



City of New York

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FINANCIAL AUDIT

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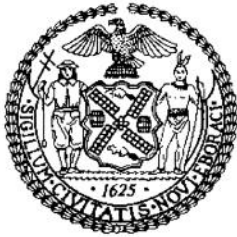
Deputy Comptroller for Audit

Audit Report on the
Department of Parks and Recreation's
Oversight of Capital Projects

7E12-067A

January 11, 2013

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK
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NEW YORK, N.Y. 10007-2341

John C. Liu
COMPTROLLER

January 11, 2013

To the Residents of the City of New York:

My office has audited the New York City Department of Parks and Recreation (DPR) to determine whether it is carrying out and overseeing capital construction projects in a timely and cost effective manner. We audit agencies such as DPR as a means of ensuring that the City's capital program is being properly managed.

The audit found that DPR is not carrying out and overseeing capital construction projects in a timely and cost effective manner. In Fiscal Years 2010 and 2011, 47 percent of projects were not completed within their originally scheduled timeframes; the cost for 10 percent of projects exceeded their original contract and contingency amounts. Additionally, DPR did not follow procedures to seek to recoup from consultants the cost of change orders that were necessitated by design errors or design omissions. As a result, DPR expended almost \$13 million in project costs—\$2.2 million in additional staffing costs for construction management and almost \$11 million in additional construction costs which included \$4 million in change orders that were necessitated by design errors or design omissions.

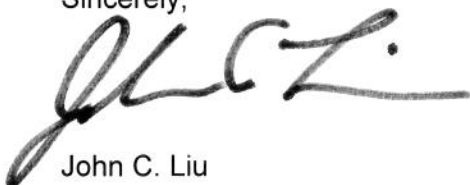
Moreover, DPR does not have a reliable process to ensure that specific projects are selected and targeted for completion on an annual basis. The audit also identified problems with the manner in which statistics about project information are provided for the Mayor's Management Report (MMR).

The audit recommends that DPR ensure that capital projects are completed within their originally scheduled timeframes and budget amounts; identify and mitigate problems that cause delays and cost overruns; ensure that project cost estimates are reliable and that progress schedules are submitted and approved; establish procedures for identifying and determining a target number of capital projects for completion; track the progress of projects; ensure that all appropriate change orders necessitated by consultant design errors and omissions be referred to Legal Counsel; and provide accurate and reliable data for reporting in the MMR.

The results of the 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.

Sincerely,



John C. Liu

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THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER FINANCIAL AUDIT

Audit Report on the Department of Parks and Recreation's Oversight of Capital Projects

7E12-067A

AUDIT REPORT IN BRIEF

The Department of Parks and Recreation's (Department) Capital Division implements and executes projects that are contained in the Department's capital plan and that are funded from various sources and approved by the New York City Office of Management and Budget. Various units of the Department's Capital Division staff of 460 employees are involved in the process of designing, constructing, and overseeing project work. Project designs are undertaken by either the Department's in-house staff or consultants. Staff of the Capital Division's Design and Construction Units include architects, landscape architects, and engineers. Capital Division staff determine work scopes, prepare cost estimates, gather survey information, and prepare or review plans and specifications. In addition, Division staff carry out construction management work or oversee the work of private construction managers, investigate environmental problems and subsurface conditions, and coordinate construction work with other City agencies, contractors, and community boards.

The Capital Division uses a DOS database application known as "Q&A" to track project information such as contract information, project schedules, and change orders.

In Fiscal Years 2010 and 2011, the Department had contracts with 25 architectural and engineering consultants and 12 consultants who provide construction management and resident engineering services. According to information contained in the Fiscal Year 2011 "Mayor's Management Report," the Department completed 150 capital projects in Fiscal Year 2010 and 165 capital projects in Fiscal Year 2011. The construction cost (exclusive of costs for design, construction management, and resident engineering services) of the 315 capital projects totaled \$496.3 million.

Audit Findings and Conclusions

The Department is not carrying out and overseeing capital construction projects in a timely and cost effective manner. We found that in Fiscal Years 2010 and 2011, 47 percent of projects were not completed within their originally scheduled timeframes. Furthermore, the cost for 10 percent of projects exceeded their original contract and contingency amounts.¹ Moreover, 8 percent of the completed projects in Fiscal Years 2010 and 2011 were not completed on time and exceeded the original contract and contingency amounts. Additionally, the Department did not follow procedures to seek to recoup from consultants the cost of change orders that were necessitated by design errors or design omissions.

