



# City of New York

---

## OFFICE OF THE COMPTROLLER

Scott M. Stringer  
COMPTROLLER



### **MANAGEMENT AUDIT**

**Marjorie Landa**

Deputy Comptroller for Audit

Audit Report on the Department of Parks and Recreation's Controls over Its Disaster-Related Costs That Could Be Reimbursed by the Federal Emergency Management Agency

ME14-083A

**June 29, 2015**

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER  
1 CENTRE STREET  
NEW YORK, NY 10007

SCOTT M. STRINGER  
COMPTROLLER

June 29, 2015

To the Residents of the City of New York:

My office has audited the Department of Parks and Recreation (DPR) to determine whether it has adequate controls in place to ensure that it receives the Superstorm Sandy-related reimbursement from the Federal Emergency Management Agency (FEMA) to which it is entitled. We conduct audits such as this in order to ensure that City agencies receive the maximum federal and state support that is available.

The audit identified weaknesses in certain areas where DPR needs to improve its controls to better ensure that it receives all of the Superstorm Sandy-related reimbursement from FEMA to which it is entitled. In particular, the audit found that DPR needs to improve its maintenance of payment documentation related to its FEMA-eligible projects. In addition, DPR needs to improve the timeliness of its requests for disaster-related federal reimbursement. The audit also found that DPR did not develop formal procedures to guide its implementation and oversight of the disaster-related federal reimbursement process. Finally, the audit found that DPR did not provide documentation to the Office of Management and Budget (OMB) regarding an OMB consultant's (Hagerty Consulting) performance and hours worked at DPR.

The audit makes eight recommendations to DPR, including that DPR ensure that the documentation it maintains for submission for reimbursement is complete and properly labeled; that it submit requests for reimbursement in a more timely manner; and that it has formal procedures to guide its implementation and oversight of the disaster-related federal reimbursement process. The audit also recommends that DPR provide OMB with regular reports on the work each Hagerty Consulting staff member does while working with and for DPR and that DPR conduct a formal assessment of the work being performed by Hagerty Consulting and the continued need for its assistance.

The results of this audit have been discussed with DPR officials, and their comments have been considered in preparing this report. Their complete written response is attached to this report. If you have any questions concerning this report, please e-mail my Audit Bureau at [audit@comptroller.nyc.gov](mailto:audit@comptroller.nyc.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott M. Stringer".

Scott M. Stringer

## TABLE OF CONTENTS

<b>EXECUTIVE SUMMARY .....</b>	<b>1</b>
Audit Findings and Conclusion .....	2
Audit Recommendations.....	2
Agency Response.....	3
<b>AUDIT REPORT .....</b>	<b>4</b>
Background .....	4
Objective.....	5
Scope and Methodology Statement.....	5
Discussion of Audit Results with DPR .....	5
<b>FINDINGS AND RECOMMENDATIONS.....</b>	<b>7</b>
Maintenance of Payment Documentation Needs to Be Improved .....	7
Recommendations .....	9
Timeliness of Submissions for Federal Reimbursement Needs To Be Improved .....	11
Recommendation .....	12
No Formal Procedures for Disaster-Related Reimbursement Process.....	13
Recommendation .....	14
Limited Oversight of Hagerty by DPR.....	14
Recommendations .....	14
<b>DETAILED SCOPE AND METHODOLOGY.....</b>	<b>16</b>
<b>ADDENDUM</b>	

# THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER MANAGEMENT AUDIT

## Audit Report on the Department of Parks and Recreation's Controls over Its Disaster-Related Costs That Could Be Reimbursed by the Federal Emergency Management Agency

ME14-083A

### EXECUTIVE SUMMARY

The objective of this audit was to determine whether the Department of Parks and Recreation (DPR) has adequate controls in place to ensure that it receives the Superstorm Sandy-related reimbursement from the Federal Emergency Management Agency (FEMA) to which it is entitled. The audit's primary scope was Fiscal Years 2013 and 2014. Certain audit information has been updated to include Fiscal Year 2015 data.

DPR maintains a municipal park system of more than 29,000 acres, including roughly 1,900 parks, 1,000 playgrounds, 650,000 street trees and two million park trees. DPR facilities range from community and recreation centers to golf courses and swimming pools throughout the five boroughs. In October 2012, Superstorm Sandy damaged more than 400 DPR park sites; many parks were closed to the public. FEMA, a division of the U.S. Department of Homeland Security (DHS), awards disaster assistance grants to states, local governments, and individuals. In November 2012, FEMA and the New York State Office of Emergency Management (State OEM) conducted an "Applicant Briefing" at which time they informed City agencies, including DPR, how to apply for and obtain disaster-related funding under the FEMA Public Assistance Program.

In January 2013, the City's Office of Management and Budget (OMB) signed a contract with Hagerty Consulting, Inc. (Hagerty) to support the City's claims process related to Superstorm Sandy. Hagerty is an emergency management consulting firm that, among other things, helps its clients obtain federal funding to assist them in their recovery from disasters. DPR, through OMB's contract, has used Hagerty to help it to obtain FEMA disaster relief funds. Hagerty assists DPR with project formulation and helps assemble the information and documentation needed for FEMA reimbursement.

As of August 2014, FEMA had obligated \$77 million to DPR for 23 projects. Up to that point, FEMA had paid DPR \$33.4 million for the emergency cleanup work it had performed and \$286,755 for the initial work it had already done on four restoration projects. The remaining \$43.3 million balance of obligated funds has been transmitted to the State OEM, from which DPR can request

drawdown payments as restoration project work progresses and can request closeout payments upon project completion.

OMB allocates funds to the DPR budget to cover expenditures pending DPR's receipt of reimbursement from FEMA pursuant to the process described above. However, to be eligible for such reimbursement, DPR, and all similarly situated City agencies, must comply with federal reimbursement requirements. Therefore, DPR must have adequate internal controls in place to ensure that those requirements are met.

## **Audit Findings and Conclusion**

The audit identified weaknesses in certain areas where DPR needs to improve its controls to better ensure that it receives all of the Superstorm Sandy-related reimbursement from FEMA to which it is entitled. We found weaknesses in DPR's maintenance of payment documentation related to its FEMA-eligible projects which needs to be improved in accordance with federal and City guidelines. When submitting its requests to the State OEM for reimbursement, DPR must include all relevant invoices and ensure that the payments are properly labeled. In addition, DPR needs to improve the timeliness of its requests for disaster-related federal reimbursement. As of May 27, 2015, the date of our draft report, DPR officials had informed us of only two requests having been filed with the State OEM for any of DPR's FEMA-reimbursable restoration projects since the Project Worksheets (PWs) for these projects were approved.

The audit also found that DPR did not have formal procedures to guide its implementation and oversight of the disaster-related federal reimbursement process. Formal written operating procedures can help to ensure that every person involved in a process understands the tasks they are responsible for and the acceptable methods and timeframes for accomplishing those tasks. Written procedures can help ensure that DPR effectively handles its responsibilities in this area and receives all of the FEMA reimbursement to which it is entitled. Finally, DPR has limited oversight responsibility for Hagerty's work at the agency. OMB does not request and DPR does not provide documentation to OMB regarding Hagerty's performance and hours worked at DPR.

