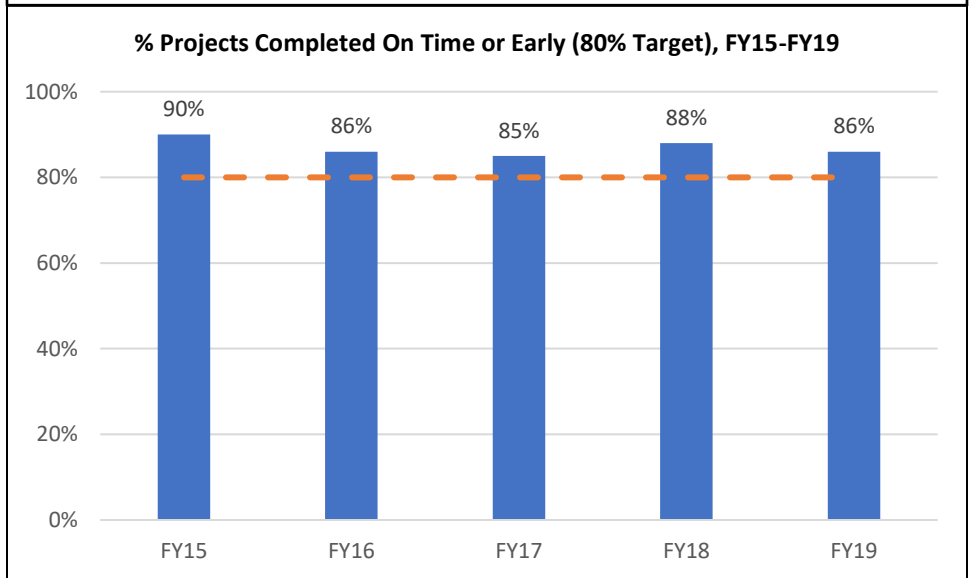
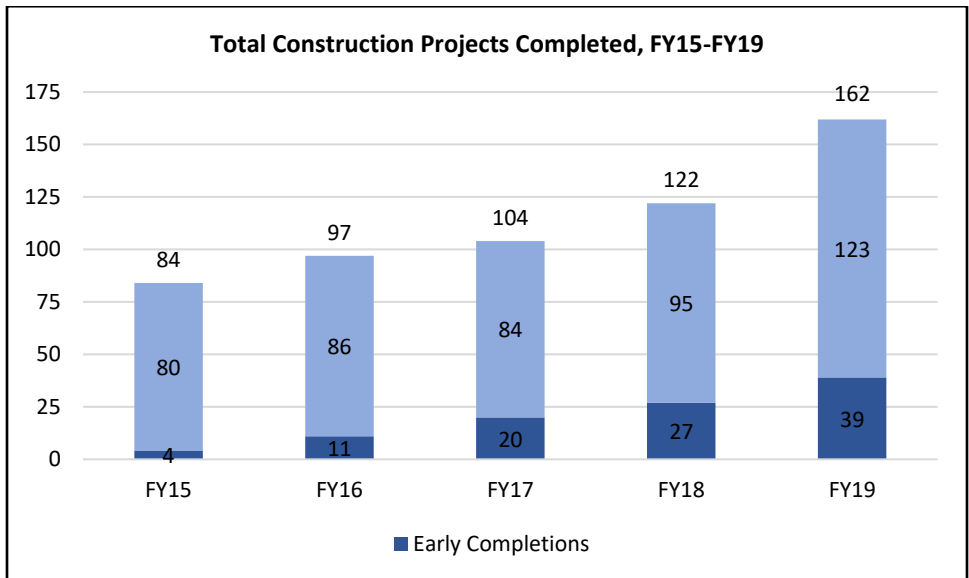
¹⁶ *Id*

¹⁷ *Id*

¹⁸ Mayor's Management Report for Fiscal 2019, Department of Parks and Recreation, Goal 3b, available at <https://www1.nyc.gov/assets/operations/downloads/pdf/mmr2019/dpr.pdf>.

¹⁹ *Id*.