As a result, the Department expended almost \$13 million in project costs—\$2.2 million in additional staffing costs for construction management and almost \$11 million in additional construction costs, which included \$4 million in change orders that were necessitated by design errors or design omissions. Moreover, the City paid \$887,717 to construction contractors for claims that pertained to some of the delayed projects.

Although the Department has performed an analysis of delay causes and prepared delay analyses for specific projects, it has not implemented effective measures for dealing with the problems systematically. Our review corroborated the Department's assessment of the reasons for project delays, which included problems with obtaining permits, work scope revisions, and coordinating contractor work schedules. Although the Department has taken some steps to mitigate these problems (e.g., coordinating permit requirements with various agencies), we did not find evidence that the Department is taking significant measures to deal with the causes of delays.

Moreover, the Department does not have a reliable process to ensure that specific projects are selected and targeted for completion on an annual basis. Although the Department selects as a goal a number of projects to be completed in a given fiscal year, it does not identify those projects or categorize specific projects as priorities. Therefore, projects that were already delayed and are not selected to be completed in a following fiscal year can continue to be delayed for an indeterminate period. Accordingly, it is our opinion that problems with completing capital construction projects in a timely and cost effective manner can be partly attributed to the Department's failure to prioritize project work and allocate appropriate resources to those projects.

We also identified problems with some of the information about project status recorded in the Q&A system and the manner in which statistics about project information are provided for the Mayor's Management Report (MMR).

Audit Recommendations

This report makes a total of 13 recommendations, including that the Department:

- Ensure that capital projects are completed within their originally scheduled timeframes and contract and contingency amounts.
- Take appropriate steps to identify and mitigate problems that cause project delays and cost overruns and develop specific plans to do so.

¹ The Department's Construction Manual, Section 13, Project Cost Increases, stipulates the contingency amount to be the greater of 10 percent of the contract amount or \$200,000 for contingency funding which includes both overruns and change orders. Any cost overruns above this threshold amount must be approved by the Mayor's Office of Contract Services and the Office of Management and Budget.

- Ensure that project cost estimates are reliable. Use the estimates as a gauge to maintain control over project costs.
- Ensure that progress schedules are submitted, approved, and regularly updated.
- Establish formal written procedures for identifying projects and determining target number of capital projects for completion.
- Track the progress of projects that have been slated for completion in a given time period. Develop indicators to track the status of incomplete projects.
- Ensure that all appropriate change orders necessitated by consultant design errors and omissions be referred to the Capital Division's Legal Counsel for review and possible recoupment.
- Correct reporting deficiencies and provide accurate and reliable data for reporting in the MMR about the actual percentages of projects completed on time or early. Similarly, correct inaccurate data entries and ensure that data is recorded accurately in the Q&A system.

Department Response

In their response, Department officials stated, “. . . We recognize and agree with the Report's Recommendations that certain improvements are needed with respect to mitigating the causes of project delays or revising MMR indicators on project completions.” In addition, the response stated that “Unfortunately, the Report does not recognize where Parks' oversight has largely achieved positive results.” We consider the Department to have agreed with five recommendations, disagreed with three recommendations, partially agreed with one recommendation, and already implemented four recommendations.

INTRODUCTION

Background

The Department of Parks and Recreation (Department) is responsible for carrying out the design and construction of City-wide capital projects including parks and playgrounds, bike paths, sea walls, outdoor pools, boardwalks, basketball courts, baseball fields, and natural areas.

The Department's Capital Division implements and executes projects that are contained in the Department's capital plan and that are funded from various sources and approved by the New York City Office of Management and Budget. A project commences with a meeting to develop the scope-of-work with various stakeholders such as community boards, user groups, the Department's maintenance and operations staff, and Department Borough Commissioners. After a project's work scope has been established, subsequent phases of a typical project include design, procurement, construction, final inspection, and close-out.²

Various units of the Department's Capital Division staff of 460 employees are involved in the process of designing, constructing, and overseeing project work. Project designs are undertaken by either the Department's in-house staff or consultants. Staff of the Capital Division's Design and Construction Units include architects, landscape architects, and engineers. Capital Division staff determine work scopes, prepare cost estimates, gather survey information, and prepare or review plans and specifications. In addition, Division staff carry out construction management work or oversee the work of private construction managers, investigate environmental problems and subsurface conditions, and coordinate construction work with other City agencies, contractors, and community boards. The Legal Counsel reviews construction and consultant contracts and reviews for possible recoupment the cost of change orders that are necessitated by design errors and omissions. The Management Services Unit solicits and awards contracts and provides budget and accounting services for capital projects.