## **Audit Recommendations**

To address these issues, the audit recommends, among other things, that:

- DPR ensure that the documentation that it maintains for submission for reimbursement is complete and properly labeled.
- DPR ensure that it does not make any overpayments to its contractors.
- DPR submit requests for reimbursement in a more timely manner.
- DPR ensure that it has formal procedures to guide its implementation and oversight of the disaster-related federal reimbursement process.
- DPR provide OMB with regular reports on the work each Hagerty staff member does while working with and for DPR.
- DPR conduct a formal assessment of the work being performed by Hagerty and the continued need for its assistance.

## Agency Response

In their response, DPR officials disagreed with certain findings in the report but agreed with five of the eight recommendations. Officials stated that they “appreciate that the Draft Audit Report helped identify areas where our internal processes related to Superstorm Sandy reimbursements could be further strengthened.” In terms of the three recommendations with which they disagreed, the officials stated that they already properly maintain the documentation that they will submit for reimbursement; that it is unnecessary for them to submit requests for reimbursements in a more timely manner; and that, for improvement projects (which DPR and FEMA refer to as “Improved Projects”), it is unnecessary to endeavor to track restoration costs separately from the improvement costs so that they could appeal for additional reimbursement if actual costs exceed the estimated costs for restoring the site to pre-disaster condition. These and other comments in DPR’s response to the audit’s findings and recommendations are presented and addressed in the body of the report.

# AUDIT REPORT

## Background

DPR maintains a municipal park system of more than 29,000 acres, including roughly 1,900 parks, 1,000 playgrounds, 650,000 street trees and two million park trees. DPR facilities range from community and recreation centers to golf courses and swimming pools throughout the five boroughs.

In October 2012, Superstorm Sandy damaged more than 400 DPR park sites; many parks were closed to the public. FEMA, a division of the DHS, awards disaster assistance grants to states, local governments, and individuals. In November 2012, FEMA and the State OEM conducted an "Applicant Briefing" at which time they informed City agencies, including DPR, how to apply for and obtain disaster-related funding under the FEMA Public Assistance Program.

In January 2013, OMB signed a contract with Hagerty to support the City's claims process related to Superstorm Sandy. Hagerty is an emergency management consulting firm that, among other things, helps its clients prepare for and recover from disasters.<sup>1</sup> DPR, through OMB's contract, has used Hagerty to help it obtain FEMA disaster relief funds. Hagerty has assigned six employees to work on site at DPR to support DPR's efforts to obtain the maximum FEMA reimbursement to which it is entitled. Hagerty assists DPR with project formulation and helps assemble the information and documentation needed for FEMA reimbursement. OMB is responsible for paying Hagerty and, with the assistance of DPR, for overseeing its work.<sup>2</sup>

In connection with its repair efforts, DPR determined the sites that needed permanent restoration work as a result of Superstorm Sandy. To evaluate each site's specific needs, DPR, FEMA, State OEM and Hagerty officials visited the sites, photographed the damage, and recorded detailed information about the property and the damage. This information, along with any pre-storm photos or drawings, was then used by FEMA to prepare the initial drafts of the PWs, which provide a detailed description of the damage, the scope of work required to address the damage, and a cost estimate for each project. The PWs were then reviewed and adjusted, if necessary, by DPR, Hagerty, OMB, and the State OEM before being forwarded to FEMA for approval.

Once FEMA approved a PW, it obligated funds for the project. As of August 2014, FEMA had obligated \$77 million to DPR for 23 projects. Up to that point, FEMA had paid DPR \$33.4 million for the emergency cleanup work it had performed and \$286,755 for the initial work it had already done on four restoration projects. The remaining \$43.3 million balance of obligated funds was transmitted to the State OEM. DPR can request drawdown payments from the State OEM as restoration project work progresses and can request closeout payments upon project completion. Prior to approving payments, the State OEM performs inspections of the project site, reviews payment documentation, and submits a report to FEMA certifying that the applicant's costs were incurred in the completion of the work. FEMA reserves the right to audit any Sandy-related payments DPR receives from the State OEM.

---

<sup>1</sup> In October 2013, OMB entered into a contract with Hagerty not to exceed \$25 million to assist multiple City agencies, including DPR, obtain FEMA reimbursement for Superstorm Sandy-related work. The contract is to run from October 1, 2013, to September 30, 2016, with one two-year renewal at the option of OMB.

<sup>2</sup> In November 2014, OMB signed an agreement with FEMA and the State OEM under which 4 percent of the value of each PW can be obtained for direct administrative costs. This reimbursement can be used to cover the administrative costs of DPR and OMB (including its payments to Hagerty) relating to DPR's FEMA-approved projects.

OMB allocated funds to the DPR budget to cover expenditures pending DPR's receipt of reimbursement from FEMA pursuant to the process described above. However, to be eligible for such reimbursement, DPR and all similarly situated City agencies must comply with federal reimbursement requirements. Therefore, DPR must have adequate internal controls in place to ensure that those requirements are met.

In Fiscal Year 2013, the City's Preliminary Capital Commitment Plan added \$528 million through Fiscal Year 2015 to DPR's capital budget for restoration projects related to the storm. This audit focused on the controls that DPR has in place to ensure that it receives all of the FEMA funds to which it is entitled.

## **Objective**

The objective of this audit was to determine whether DPR has adequate controls in place to ensure that it receives the Superstorm Sandy-related reimbursement from FEMA to which it is entitled.

## **Scope and Methodology Statement**

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The primary scope of the audit was Fiscal Years 2013 and 2014. Certain audit information has been updated to include Fiscal Year 2015 data. Please refer to the Detailed Scope and Methodology at the end of this report for a discussion of the specific procedures followed and the tests conducted during this audit.

## **Discussion of Audit Results with DPR**

The matters covered in this report were discussed with DPR officials during and at the conclusion of this audit. A preliminary draft report was sent to DPR on April 9, 2015, and was discussed at an exit conference held on April 27, 2015. On May 27, 2015, we submitted a draft report to DPR with a request for comments. We received a written response from DPR on June 10, 2015.

In their response, DPR officials disagreed with certain findings in the report but agreed with five of the eight recommendations. Officials stated that they "appreciate that the Draft Audit Report helped identify areas where our internal processes related to Superstorm Sandy reimbursements could be further strengthened." In terms of the three recommendations with which they disagreed, the officials stated that they already properly maintain the documentation that they will submit for reimbursement; that it is unnecessary for them to submit requests for reimbursements in a more timely manner; and that, for improvement projects, it is unnecessary to endeavor to track restoration costs separately from the improvement costs so that they could appeal for additional reimbursement if actual costs exceed the estimated costs for restoring the site to pre-disaster condition. These and other comments in DPR's response to the audit's findings and



recommendations are presented and addressed in the body of the report, and DPR's written response in its entirety is included as an addendum to this report.