²⁰ Mayor's Management Report, Fiscal Year 2016, Department of Parks and Recreation, available at: <http://www1.nyc.gov/assets/operations/downloads/pdf/mmr2016/dpr.pdf>. *Id*.



Source: Mayor's Management Report for Fiscal 2019

Parks Department M/WBE Utilization on Expense Contracts– FY18

Part of determining how well the capital process works involves analyzing vendor utilization in various industries – particularly in determining an agency’s progress in meeting M/WBE contracting goals in accord with Local Law 1 of 2013 (Local Law 1).²¹ Data is not presently available for the Parks Department’s M/WBE utilization for capital projects, but the data for expense projects is useful for a reference.

In Fiscal 2018, the City’s total contracting budget was \$19.8 billion dollars.²² Of the City’s total contracting budget, \$5.3 billion dollars was subject to the M/WBE program.²³ In Fiscal 2018, the City achieved a combined prime and subcontract M/WBE utilization rate of 19 percent amongst contracts subject to Local Law 1,²⁴ an increase from 11.4 percent in Fiscal 2017.²⁵ Fiscal 2018 was the highest combined utilization rate under the City’s M/WBE Program. M/WBEs were awarded 16 percent (\$835.3 million) of prime contracts in Fiscal 2018 and 51 percent (\$258 million) of subcontracts provided opportunities under the program.²⁶

Although 35 agencies are subject to M/WBE participation goals, a significant percentage of the total dollar value of citywide awards to M/WBEs were made by three agencies, consistent with prior years.²⁷ DDC, DPR, and DEP collectively awarded 72 percent of all prime and 67.75

²¹ <https://www1.nyc.gov/site/mocs/resources/mwbe-regulations.page> .

²² City of New York, Mayor’s Office of Contract Services, *Agency Procurement Indicators: Fiscal Year 2018* available at <https://www1.nyc.gov/site/mocs/reporting/citywide-indicators/how-the-city-spends-its-money.page>

²³ *Id.*

²⁴ City of New York, Mayor’s Office of Contract Services, *Minority and Women-Owned Business Enterprise Program Annual Report for Fiscal Year 2018* available at

https://www1.nyc.gov/assets/sbs/downloads/pdf/about/mwbe-reports/fy18_final_mwbe_compliance_rpt.pdf

²⁵ City of New York, Mayor’s Office of Contract Services, *Agency Procurement Indicators: Fiscal Year 2017* available at

https://www1.nyc.gov/assets/mocs/downloads/pdf/MWBEReports/2017_AgencyProcurementIndicators.pdf

²⁶ See “Fiscal 2018 M/WBE Report Appendices Final Report: Table G- Prime Contract M/WBE Utilization Final Report available at <https://www1.nyc.gov/site/mocs/partners/m-wbe-appendices.page>

²⁷ See “Fiscal 2018 M/WBE Report Appendices Final Report: Table G- Prime Contract M/WBE Utilization Final Report available at <https://www1.nyc.gov/site/mocs/partners/m-wbe-appendices.page>