The Capital Division uses a DOS database application known as "Q&A" to track project information such as contract information, project schedules, and change orders.

In Fiscal Years 2010 and 2011, the Department had contracts with 25 architectural and engineering consultants and 12 consultants who provide construction management and resident engineering services. According to information contained in the Fiscal Year 2011 "Mayor's Management Report," the Department completed 150 capital projects in Fiscal Year 2010 and 165 capital projects in Fiscal Year 2011. The construction cost (exclusive of costs for design, construction management, and resident engineering services) of the 315 capital projects totaled \$496.3 million.³

² Before soliciting bids, most Department capital projects must be approved by the Public Design Commission. Some projects may also require approval by the City's Landmarks Preservation Commission.

³ Each capital project is designated with a specific letter and number identifying its location and numbers identifying the associated contract and year funded. For example, M010-195, M010-295, M010-395, and M010-495 refer to a series of four contracts for a project located in Manhattan's Central Park (i.e., M010), funded in 1995. The 315 projects were associated with 309 Contracts.

Objective

The objective of this audit is to determine whether the Department of Parks and Recreation is carrying out and overseeing capital construction projects in a timely and cost effective manner.

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. 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. This audit was conducted by auditors with engineering backgrounds.

The scope of this audit covers Fiscal Years 2010 and 2011. Please refer to the Detailed Scope and Methodology at the end of this report for the specific procedures and tests that were conducted.

Discussion of Audit Results

The matters covered in this report were discussed with Department officials during and at the conclusion of this audit. A preliminary draft report was sent to Department officials on September 20, 2012, and discussed at an exit conference on October 4, 2012. On October 23, 2012, we submitted a draft report to Department officials with a request for comments. We received a written response from the Department on November 16, 2012.

In their response, Department officials stated, “. . . We recognize and agree with the Report's Recommendations that certain improvements are needed with respect to mitigating the causes of project delays or revising MMR indicators on project completions.” In addition, the response stated:

“Unfortunately, the Report does not recognize where Parks' oversight has largely achieved positive results. In fact, there are several instances where the Report appears to go out of its way to find fault where there is overwhelming indication of strong performance. As a result, this Report does little to reflect the actual success of our capital program, and the great effort that goes into its oversight. In particular, the Report is mistaken in its assessment that Parks does not oversee capital construction projects in a cost-effective manner. It is hard to understand how the Comptroller has reached this conclusion when the Report itself acknowledges that 90% of the projects completed during FY10 and FY11 were on budget. In fact, a careful analysis of the Report reveals that cost overruns equal only 2.3% of Parks actual construction costs during the two year audit period. Indeed, Parks' results have demonstrated that it is effectively maintaining project costs, and effectively overseeing many other elements of its capital program. Therefore, we strongly disagree with many of the Report's findings and conclusions.”

We consider the Department to have agreed with five recommendations, disagreed with four recommendations, partially agreed with one recommendation, and already implemented four recommendations. The full text of the written comments from the Department is included as an addendum to this report.

Notwithstanding the Department's objection, our assessment of the capital program's

effectiveness was reached after considering two salient problems that beset a significant number of projects: work not being completed within scheduled timeframes and work costing more than anticipated. Department officials acknowledged the problem with meeting timeframes and agreed that improvements are needed in this area. However, Department officials disdained our finding that more than \$10 million was overspent on project budgets because this amount—in their opinion—was “only” 2.3 percent of overall construction costs. But the Department chose to overlook the fact that the \$10 million in overspending for 30 projects was on top of its spending all its contingency funding for these projects—a generous amount totaling more than \$8 million. The Department’s Construction Manual states that contingency funding (which provides for contracts to be increased by 10 percent or \$200,000) is to cover “overruns and change orders.” Therefore, we contend that cost increases that exceeded their contingency amounts for 30 projects were significant enough to conclude that the Department was not overseeing capital construction projects in a timely and cost effective manner.