## FINDINGS AND RECOMMENDATIONS

The audit identified weaknesses in certain areas where DPR needs to improve its controls to better ensure that it receives all of the Superstorm Sandy-related reimbursement from FEMA to which it is entitled. Principally, we found that:

- DPR needs to improve its maintenance of payment documentation;
- DPR needs to improve the timeliness of its requests for disaster-related federal reimbursement;
- DPR did not have formal procedures to guide its implementation and oversight of the disaster-related federal reimbursement process; and
- DPR did not provide documentation to OMB regarding Hagerty's performance and hours worked at DPR.

These areas for improvement are discussed in more detail in the following sections of this report.

### Maintenance of Payment Documentation Needs to Be Improved

DPR needs to address weaknesses in its record keeping and improve its maintenance of payment documentation related to its FEMA-eligible projects in accordance with federal and City guidelines. In its guide entitled *Homeland Security: Audit Tips for Managing Disaster-related Project Costs*, DHS emphasizes the importance of recording each expenditure and referencing each expense to supporting documentation. The DHS guide specifies that the applicant must "maintain a system that accounts for FEMA funds on a project-by-project basis." The FEMA *Applicant Handbook* states that "everything that does pertain to a project should be filed with the corresponding *Project Worksheet*." This documentation would include design and/or construction contracts, invoices, employee timesheets, and payment vouchers. Further, Comptroller's Directive #1 (Principles of Internal Controls) states that all transactions need to be clearly documented and that the documentation needs to be readily available for use and review. Maintaining such documentation facilitates the disaster-related reimbursement process for each project.

According to DPR's records, FEMA had approved 23 DPR projects as of August 20, 2014. For our review, we selected two of the 23 projects, the Olmsted Center and Steeplechase Pier projects, to ascertain whether DPR adequately maintained records to support reimbursement by FEMA. As of August 20, 2014, the total projected costs eligible for reimbursement for these two restoration projects was \$6,552,299, of which FEMA had obligated \$5,897,069<sup>3</sup> for reimbursement to DPR. Reimbursement for large restoration projects (defined by FEMA as those estimated to cost more than \$67,500) is based on actual eligible expenses incurred. When a project is completed, the State OEM performs inspections of the project site, reviews payment documentation, and submits a report to FEMA certifying that the applicant's costs were incurred in the completion of the work.

---

<sup>3</sup> FEMA obligated \$196,140 for the Olmsted Center project and \$5,700,929 for the Steeplechase Pier project. On April 21, 2015, FEMA increased its obligation for the Steeplechase Pier project to \$9,117,289.

However, payment documentation provided to us by DPR on the Steeplechase Pier project was, in certain instances, incomplete. For example, the agency did not provide complete documentation on the construction contractor for the Steeplechase Pier project, Triton Structural Concrete (Triton). The materials DPR sent lacked information about three of the 12 invoices submitted by the contractor. We requested and received this additional documentation; however, these materials still lacked Part C of the payment requisition<sup>4</sup> for one invoice (payment #11, per the contract ledger), which DPR subsequently provided. The delay in receiving this requisition was due in part to the requisition for payment #11 being mislabeled as being the requisition for payment #9. (The requisition for payment #9 was similarly mislabeled as being the requisition for payment #10.) When submitting its requests to the State OEM for reimbursement, DPR must be careful to include all relevant invoices and ensure that the payments are properly labeled.

With regard to payments made to Triton, Part C of the May 1, 2014, payment requisition for payment #11 showed that Triton was paid \$103,992 more than the associated documentation supported. To determine the amount to be paid to Triton for payment #11, the total amount indicated on the requisition as having already been paid to the vendor on the project, \$12,401,909, was subtracted from the “total earned less retainage” amount, \$12,953,794.<sup>5</sup> However, the total amount that had previously been paid as of May 1, 2014, was \$12,505,901, or \$103,992 more than what was shown on the payment requisition for payment #11. This appears to have happened because payments #9 and #10, which were made on April 4, 2014, were not included in the total amount that had previously been paid to the contractor as shown on the May 1, 2014, requisition for payment #11. There is no evidence on the payment requisition or the contract ledger that this overpayment would be deducted from the retainage to be paid to Triton upon completion of the project. DPR must ensure that there are no overpayments to the contractors.

Two other contractors also worked on the Steeplechase Pier project—the McLaren Engineering Group (McLaren), the design contractor, and Jacobs Project Management Co. (Jacobs), the project manager. However, when we asked for the procurement and payment documentation for all expenditures relating to the Steeplechase Pier project, DPR only provided documentation relating to the construction contractor (Triton). When we asked DPR for lists of Superstorm Sandy-related contracts and expenditures, the lists provided by the agency did not include these contractors. In late October 2014, we learned in response to a question emailed to a DPR official that McLaren and Jacobs also worked on the Steeplechase Pier project. As a result, on November 7, 2014, we specifically asked for the procurement and payment documentation on these two contractors. We did not receive this documentation until December 15th and 16th, 2014.

At a March 10, 2015 meeting with DPR officials, we informed DPR officials that we were concerned that due to the delay in providing this documentation to us, it appeared that DPR had not been maintaining the McLaren and Jacobs documentation needed for its request for FEMA reimbursement. We expressed further concern that DPR’s documentation on McLaren and Jacobs did not identify the costs specifically relating to the Steeplechase Pier project, but rather aggregated these costs with work they performed on other Sandy-related projects. FMS data showed that as of March 9, 2015, McLaren and Jacobs had been paid \$9.7 million and \$6.7 million, respectively, for Sandy-related work, but the data did not indicate how much of this was in payment for work that had been performed on the Steeplechase Pier project. Because the documentation did not separate McLaren’s and Jacobs’ fees for the Steeplechase Pier project versus their work on other projects, we concluded that DPR did not ensure that it was adequately

---

<sup>4</sup> Part C of the payment requisition shows the agency’s determination as to how much is owed a contractor relative to the amount the contractor is seeking in payment, as reflected in Part A of the requisition.

<sup>5</sup> The total work completed by Triton was valued at \$13,084,641. The retainage was \$130,847, for a total amount due of \$12,953,794.

collecting project-specific documentation as required by FEMA's *Applicant Handbook*. These points were included in the preliminary draft report that was issued to DPR on April 9, 2015.

At an exit conference held on April 27, 2015, DPR contended that it was unnecessary to have maintained documentation on these two contractors because the Steeplechase project is an "improvement project." According to DPR, an improvement project is one that is designed to enhance a site's pre-disaster functionality and capacity beyond simply restoring the site to its pre-disaster condition. FEMA reimbursement is generally limited, however, to the estimated costs associated with returning a site to its pre-disaster condition and would not cover enhancements. DPR argued at the exit conference that since Triton's actual costs had already exceeded the estimated cost of the Steeplechase Pier project, it was unnecessary to track McLaren's and Jacobs' costs.