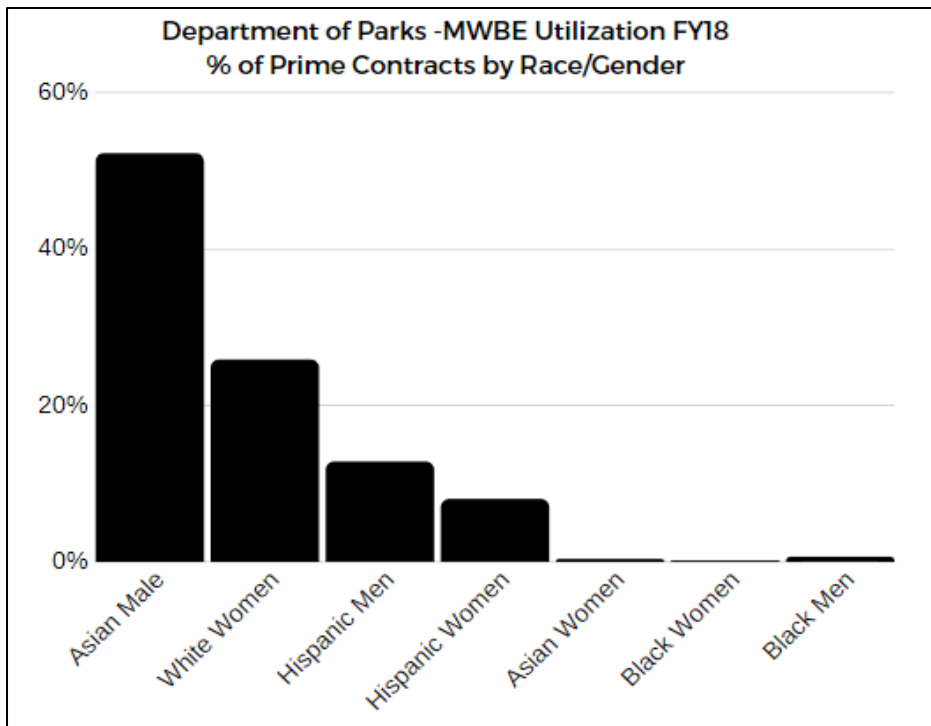
percent of subcontracts were awarded to M/WBEs.²⁸ In Fiscal 2018 the DPR awarded \$94,006,819 in prime contracts and \$31,669,580 in subcontracts to firms owned by M/WBEs.

While the City has generally improved its contracting with M/WBE firms, disparities exist among the type of M/WBEs awarded contracts across industries. Of the \$315.25 million awarded to M/WBEs by DPR, more than half were awarded to businesses owned by Asian Men.²⁹ Of the total value in prime contracts awarded to M/WBEs by DPR in Fiscal 18, 52 percent were awarded to businesses owned by Asian Men, 25.82 percent were awarded to White Women-owned firms, 12.75 percent to Hispanic Male-owned firms, and 7.97 percent to businesses owned by Hispanic Women.³⁰ Businesses owned by Asian Women, Black Women, and Black Men received less than one percent of the total value of prime contracts awarded to M/WBEs by DPR.

²⁸ City of New York, Mayor's Office of Contract Services, Minority and Women-Owned Business Enterprise Program Annual Report for Fiscal Year 2018 *available at* https://www1.nyc.gov/assets/sbs/downloads/pdf/about/mwbe-reports/fy18_final_mwbe_compliance_rpt.pdf

²⁹ See "Fiscal 2018 M/WBE Report Appendices Final Report: Table G- Prime Contract M/WBE Utilization Final Report *available at* <https://www1.nyc.gov/site/mocs/partners/m-wbe-appendices.page>

³⁰ See "Fiscal 2018 M/WBE Report Appendices Final Report: Table G- Prime Contract M/WBE Utilization Final Report *available at* <https://www1.nyc.gov/site/mocs/partners/m-wbe-appendices.page>