FINDINGS AND RECOMMENDATIONS

The Department is not carrying out and overseeing capital construction projects in a timely and cost effective manner. We found that in Fiscal Years 2010 and 2011, 47 percent of projects were not completed within their originally scheduled timeframes. Furthermore, the cost for 10 percent of projects exceeded their original contract and contingency amounts. Moreover, 8 percent of the completed projects in Fiscal Years 2010 and 2011 were not completed on time and exceeded the original contract and contingency amounts. Additionally, the Department did not follow procedures to seek to recoup from consultants the cost of change orders that were necessitated by design errors or design omissions.

As a result, the Department expended almost \$13 million in project costs—\$2.2 million in additional staffing costs for construction management and almost \$11 million in additional construction costs, which included \$4 million in change orders that were necessitated by design errors or design omissions. Moreover, the City paid \$887,717 to construction contractors for claims that pertained to some of the delayed projects.

Although the Department has performed an analysis of delay causes and prepared delay analyses for specific projects, it has not implemented effective measures for dealing with the problems systematically. Our review corroborated the Department's assessment of the reasons for project delays, which included problems with obtaining permits, work scope revisions, and coordinating contractor work schedules. Although the Department has taken some steps to mitigate these problems (e.g., coordinating permit requirements with various agencies), we did not find evidence that the Department is taking significant measures to deal with the causes of delays.

Moreover, the Department does not have a reliable process to ensure that specific projects are selected and targeted for completion on an annual basis. Although the Department selects as a goal a number of projects to be completed in a given fiscal year, it does not identify those projects or categorize specific projects as priorities. Therefore, projects that were already delayed and are not selected to be completed in a following fiscal year can continue to be delayed for an indeterminate period. Accordingly, it is our opinion that problems with completing capital construction projects in a timely and cost effective manner can be partly attributed to the Department's failure to prioritize project work and allocate appropriate resources to those projects.

We also identified problems with some of the information about project status recorded in the Q&A system and the manner in which statistics about project information are provided for the Mayor's Management Report (MMR).

These matters are discussed in greater detail in the following sections.

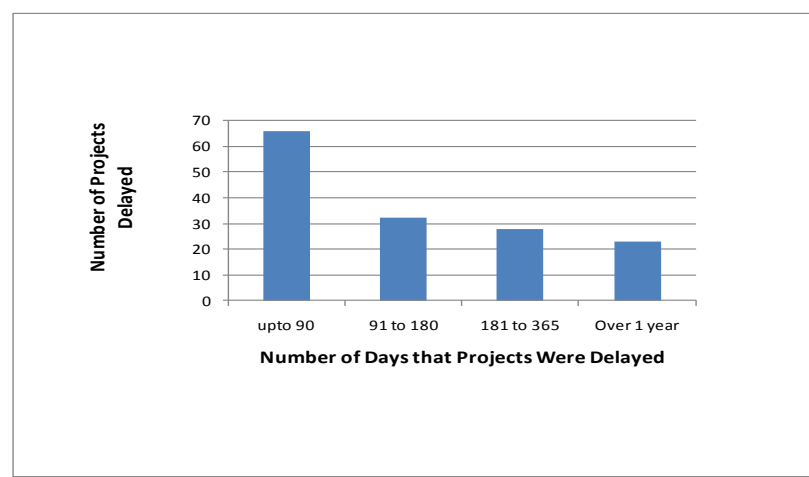
Projects Not Completed Within Schedule and Budget

Projects Completed Late

Of the 315 capital projects completed in Fiscal Years 2010 and 2011, 149 (47 percent) were completed late.⁴ (See Appendix I.) Projects not completed in a timely manner totaled 67 in Fiscal Year 2010 and 82 in Fiscal Year 2011. According to the “Performance Indicator Definitions” in the MMR, projects that are “completed more than 30 days after the scheduled completion date are considered late.”⁵ In accordance with this criteria, the 149 project delays ranged up to 1,181 days; the average delay was 188 days. (See Chart 1.) According to the Department, which prepares partial and final delay analyses that examine the reasons and duration of project delays, delays in completing construction could be attributed to improper planning of work scopes, work scope revisions, design errors or omissions, problems with obtaining appropriate permits and coordinating work with utilities, and problems with contractors. Our review of documents in 30 sampled project files (see Appendix II for a list of sampled projects) corroborated these problems that led to project delays. For example, we found that problems with obtaining Building Department permits delayed seven projects from 28 to 428 days. In another example, 10 projects were delayed 2,412 days because of revisions to the scope of work. Finally, problems with the scheduling of work by contractors delayed seven projects 1,986 days.