However, under FEMA guidelines, if the applicant is able to track the restoration costs separately from the improvement costs and show that the actual restoration costs exceeded the estimated restoration costs, the applicant can appeal to FEMA for additional funds. In fact, the PW for the Steeplechase Pier project describes the improvement aspects of the project to include such additional features as a chaise lounge, benches, fishing stations, pedestrian light poles, recessed seating, shade structures, viewing platforms, and an upgrade in the materials used in the construct of the pier.

Tracking the project's restoration costs would have involved differentiating the restoration from the improvement aspects of the project as well as determining McLaren's and Jacobs' costs relating specifically to their work on the Steeplechase Pier project. While we recognize that tracking the restoration costs separately from the improvement costs in a manner that would have been acceptable to FEMA might have been difficult, we believe that an effort to do so would have been appropriate to facilitate a possible appeal to FEMA for additional funds.

**DPR Response:** "The City respectfully disagrees with this finding. While maintenance of all documentation is an ongoing task, we believe DPR, in coordination with other City agencies, has adequately maintained payment documentation related to its FEMA-eligible projects in accordance with Federal and City guidelines. In particular, with regard to the Steeplechase Pier Project, DPR demonstrated its control over payment documentation with the following: DPR supplied the auditors with all documents requested within a reasonable period of time even as this project was ongoing, and payments were being made to contractors. A perceived delay in submitting a document for a large, active project is not an indication of whether project files were properly maintained."

**Auditor Comment:** As we stated in the draft report, the information that DPR initially provided to us on the Steeplechase Pier project was incomplete; three of the construction contractor's 12 invoices were not provided. In addition, two of the 12 agency determinations of the amounts owed to the construction contractor in response to the 12 invoices were mislabeled. This mislabeling created confusion in the supporting documentation and delayed DPR's provision of one of the 12 agency determinations to us.

## Recommendations

1. DPR should ensure that the documentation that it maintains for submission for reimbursement is complete and properly labeled.

**DPR Response:** “DPR has properly maintained and will continue to properly maintain and label all documentation submitted for reimbursement. As mentioned in the Report, DPR provided all documents that were requested related to both projects included in the audit sample, and the Report made no findings that FEMA funding is in jeopardy. It is important to note that the Steeplechase Pier Project has not yet been closed out, and was subject to audit during a period of time when the project was still active. The fact that this project was active during the audit made it necessary to spend additional time ensuring that the most recent documentation was provided to the auditors.”

**Auditor Comment:** As noted above, the payment documentation initially provided by DPR pertaining to work performed by the construction contractor on the Steeplechase Pier projects was incomplete and mislabeled. Accordingly, our recommendation to DPR is that when it submits its requests for reimbursement to the State OEM, it ensure that the supporting documentation is complete, well-organized, and clear.

2. DPR should ensure that there are no overpayments to the contractors.

**DPR Response:** “The City agrees with this recommendation. At no point in time is it any City agency’s intention to overpay a contractor. As the Comptroller’s office knows (since the contracts are registered with the Comptroller), to ensure there is no overpayment DPR’s contracts for these projects include a standard 5% retainage provision covering all amounts paid until the contract is closed out.”

**Auditor Comment:** Simply including a retainage provision in a contract does not ensure that there will be no overpayments on a contract. If there is an overpayment on a project, the retainage provision will not protect the agency if the overpayment is never detected. Accordingly, we urge DPR to establish necessary controls to ensure that no overpayments are made.

3. DPR should further investigate the apparent overpayment of \$103,992 to Triton on the Steeplechase Pier project and recoup any overpayment from the contractor.

**DPR Response:** “The City agrees with this recommendation. DPR is coordinating with the City’s Department of Design and Construction, which is managing the Steeplechase Pier Project, and investigating whether amounts in excess of those invoiced have been made to Triton Structural Concrete. ... If it is determined that an advance was made, the amount will be taken into account when the amount of the final payment to Triton is calculated after a final accounting is performed.”

**Auditor Comment:** The additional \$103,992 paid to the contractor was not an advance payment of any kind. This amount was simply the result of a miscalculation of the amount that had already been paid to the contractor when the agency determined how much was owed to the contractor for payment #11.

4. DPR should, for improvement projects, endeavor to track restoration costs separately from the improvement costs so that it can appeal for additional reimbursement if actual costs exceed the estimated costs for restoring the site to pre-disaster condition.

**DPR Response:** “The City respectfully disagrees with this recommendation. ... Individuals experienced with the design and construction process on FEMA-funded projects understand that separating eligible and ineligible scopes of work on design documents is frequently impossible. The nature of design is such that these items of work become so intertwined that they cannot be detailed separately on the contract specifications and drawings. As a result, the costs associated with these two scopes of work cannot be tracked separately on bid submittals or contractor invoices. ...

“It is the City’s opinion that the City will yield the best financial results for its Improved Projects if it pursues the same approach it followed for the Steeplechase Pier PW. This approach also saves the City the years and costs it typically takes to file and resolve a FEMA appeal, which, as mentioned above, is historically unsuccessful. ... Paying contractors to attempt to track all elements of construction against each line item of a PW SOW [scope of work] could be more costly than the potential benefit in the event of a cost overrun. The additional contractor tracking activity would not be eligible for FEMA funding.”

**Auditor Comment:** DPR argues that it would have been too difficult to separate the eligible repair costs from the ineligible improvement costs for the Steeplechase Pier project. However, DPR appears to contradict itself when it states in its response that the money it expects to receive from FEMA will cover “all the costs the City believes were associated with the eligible reconstruction SOW,” an indication that it was able to identify the eligible repair costs associated with this project. In addition, we are concerned that DPR has apparently decided to not even try to identify eligible repair costs for any other disaster-related improvement projects. We believe that each improvement project must be evaluated on its own merits to ascertain the feasibility of tracking the repair versus improvement costs. Accordingly, we reaffirm this recommendation.

## Timeliness of Submissions for Federal Reimbursement Needs To Be Improved

The timeliness of DPR’s submissions for federal reimbursement needs to be improved. The State OEM *Public Assistance Program: Handbook of Policies and Guidelines for Applicants* states that an applicant may request progress payments, or drawdowns, based upon documented expended costs. The handbook also states that the applicant should notify the State OEM of the completion of all work associated with a project. At closeout, the State OEM validates that the relevant scope of work has been completed and that the necessary supporting documentation has been provided in order for the City to receive the funds. The reimbursement for large restoration projects is based on the actual cost of the project, of which the federal cost-share is 90 percent. The payments are made to the City through OMB.

To determine how much in reimbursement DPR had received for the two sampled projects, we requested copies of the reimbursement requests and associated documentation that had been sent to the State OEM. DPR officials, however, informed us that no requests have yet been made to the State OEM for the two sampled projects since the PWs were approved for these projects. In fact, most of the FEMA funds DPR has received to date were paid by FEMA for work already completed at the time that it approved the relevant PWs. DPR has informed us of only two post-

PW-approval requests for reimbursement having been submitted to the State OEM. In response to these requests, DPR has received \$287,297 from the State.