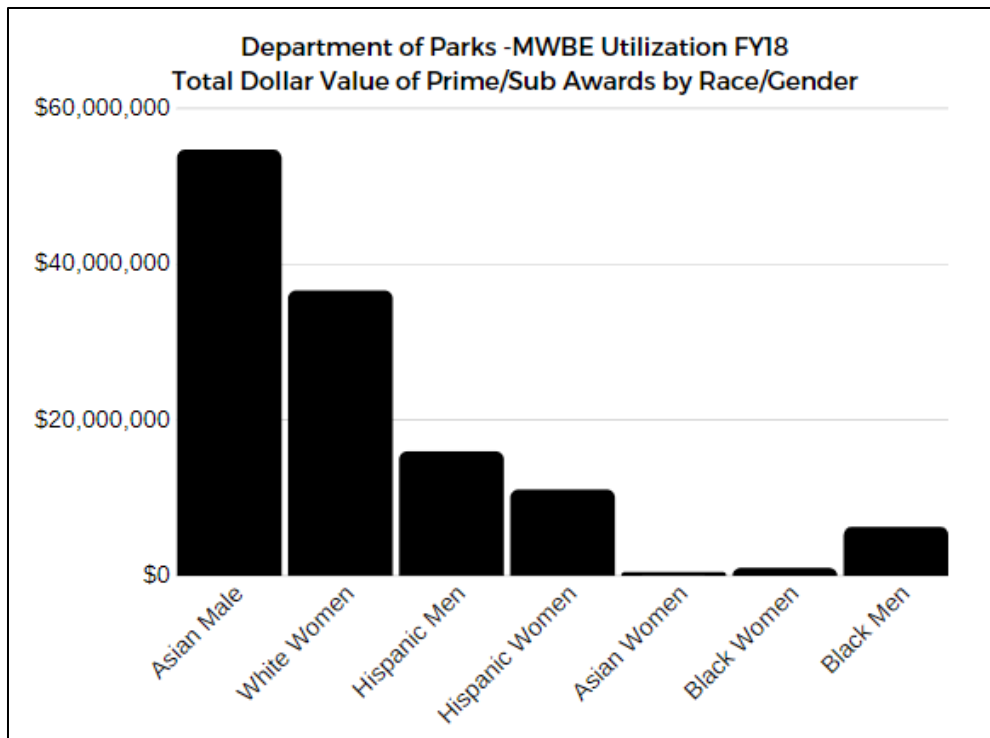
Similar disparities exist amongst subcontracts awarded to M/WBE owned firms. Of the \$31,669,580 in subcontract awards to M/WBEs, nearly 40 percent was awarded to businesses owned by White Women.³¹ Of the total value of subcontracts awarded to M/WBEs by DPR, 38.77 percent were awarded to businesses owned by White Women, 17.91 percent to Black Male-owned firms, 16.74 percent to Asian Male-owned firms, and 12.36 percent to Hispanic Male-owned firms.³² Businesses owned by women of color received the smallest dollar value of contract awards for both prime and subcontracts.³³ The chart below depicts the total dollar amount awarded to M/WBEs, including both prime and subcontracts, by DPR in Fiscal 2018.³⁴

³¹ See “Fiscal 2018 M/WBE Report Appendices Final Report: Table E-F- M/WBE Subcontracting on Primes available at <https://www1.nyc.gov/site/mocs/partners/m-wbe-appendices.page>

³² *Id.*

³³ *Id.*

³⁴ *Id.*



Improving the Process

DPR Commissioner, Mitchell J. Silver has stated that it is DPR’s intention to make the capital process more streamlined and efficient.³⁵ In October 2014, DPR created a capital projects tracker on its website which includes an interactive map of all active DPR projects.³⁶ The tracker is an effort by DPR to make the capital process more transparent and allow anyone to learn about the current stage of a particular capital project.³⁷ The tracker provides information, such as design, procurement and construction phases for over 400 active DPR projects.³⁸ The tracker also provides

³⁵ Testimony of Commissioner Mitchell J. Silver of the New York City Parks Department, “Oversight: Fiscal Year 2017 Executive Budget,” May 20, 2016.

³⁶ <https://www.nycgovparks.org/planning-and-building/capital-project-tracker>. See also, The Freshkills Park Alliance Website, “From Behind the Mounds: New York City Department of Parks and Recreation’s Capital Project Tracker,” October 29, 2014, available at: <http://freshkillspark.org/blog/new-york-city-department-parks-recreations-capital-project-tracker>

³⁷ See, New York City Department of Parks and Recreation Website, Press Releases, “NYC Parks Launches Online Capital Project Tracker To Increase Capital Projects Transparency,” October 17, 2014, available at: <https://www.nycgovparks.org/news/press-releases?id=21262>

³⁸ See, The Freshkills Park Alliance Website, “From Behind the Mounds: New York City Department of Parks and Recreation’s Capital Project Tracker,” October 29, 2014, available at: <http://freshkillspark.org/blog/new-york-city-department-parks-recreations-capital-project-tracker>

the total amount of funding for the project and the funding source.³⁹ The capital tracker was codified into law when the City Council passed Local Law 98 of 2015, which requires DPR to provide on its website up to date information on each funded capital project. Such information is required to including a detailed description of each project, the location of each project, the actual or estimated starting and completion dates of each phase of each project and the total amount of funds allocated to each project.