DPR received no money on the Steeplechase Pier project at the time of the initial approval of the PW on September 27, 2013, and received \$176,526 on the Olmsted Center project for work that had already been done by the time that FEMA approved the PW on July 15, 2014. According to the Olmsted Center PW, the net estimated cost of this project was \$217,934, of which 90 percent, or \$196,140, has been obligated by FEMA for reimbursement. There have been no requests for drawdowns of the remaining \$19,614 balance since the PW was approved.

Additionally, DPR has not submitted any request for drawdowns for the Steeplechase Pier project, which was completed in October 2013. According to the revised PW for this project that was approved on April 21, 2015, the net estimated cost was \$10,130,321, with the federal share being \$9,117,289.

DPR officials explained that they are working with OMB to set up a process for drawdowns for all PWs and that once this process is finalized, they will begin drawing down on PWs that meet the drawdown criteria. (The two post-PW-approval requests for reimbursement that were submitted to the State were, according to DPR, “part of finalizing the drawdown process [by] requesting progress payments on a pilot basis.”) However, delays in requesting reimbursement raise concerns because, in the event that State OEM or FEMA have questions about the quality of DPR’s supporting documentation, the earlier that DPR submits its drawdown requests and becomes aware of the nature of these questions, the better position it will be in to make sure that it is assembling the payment documentation necessary for future requests for FEMA reimbursement to be readily accepted.

## Recommendation

5. DPR should submit requests for reimbursement in a more timely manner.

**DPR Response:** “The City disagrees with this finding and believes that this recommendation is unnecessary. There is no basis for concern regarding the City’s ability to collect costs that have yet to be reimbursed. As the Report states, as of August 2014 \$33.7 million of the \$77 million DPR FEMA projects had already been reimbursed. ...

“Additionally, no drawdowns occurred for the Steeplechase Pier Project for two important reasons. First, the Version 0 PW was obligated at 0% work complete, which is why no reimbursement occurred at the time of initial obligation. Second, the City made a conscious decision to withhold any drawdown requests because it was actively working on a new Version 1 PW which increased the total award amount for the Steeplechase project by nearly \$3.8M. This Version 1 PW was obligated in April 2015. Once the City and FEMA reached agreement on the total reimbursable amount for the project, the City filed for reimbursement for the work completed. That request was made to New York State in May 2015, and we anticipate payment soon.”

**Auditor Comment:** DPR’s reference to the \$33.7 million in reimbursement it had already received as of August 2014 fails to note that all but about \$290,000 of

this amount related to emergency cleanup work for which less stringent reimbursement rules apply.

Additionally, DPR's statement that at the time of the August 2013 approval of the Version 0 PW, the project was "at 0% work complete" is contradicted by a statement elsewhere in its response that the "work was substantially completed" by that time. DPR's statement that it delayed its drawdown request for the Steeplechase Pier project because it was actively working on a new Version 1 PW is inconsistent with what DPR told us throughout the audit, which was that requests for reimbursement for this and other projects would not be made until OMB finalized the drawdown procedures.

As of the May 27, 2015, draft report, DPR had informed us of only two post-PW-approval requests for reimbursement having been filed with the State OEM. We continue to believe that the earlier that DPR submits its drawdown requests and becomes aware of any concerns the State OEM or FEMA has concerning the quality of DPR's supporting documentation, the better position DPR will be in to make sure that it is assembling the payment documentation necessary for future requests for FEMA reimbursement to be readily accepted. Accordingly, we reaffirm our recommendation.

## **No Formal Procedures for Disaster-Related Reimbursement Process**

DPR lacks formal procedures to guide the implementation and oversight of the disaster-related federal reimbursement process. DPR officials stated that they follow the FEMA *Applicant Handbook*, which explains the FEMA Public Assistance Program's policies and procedures. They also stated that they follow the City's *Procurement Policy Board (PPB) Rules* when awarding contracts. The *Applicant Handbook* states that applicants for Public Assistance funds must follow FEMA's project approval and reimbursement procedures as well as the applicant's own procurement procedures. The City's *PPB Rules* contain the procedures that City agencies are required to follow when contracting for goods and services.

In addition, Comptroller's Directive #1 defines internal control activities as the policies, procedures, techniques, and mechanisms established to ensure that an agency protects its assets and meets its goals and objectives. The directive further states that these policies and procedures should be documented. Formal written operating procedures can help to ensure that every person involved in a process understands the tasks they are responsible for and the acceptable methods and timeframes for accomplishing those tasks.

The audit determined that DPR has not established any written operating procedures to guide the implementation and oversight of its process for seeking disaster-related federal reimbursement. Creating agency-specific procedures to supplement the *Applicant Handbook* and the *PPB Rules* can clarify for agency personnel how they are to meet FEMA and PPB requirements. Even though Hagerty was hired to help guide DPR through the FEMA project approval and reimbursement process, DPR is still responsible for ensuring that it effectively handles its role in the process and that it adequately oversees Hagerty's efforts. Written procedures can help ensure that DPR effectively handles its responsibilities in this area and receives all of the FEMA reimbursement to which it is entitled.



## Recommendation

6. DPR should ensure that it has formal procedures to supplement the FEMA *Applicant Handbook*, the *PPB Rules*, and other applicable requirements.

**DPR Response:** “Agreed. DPR is in the process of creating guidelines that will supplement larger documents, including the FEMA Applicant Handbook. We thank the Comptroller for this recommendation.”

## Limited Oversight of Hagerty by DPR

Although Hagerty has a contract with OMB and not with DPR, Hagerty staff work directly with DPR staff on a daily basis and are charged with assisting DPR in certain core functions related to its recovery work following Superstorm Sandy. Given DPR’s daily contact with Hagerty and Hagerty’s role in assisting the agency, prudent management suggests that the agency have some oversight responsibility along with OMB for Hagerty’s work at DPR. According to OMB officials, OMB adequately oversees Hagerty’s work and receives informal feedback from DPR officials on Hagerty’s performance. However, OMB does not request and DPR does not provide documentation to OMB regarding Hagerty’s performance or the number of hours Hagerty staff work at and for DPR. Considering the nature of Hagerty’s work and the time it has already spent assisting DPR, it would be appropriate for DPR to conduct a formal assessment of the work being performed by Hagerty and the continued need for its assistance.

## Recommendations

7. DPR should provide OMB with regular reports on the work each Hagerty staff member does while working with and for DPR.

**DPR Response:** “Agreed. OMB has implemented, beginning with the June Hagerty invoice, a new review and approval process of Hagerty timesheets. In addition to the extensive reviews and approvals done by Hagerty management and OMB management, DPR officials will now be required to review and approve Hagerty consultant timesheets for those who are assigned to and work with DPR on a regular basis. DPR will designate the primary timesheet approver as well as a back-up approver, and each week that designee will review and sign off on the Hagerty timesheet for each consultant who worked under their purview for the prior week. Each Hagerty timesheet contains a description of work that the consultant completed for the time under review. In conjunction with approving the actual hours worked, the DPR designee will be eliciting their approval of the description of work that was completed.”

8. DPR should conduct a formal assessment of the work being performed by Hagerty and the continued need for its assistance.