In addition, at a City Council Executive Budget Hearing on May 20, 2016, Commissioner Silver testified that DPR's goal is to have all newly funded projects enter into design within the same fiscal year that funding is received.⁴⁰ At that hearing, Commissioner Silver announced that Mayor de Blasio provided approximately \$2 million in baseline expense funding in the Fiscal 2017 Executive Budget for an additional 20 capital division staffers to help keep projects on track once they begin construction.⁴¹

DPR also announced that in Fiscal 2017, funding was been allocated for a full capital needs assessment that will provide DPR with a more comprehensive understanding of the needs of the parks system and allow DPR to plan better for meeting its capital needs. Such funding was used for 18 in house designers and 28 resident engineers (\$4 million), for 20 new capital division staffers to eliminate yearly backlog (\$2 million), and for a Capital Estimating Unit that will use specialized software to more accurately estimate the cost of capital projects ahead of time in order to minimize unexpected delays.⁴²

³⁹ See, New York City Department of Parks and Recreation Website, Bronx and Queens General Roofing Systems Reconstruction, available at: <https://www.nycgovparks.org/planning-and-building/capital-project-tracker/project/6259>

⁴⁰ Testimony of Commissioner Mitchell J. Silver of the New York City Parks Department, "Oversight: Fiscal Year 2017 Executive Budget," May 20, 2016.

⁴¹ *Id.*

⁴² Testimony of Commissioner Mitchell J. Silver of the New York City Parks Department, "Oversight: Fiscal Year 2017 Preliminary Budget," March 3, 2016.

At a January 19, 2017 City Council hearing, Commissioner Silver testified on further improvements regarding capital projects. At the hearing, Commissioner Silver stated that comparing Fiscal 2015 to Fiscal 2016, DPR reduced the average time period for design by 54 days, nearly two months, and that project designs were being approved by the PDC at a rate of 83 percent on DPR's first submission, as opposed to only 20 percent in prior years.⁴³ DPR also automated and standardized the process to compile their contract books which used to take two weeks and now takes only two hours.⁴⁴ DPR reduced the number of change orders for projects in the construction phase by 78 percent, from 407 to 90, with nearly a quarter of DPR's 2016 construction projects completed early.⁴⁵

At the same hearing, the Deputy Commissioner for Capital Projects, Therese Braddick, testified that DPR made improvements to its needs assessment process by baselining \$1.8 million in expense funding for pre-design testing from OMB allowing DPR to better understand existing site conditions and create more accurate cost estimates for approximately 40 sites per year.⁴⁶ In order to improve DPR's estimating process, a pilot was started in September 2016 hiring two professional estimators to assist DPR's landscape architecture teams and new estimating software was purchased.⁴⁷ The estimators' responsibilities include creating the estimates from the projects inception, through design, procurement and construction.⁴⁸

⁴³ Testimony of Commissioner Mitchell J. Silver of the New York City Parks Department, "Intros 407 and 1340," January 19, 2017, available at <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1825177&GUID=55198C60-50C9-4303-8E4E-783F82EB46DB&Options=&Search=>

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ Testimony of Deputy Commissioner for Capital Projects, Therese Braddick of the New York City Parks Department, "Intros 407 and 1340," January 19, 2017, available at <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1825177&GUID=55198C60-50C9-4303-8E4E-783F82EB46DB&Options=&Search=>

⁴⁷ *Id.*

⁴⁸ *Id.*

Improvements were made in the project initiation phase focusing on increased communication and transparency by holding pre-scope meetings with internal DPR stakeholders from Maintenance and Operation staff, Recreation staff and other DPR divisions and also engage with other city agencies to gather information about project site uses and potential issues with certain sites.⁴⁹ Deputy Commissioner Braddick stated that this improvement in the process has been beneficial in sharing information about a project site and communicating early on what DPR's needs are so they are incorporate into the scope of the work.⁵⁰