**DPR Response:** “The City does not believe a formal assessment is necessary because DPR and OMB already conduct informal assessments of Hagerty’s work and the continued need for its services on a regular basis. The City believes that the informal evaluation method is sufficient and a formal method is not required by any of the aforementioned oversight bodies. However, as the City understands that a formalized method is of interest to the Comptroller’s

Office, out of deference to the Comptroller, OMB will implement this formalized process on a quarterly basis.

**Auditor Comment:** We are pleased that the City agrees to implement a formal assessment of the work being performed by its external consultant, which would better enable the City to assess the continued need for its assistance. This issue of outsourcing is not only of interest to the Comptroller's Office as DPR's response suggests but, as demonstrated by the City's recent efforts to reassess the use of external consultants on its information technology projects, is also of interest to the City itself.

## DETAILED SCOPE AND METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter. The primary scope of the audit was Fiscal Years 2013 and 2014. Certain audit information has been updated to include Fiscal Year 2015 data.

To gain an understanding of the applicable laws and standards, we reviewed the *PPB Rules*, the State OEM *Public Assistance Program: Handbook of Policies and Guidelines for Applicants*, the *FEMA Applicant Handbook*, and the Comptroller's Directive #1 (Principles of Internal Controls). To gain an understanding of the disaster-related FEMA reimbursement process, we reviewed FEMA's *Public Assistance Guide*.

To identify a number of practices that Public Assistance Program grantees and subgrantees should endeavor to avoid in order to minimize disallowances and to receive the maximum reimbursement to which they are entitled, we reviewed DHS's *Homeland Security: Audit Tips for Managing Disaster-related Project Costs*.

To gain an understanding of the FEMA reimbursement process at DPR, we interviewed several DPR officials, including the Assistant Commissioner for Operations, the Deputy Chief Fiscal Officer, the Chief of Quality Assurance, and the Agency Chief Contracting Officers. In addition, because of OMB's role in the reimbursement process and DPR's use of OMB's contract with Hagerty, we interviewed several OMB officials to learn about the Hagerty contract and OMB's role relative to Hagerty's work with DPR. We also interviewed State OEM, FEMA and Hagerty officials.

We submitted a narrative of our understanding of the key events and steps in the FEMA reimbursement process at DPR to DPR officials. We asked DPR to review the information presented in the narrative and to confirm that it accurately reflected the events and steps of the FEMA reimbursement process at DPR.

DPR officials provided a list, as of August 20, 2014, of 23 PWs totaling \$77 million that had been approved by FEMA during our scope period. We judgmentally selected two restoration projects, which had been approved by FEMA for approximately \$5.9 million and were nearing completion (the Olmsted Center and Steeplechase Pier projects), to determine whether DPR has adequate controls in place to ensure that it receives the Superstorm Sandy-related reimbursement from FEMA to which it is entitled. For these two projects, we requested the obligated PWs; all submissions to the State OEM or FEMA for reimbursement; any responses to these submissions by the State OEM or FEMA; and all documentation relating to procurements and expenditures on these projects, such as contracts, purchase orders, invoices, receiving reports, and payments.

DPR officials provided a list of expenditures on its Sandy-related projects as of February 11, 2015. To determine whether DPR had accurately recorded the expenditures on its Sandy-related projects, we compared this information to payments recorded in FMS between July 1, 2012, and February 11, 2015, that related to the Olmsted Center and Steeplechase Pier projects.

We also reviewed the Vendor Information Exchange System for the results of any contract performance evaluations conducted by City agencies on the vendors utilized on the two sampled projects and any cautionary information provided by City agencies and law enforcement organizations on these vendors.

The results of our sample cannot be projected to the population from which it was drawn, but together with our other audit procedures provided a reasonable basis for our findings and conclusions regarding the identified control weaknesses.



NYC Parks

Robert Garafola  
Deputy Commissioner for  
Management and Budget

T 212.360.1302

E robert.garafola@parks.nyc.gov

City of New York  
Parks & Recreation

The Arsenal  
Central Park  
New York, NY 10065  
www.nyc.gov/parks

June 10, 2015

Marjorie Landa  
Deputy Comptroller for Audit  
Office of the Comptroller  
1 Centre Street, Room 1100  
New York, NY 10007

Dear Deputy Comptroller Landa,

Attached please find the City of New York's response to the Comptroller's Draft "Audit Report on the Department Parks & Recreation's Controls over Its Disaster-Related Costs That Could Be Reimbursed by the Federal Emergency Management Agency." The Department of Parks & Recreation, in coordination with the Office of Management and Budget and Hagerty Consulting, Inc., has established a very robust system of internal controls with regard to securing these reimbursements. While we disagree with certain findings and recommendations, we appreciate that the Draft Audit Report helped identify areas where our internal processes related to Superstorm Sandy reimbursements could be further strengthened. Thank you for the time and effort devoted to preparing this Draft Audit Report and for the opportunity to respond.

Sincerely,

Robert L. Garafola

## **Response to audit findings for Comptroller FEMA Audit**

### **DPR Response to Comptroller's Draft Audit Report**

Set forth below is the City of New York's (City) response to the Office of the Comptroller's (Comptroller) Draft Audit Report (Report) regarding the management audit of the Department of Parks and Recreation's (DPR) controls over its disaster-related costs that could be reimbursed by the Federal Emergency Management Agency (FEMA). These remarks are provided in response to the written Report received by the City on May 27, 2015. The City recognizes the Comptroller's helpful efforts in conducting this audit, and its consideration of our feedback at the exit conference. We appreciate the opportunity to formally address the findings and recommendations in the Report.

The Report includes four findings and eight recommendations, which we respond to below. We ask that the Comptroller take these responses into account when preparing the Final Report, and include a copy of this entire response in the Final Report.

### **Responses to Recommendations and Findings**

#### **Comptroller Finding 1: Maintenance of Payment Documentation Needs to Be Improved.**

The City respectfully disagrees with this finding. While maintenance of all documentation is an ongoing task, we believe DPR, in coordination with other City agencies, has adequately maintained payment documentation related to its FEMA-eligible projects in accordance with Federal and City guidelines. In particular, with regard to the Steeplechase Pier Project, DPR demonstrated its control over payment documentation with the following:

- DPR supplied the auditors with all documents requested within a reasonable period of time even as this project was ongoing, and payments were being made to contractors. A perceived delay in submitting a document for a large, active project is not an indication of whether project files were properly maintained.
- DPR correctly accounted for the costs associated with the Steeplechase Pier Project Worksheet (PW). Furthermore, Parks complied with the requirements necessary to collect reimbursement for the full value of the PW, as well as the FEMA and Grantee (NYSDHSES) requirements to properly close out the PW. Indeed, Version 1 of this PW was obligated by FEMA at 99% complete, for a total amount of \$10.1 million. The fact that this PW was obligated at 99% complete verifies that FEMA accepted the supporting documentation the City provided for this project.

The Report references information that DPR did not include on a list of expenditures for the Steeplechase Pier Project, and contracts DPR did not include on a list of Sandy-related contracts sent to the auditors (specifically, the exclusion of expenditures and contracts related to the McLaren and Jacobs contracts for Steeplechase Pier). The expenditures and contracts in

## Response to audit findings for Comptroller FEMA Audit

question were not initially provided to the auditors because the costs incurred through the Triton construction contract exceed the entire eligible PW grant amount. Therefore, as an Improved Project, the remainder of the cost (and the associated McLaren and Jacobs contracts) is not germane to the FEMA program and outside the scope of this audit. As the Report states, the “object of the audit was to determine whether [DPR] has adequate controls in place to ensure that it receives the Superstorm Sandy-related reimbursement from [FEMA] to which it is entitled.” At no time did DPR think that providing information on costs that will not be reimbursed by FEMA was required. At the exit conference, the auditors stated that the information should have been provided initially because it is up to the Comptroller’s office to determine what is eligible for reimbursement by FEMA. The City disagrees with this assertion. Nonetheless, the City did comply with the Comptroller’s subsequent requests and provided information on expenditures and contracts even if these costs will not be reimbursed by FEMA. However, the fact that this information was not originally provided does not indicate that the City’s payment documentation for FEMA reimbursable expenditures is improperly maintained.

Further, it is important to note that the expenditure list provided to the auditors consisted of Sandy-related expenditures that had been tagged to obligated PWs at the time the report was requested. This is a report produced from QuickBase, a system that is used to closely track expenditures to specific Project Worksheets. Since FMS does not have the ability to track projects in the method required by FEMA, a separate system was created to meet this need. A deficiency in FMS data, such as that noted by the Report, does not indicate that the City failed to adequately collect project-specific information as the Report incorrectly concludes. The QuickBase system interfaces directly with FMS and there is a process for reviewing every invoice in detail before tagging it to the corresponding Project Worksheet. Additionally, as discussed later in this response, for the Steeplechase Pier Project Worksheet the construction cost related to the Triton contract exceeds the PW amount because it was an Improved Project, as further described below in response to Recommendation 4.<sup>1</sup> Therefore, FEMA did not require documentation for the additional costs associated with the McLaren and Jacobs contracts. The PWs only included expenditures that are reimbursable by FEMA and, therefore, the report generated for the Comptroller’s office did not include the McLaren and Jacobs contract expenditures. As mentioned above, the City followed up on all of the Comptroller’s subsequent requests for information and documentation, even for those items outside the scope of this audit, and in a reasonable period of time.

---

<sup>1</sup> The correct FEMA terminology is “improved project” not “improvement project” as used in the Comptroller’s Report.

## Response to audit findings for Comptroller FEMA Audit

***Comptroller Recommendation 1: DPR should ensure that documentation that it maintains for submission for reimbursement is complete and properly labeled.***

DPR has properly maintained and will continue to properly maintain and label all documentation submitted for reimbursement. As mentioned in the Report, DPR provided all documents that were requested related to both projects included in the audit sample, and the Report made no findings that FEMA funding is in jeopardy. It is important to note that the Steeplechase Pier Project has not yet been closed out, and was subject to audit during a period of time when the project was still active. The fact that this project was active during the audit made it necessary to spend additional time ensuring that the most recent documentation was provided to the auditors.

***Comptroller Recommendation 2: DPR should ensure that there are no overpayments to the contractors.***

The City agrees with this recommendation. At no point in time is it any City agency's intention to overpay a contractor. As the Comptroller's office knows (since the contracts are registered with the Comptroller), to ensure there is no overpayment DPR's contracts for these projects include a standard 5% retainage provision covering all amounts paid until the contract is closed out.

***Comptroller Recommendation 3: DPR should further investigate the apparent overpayment of \$103,992 to Triton on the Steeplechase Pier project and recoup any overpayment from the contractor.***

The City agrees with this recommendation. DPR is coordinating with the City's Department of Design and Construction, which is managing the Steeplechase Pier Project, and investigating whether amounts in excess of those invoiced have been made to Triton Structural Concrete. While DDC's initial review of this matter has not revealed any discrepancies, we will continue to investigate. However, the City disagrees that there was an overpayment. If Triton did receive payment above the amounts invoiced, such payment is properly characterized as an advance for work already completed but not yet invoiced. Triton has performed additional work at a cost beyond that formally invoiced. If it is determined that an advance was made, the amount will be taken into account when the amount of the final payment to Triton is calculated after a final accounting is performed. In addition, even if Triton had not completed additional work, Triton's contract contains the standard 5% retainage provision which protects the City in such instance.



## Response to audit findings for Comptroller FEMA Audit

***Comptroller Recommendation 4: DPR should, for improvement [sic] projects, endeavor to track restoration costs separately from the improvement costs so that it can appeal for additional reimbursement if actual costs exceed the estimated costs for restoring the site to pre-disaster condition.***

The City respectfully disagrees with this recommendation. The Report (pg. 7) references the FEMA PA Guide 2007, which notes at page 110, “If eligible repair or replacement costs exceed the original estimate and costs can be separately documented (*i.e.*, if approved costs can be tracked separately from improvement costs), the applicant may appeal the amount of the grant.” However, this statement is not as helpful as it might initially appear since Improved Projects are projects where eligible and ineligible costs cannot be tracked separately. In fact, earlier in this same section of the Guide it states, “For the most part, *these are projects for which the funding for the improvements cannot be separated from the costs for the original repair work*” (emphasis added).

Individuals experienced with the design and construction process on FEMA-funded projects understand that separating eligible and ineligible scopes of work on design documents is frequently impossible. The nature of design is such that these items of work become so intertwined that they cannot be detailed separately on the contract specifications and drawings. As a result, the costs associated with these two scopes of work cannot be tracked separately on bid submittals or contractor invoices. Additionally, and as in the Steeplechase Pier Project, eligible scope items in the FEMA PW may not be included in the reconstruction project scope. This is yet another example of the inability to separate eligible and ineligible scope within a contract. Additionally, under FEMA’s Improved Project policy, the City is still reimbursed for the costs associated with the eligible scope thus maximizing reimbursement, even though the eligible scope was not constructed.

For projects where the costs associated with eligible and ineligible scopes of work can be tracked separately, there is no financial reason to request Improved Project status since final funding will be based on the documented actual cost of the eligible scope of work (SOW). For this reason, the City is requesting design teams to separate eligible and ineligible scopes of work on Sandy recovery projects when possible.

The City’s interpretation of FEMA guidance is supported by the fact that 76% of appeals filed by applicants on Improved Projects are denied by FEMA. *See* FEMA’s Public Assistance Appeals Database (<https://www.fema.gov/appeals>). The most frequently cited reasons for these were: (1) the applicant’s inability to clearly delineate work associated with the functionality of the repair in-kind SOW versus that associated with the improvements; (2) the applicant’s inability to clearly separate costs associated with the repair in kind SOW vs. improvement costs; and (3) the applicant’s failure to complete special consideration reviews of additional work completed during construction.