DPR improved the design process by streamlining the internal review meetings from five to two meetings which reduced preparation work and clarified design direction for DPR's designers. DPR also increased the use of standard templates so that every project does not have to be started from the beginning. For example, comfort stations use stock materials that are easier for staff to repair and maintain.⁵¹ DPR also holds monthly "red zone" meetings to receive Commissioner-level assistance on stalled projects and also holds interagency coordination meetings with DEP, DOT and DDC to elevate and resolve issues on projects.⁵² DPR reduced the documentation required for all submissions which has decreased the time it takes to approve a project as well.⁵³

Many in the advocacy community have proposed numerous ideas for improvement as well, including:

- DPR should empower project managers to make most key decisions, following the example of other agencies that perform capital work such as DEP, DDC, DOT, the Economic

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

Development Corporation (EDC) and the School Construction Authority (SCA), where fewer bureaucratic layers are involved in managing each step of the process.⁵⁴

- DPR should require project managers to use uniform project management tools (e.g. MS Project Web Access and Primavera) as part of its standard operation procedures as in the case of the other capital agencies, rather than leaving it up to the discretion of each manager.⁵⁵
- The City should provide DPR with its own discretionary capital budget to enable it to better plan and budget for capital projects over the long term.⁵⁶ Currently, for the vast majority of capital projects, DPR is completely reliant on Mayoral funding and discretionary allocations from various elected officials whose priorities might differ with those of DPR.⁵⁷ Some are concerned that this adds to the inefficiency of the overall process, contributes to inequity throughout the park system, since many large projects are concentrated in large landmark parks, and makes it very difficult for DPR to plan for long-term capital maintenance and improvement of all of its parks.⁵⁸ It has been argued that if DPR had a separate discretionary capital budget or greater control over its capital spending, it could more efficiently direct capital spending to the infrastructure and maintenance needs of a wider range of parks.⁵⁹ DPR should follow the lead of other capital agencies that use capital funding from elected officials as a “last-in” to complete funding for prioritized projects.⁶⁰

⁵⁴ See, “A Survey of Capital Projects Management Among New York City Government Agencies, Prepared for New Yorkers for Parks by Public Works Partners, June 4, 2014, p 6, available at http://www.ny4p.org/client-uploads/pdf/Other-reports/NY4P_Capital_Projects_Management.pdf

⁵⁵ *Id.*

⁵⁶ See *supra*, note 55 at p 9.

⁵⁷ *Id.*, see also; Lisa W. Foderaro, “A Little Known Reason for Disparities in New York’s Parks,” The New York Times, June 16, 2013.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ See *supra*, note 55 at p 10.

- DPR should increase the use of standardized design templates to improve the speed of the design phase. The customization of every capital project unnecessarily slows down the process as it involves many stakeholders in the design process. DPR uses standardization for small park components like benches, fencing and some playground equipment, but larger structures, such as comfort stations and entire playgrounds are very customized and can differ greatly, leading to more back and forth with stakeholders and resulting in a longer design process. The use of more standardized templates would reduce the need to redesign similar projects and increase the likelihood of PDC approval.⁶¹ DPR should also reduce the amount of outsourcing of its design work (currently 30 percent), which can also add to the inefficiencies, since procuring design work can take up significant time.⁶²
- DPR is almost completely reliant on procuring vendors for the construction work of its capital projects. DPR, when compared to other capital performing agencies, has been criticized as being slow to pay vendors for completed work, due to unsatisfactory work by vendors as DPR's cited reason. Many of DPR's projects are less than \$1 million, which is beneath the City's bonding threshold. Therefore, many vendors are smaller entities that are inexperienced in doing work with the City. DPR should increase the technical assistance it provides to its vendors and work on standardizing its invoice review and approval process.⁶³
- DPR should expand its pre-qualified list (PQL) of contractors.⁶⁴ PQLs limit the bidding universe to vendors that are more likely capable of completing the bid efficiently and satisfactorily. DPR recently created a PQL of vendors for projects under \$3 million,

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

without a building component.⁶⁵ DPR should follow the lead of other capital performing agencies and expand the list to include larger projects.⁶⁶ DPR should also establish its own database of vendor performance that goes beyond the requirements of VENDEX, the City's tracking system for vendors it has contracted with.⁶⁷ However, DPR has currently placed a cap of \$3 million for projects using prequalified vendors.⁶⁸ Since the cost of many parks projects now cost much more than \$3 million, the effect of the prequalification is minimal.⁶⁹ Therefore, it has been suggested that DPR should expand its prequalification process to include a greater number of higher cost projects and prequalify more specialized contractors such as geothermal engineers, masonry contractors and drainage system specialists.⁷⁰

- Projects should be managed with an integrated project delivery model, which integrates project stakeholders and decision makers into one team who share the same objectives and deadlines.⁷¹ DPR, in order to implement this model should increase the use of DPR staff cost estimators and employ onsite construction managers who can be empowered to resolve issues as they arise during construction.⁷²
- DPR's capital tracker, which posts updated information regarding the status of each DPR capital project should be expanded to include more detail including the dates that projects

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ Center for an Urban Future, *A New Leaf, Revitalizing New York City's Aging Parks Infrastructure*, June 2018, p 47, available at: https://nycfuture.org/pdf/CUF_A_New_Leaf_.pdf.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

were fully funded, reasons for specific delays and the length of time it took to complete each project.⁷³

- Implementing design-build for certain parks projects would speed up the process and result in fewer cost overruns. Design-build is an approach to public contracting projects that bundles together the design and construction phases of a project instead of implementing and contracting for those phases separately.⁷⁴ It works by contracting with one entity to provide design and construction services, thereby consolidating many of the various phases under one roof.⁷⁵ According to the Design-Build Institute of America, cost savings are achieved by avoiding cost escalations through an accelerated project delivery timetable, a reduction in change orders, and innovations that come from collaborative work between the design and construction team. In June of 2020, the New York State Legislation passed Assembly Bill A.7636 and Senate Bill S.6293A, which authorize increased design build authority for City agencies by allowing the City to issue a single request for proposal and contract for the design, engineering and construction of certain capital projects.⁷⁶ The legislation, which is currently (as of the date of this hearing) pending delivery to Governor Cuomo, would allow design-build to be used for parks projects costing \$1.2 million or more. The impact of this legislation on parks projects remains to be seen as the vast majority of projects (70 percent for landscape projects and 60 percent for architectural projects) are designed in house within DPR.⁷⁷ Therefore, since the usual contract bid by

⁷³ *Id.*

⁷⁴ Design Build Institute of America, “What is Design-Build: A Design-Build Primer Done Right,” available at: <https://dbia.org/wp-content/uploads/2018/05/Primers-What-is-Design-Build.pdf>.

⁷⁵ *Id.*

⁷⁶ Will Bredderman, “City agencies get design-build authority: Mayor, construction industry hail efficiency-boosting measure,” Crain’s New York Business, June 20, 2019.

⁷⁷ *See supra*, note 55 at p 12.

DPR is only for construction, the benefits typically saved by bundling different contracts into one, as is the case with design-build, may not significantly affect parks projects.

- Regarding the audit issued by the City Comptroller, discussed earlier, it makes numerous recommendations, which include the following: (1) DPR should prepare written policies and procedures for its personnel that governs their oversight of CMs that more clearly specify staff duties, responsibilities and performance standards; (2) DPR should issue a construction supervision manual for CMs that specify, in writing, the duties, responsibilities and performance standards that apply to CMs; (3) DPR should develop written standard operating procedures (SOPs) with checklists to ensure that construction management issues are identified quickly and that necessary approvals, permits and other documents, as well as coordination with other agencies are in place prior to directing that construction on a project commence; (4) DPR should develop control procedures to ensure that complete and accurate data is timely entered and its capital project tracking system; and (5) DPR should conduct evaluations of major projects, after completion, to determine whether the objectives were met, identify problems that occurred and determine their causes, and develop measures to mitigate the risks of such problems in future projects.⁷⁸

Conclusion

During this hearing, the Committees will examine whether DPR's recent reforms have helped to improve the capital project process. The Committees hope to hear testimony on additional concerns regarding methods to enhance DPR's efficiency, services and distribution of resources for the entire park system with respect to its capital projects.

⁷⁸ See *supra*, note 13 at p 27-30.