## **Response to audit findings for Comptroller FEMA Audit**

It is the City's opinion that the City will yield the best financial results for its Improved Projects if it pursues the same approach it followed for the Steeplechase Pier PW. This approach also saves the City the years and costs it typically takes to file and resolve a FEMA appeal, which, as mentioned above, is historically unsuccessful. In the Steeplechase Pier Project, the City successfully identified an accurate SOW and cost estimate that fully took into account the means, methods, and costs of construction in the City. This resulted in moving FEMA's original SOW and cost for eligible repairs from \$674K to \$6.3M. The City then succeeded in getting the cost further adjusted based on arguing for proper soft cost factors, which raised the estimate to \$10.1M. This covered all the costs the City believes were associated with the eligible reconstruction SOW.

Other challenges make the separation of eligible and ineligible costs virtually impossible. First, actual design is based on what the applicant wants to achieve in the Improved Project, often with considerable differences in construction methods and/or materials from the eligible SOW captured in the original PW. Attempting to separate design costs between the original eligible SOW and improved SOW, would add significant time and cost to projects that would be ineligible for FEMA reimbursement. In many cases, a minor design change may result in a completely different system overall, which leads to substantial time and cost to separate costs and such separation ultimately may not even be possible. For example, a change in material may require a complete redesign of the facilities' structural, fastening, and/or foundation systems further eliminating the ability of the applicant to accurately track eligible and improvement costs. Second, whether a differing construction method or material constitutes a material difference over the pre-disaster function and capacity would be subject to a decision by FEMA. For example, the original materials used in a facility may no longer be available. Other materials may be more cost-effective or advisable, but potentially considered an upgrade by one party, or functionally equivalent by the other. Third, other factors, such as public comment on construction of a replacement facility, changes in material availability, interplay between selected contractors, efficiencies with other projects, etc., may impact construction decisions. These are items that, as the FEMA PA Guide states, cannot be separated for purposes of tracking eligible versus ineligible work and costs. Paying contractors to attempt to track all elements of construction against each line item of a PW SOW could be more costly than the potential benefit in the event of a cost overrun. The additional contractor tracking activity would not be eligible for FEMA funding.

Specifically with respect to the Steeplechase Pier PW, there was simply insufficient information at the time of the project's design and initial construction phases to track separately in kind repair versus improved costs. While the project was identified as an improved one prior to the obligation of the PW in August of 2013, the key project milestone for separating costs was long past, as the project was already designed, awarded, contracted, and the work was substantially completed. Additionally, the requirement to split out costs between the repair-in-kind and the improvements to the project would have necessitated inclusion of this in the contracts (likely

## Response to audit findings for Comptroller FEMA Audit

design and construction) for the work, and they were awarded in spring 2013, prior to the project being approved as an Improved Project in August 2013. **Comptroller Finding 2: Timeliness of Submissions for Federal Reimbursement Needs To Be Improved.**

***Comptroller Recommendation 5: DPR should submit requests for reimbursements in a more-timely manner.***

The City disagrees with this finding and believes that this recommendation is unnecessary. There is no basis for concern regarding the City's ability to collect costs that have yet to be reimbursed. As the Report states, as of August 2014 \$33.7 million of the \$77 million DPR FEMA projects had already been reimbursed. This reflects 43.7% of all DPR claims as of that date. The City had already established that DPR had provided the documentation needed to collect reimbursements for FEMA PWs; the State substantiated over 40% of those obligated PWs as of initial obligation. Thus, there is no basis for the auditors' concern in this regard.

Additionally, no drawdowns occurred for the Steeplechase Pier Project for two important reasons. First, the Version 0 PW was obligated at 0% work complete, which is why no reimbursement occurred at the time of initial obligation. Second, the City made a conscious decision to withhold any drawdown requests because it was actively working on a new Version 1 PW which increased the total award amount for the Steeplechase project by nearly \$3.8M. This Version 1 PW was obligated in April 2015. Once the City and FEMA reached agreement on the total reimbursable amount for the project, the City filed for reimbursement for the work completed. That request was made to New York State in May 2015, and we anticipate payment soon.

Finally, we believe the Comptroller will be pleased to know that City OMB issued its final Progress Payment Request Guidance to all agencies in March 2015. With this final guidance issued, agencies now have a solidified process for requesting additional reimbursement requests beyond those received at initial obligation.

## **Response to audit findings for Comptroller FEMA Audit**

### **Comptroller Finding 3: No Formal Procedures for Disaster-Related Reimbursement Process.**

It is important for the Report to recognize that DPR followed the formal procedures in the FEMA Applicant Handbook and the City's Procurement Policy Board Rules, as well as applicable Federal grant guidance for administration of the FEMA reimbursed projects. In addition, as mentioned above, City OMB issued formal Progress Payment Request Guidance to all agencies in March 2015. DPR is in no way jeopardizing FEMA reimbursement by the fact that it has not yet drafted its own internal formal procedures for disaster-related reimbursement.

***Comptroller Recommendation 6: DPR should ensure that it has formal procedures to supplement the FEMA Applicant Handbook, the PPB Rules and other applicable requirements.***

Agreed. DPR is in the process of creating guidelines that will supplement larger documents, including the FEMA Applicant Handbook. We thank the Comptroller for this recommendation.

### **Comptroller Finding 4: Limited Oversight of Hagerty by DPR.**

This contract has been properly managed. The City exercises substantial oversight over Hagerty. Hagerty employees and DPR employees work together closely every day. In addition, as discussed in response to Finding 5 below, DPR and OMB assess Hagerty's work on a regular basis and meet frequently on FEMA-related matters. Nevertheless, in deference to the Comptroller, the City agrees to implement the formal report and evaluation processes, even though such formal oversight is not required for FEMA reimbursement, by the City's Procurement Policy Board Rules, the Agency's Chief Contracting Officer, the Mayor's Office of Contract Services, nor the Comptroller's office itself.

***Comptroller Recommendation 7: DPR should provide OMB with regular reports on the work each Hagerty staff member does while working with and for DPR.***

Agreed. OMB has implemented, beginning with the June 2015 Hagerty invoice, a new review and approval process of Hagerty timesheets. In addition to the extensive reviews and approvals done by Hagerty management and OMB management, DPR officials will now be required to review and approve Hagerty consultant timesheets for those who are assigned to and work with DPR on a regular basis. DPR will designate the primary timesheet approver as well as a back-up approver, and each week that designee will review and sign off on the Hagerty timesheet for each consultant who worked under their purview for the prior week. Each Hagerty timesheet contains a description of work that the consultant completed for the time under review. In conjunction with approving the actual hours worked, the DPR designee will be eliciting their approval of the description of work that was completed.

## **Response to audit findings for Comptroller FEMA Audit**

***Comptroller Recommendation 8: DPR should conduct a formal assessment of the work being performed by Hagerty and the continued need for its assistance.***

The City does not believe a formal assessment is necessary because DPR and OMB already conduct informal assessments of Hagerty's work and the continued need for its services on a regular basis. The City believes that the informal evaluation method is sufficient and a formal method is not required by any of the aforementioned oversight bodies. However, as the City understands that a formalized method is of interest to the Comptroller's office, out of deference to the Comptroller, OMB will implement this formalized process on a quarterly basis.