Chart 1

Projects Completed Late
in Fiscal Years 2010 and 2011



⁴ According to data recorded in the Department’s Q&A system as of November 28, 2011. However, the Department notified us in an April 16, 2012, e-mail that two projects that were deemed complete in Q&A were, in fact, only partially completed.

⁵ Despite this stipulation, the Department notified us in a November 16, 2011, e-mail, that it considers a project late if the delay exceeds 120 days. See page 13 for a more detailed discussion of this matter.

At the exit conference Department officials advised us that delays for 15 of the 149 projects were attributable to “programmatic scope changes.” According to the Department’s MMR indicator definitions, these type of changes should not be considered in the calculation of project delays. Accordingly, we asked the Department to provide us with delay analyses for these projects to verify whether the delays were, in fact, attributable to programmatic scope changes. However, the Department did not provide us with this information.

The Department has implemented certain measures to mitigate project delays. Procedures were established with the New York State Department of Environmental Conservation and Con Edison to address problems with obtaining permits and coordinating project work. Furthermore, during the course of the audit, Department officials stated they would commence a similar coordination process with the Department of Environmental Protection. However, our review indicated that although the Department can identify the causes of project delays as previously noted, it has not taken sufficient steps to deal with the problems that have beset project completion.

Additional Construction Management Costs

Delays in completing projects that were managed by private construction management consultants led to the expenditure of additional costs to pay for construction management personnel. Of 149 delayed projects, 101 were monitored by the Department’s in-house staff of engineers; 48 projects were monitored by engineers employed by private consultants. According to the Department’s analysis that was provided to us after the exit conference and which we reviewed, the additional construction management cost for the projects that were monitored by private consultants totaled \$2,210,373. This cost would not have been necessary had the projects been completed on time.

Projects with Cost Overruns

The actual construction cost for the 315 capital projects completed in Fiscal Years 2010 and 2011 was \$496.3 million. Of the 315 projects, 30 (10 percent) were not completed within their original contract and contingency amounts totaling \$78,375,234.⁶ (See Appendix III.) In accordance with this criteria, the additional costs to complete the 30 projects totaled \$10,479,157. The additional costs ranged up to 55 percent above the original contract and contingency amounts. According to the Department, which our review of sampled project files corroborated, the reasons for the additional expenditures were attributable to quantity overruns and change orders resulting from field conditions, design errors and omissions, revisions to the work scopes, and problems with contractors.⁷

⁶ The Department’s Construction Manual, Section 13, Project Cost Increases, stipulates the contingency amount to be the greater of 10 percent of the contract amount or \$200,000 for contingency funding which includes both overruns and change orders. Any cost overruns above this threshold amount must be approved by the Mayor’s Office of Contract Services and the Office of Management and Budget. The original costs for the 30 projects totaled \$69,682,047. The contingency costs for the 30 projects totaled an additional \$8,693,187.

⁷ The Department’s Construction Manual contains the following change order classifications: 1) “Non-Material Scope Change: Any contract change which is within the original scope of the contract such as changes being made in order to accommodate requests by the Agency to add or delete items or specifications requirements to the work as originally designed in the contract documents at the time of bid.” 2) “Field Conditions: Changes due to latent or invisible conditions that are not reasonably anticipated

Problems with Cost Estimates

According to the “Capital Contract Milestones” in the Department’s Construction Procedure Manual, “The Agency prepares . . . a scope estimate for each project and submits it to the Office of Management and Budget (OMB) for review and authorization of funds.” Although the estimates are used to authorize project funds, we found that the cost estimates for 19 (63 percent) of the 30 projects that were not completed within their original contract and contingency amounts were not reliable indicators of the actual cost of the work. In these cases, the estimated costs ranged between 46 percent lower and 122 higher than the original contract and contingency amounts—thereby exceeding a threshold of 15 percent (plus or minus) that would be considered a reasonable construction industry standard for these types of estimates. Of the 19 estimates, 11 were prepared by design consultants and eight were prepared by the Department’s in-house technical staff.

A cost estimate is used as a baseline measurement for ascertaining the costs and quantities of materials that are required to complete a project. In our opinion, estimates that differed significantly from contract and contingency amounts are an indication that the Department lacks sufficient controls to manage the cost of projects effectively. Therefore, the Department should ensure that project cost estimates are reliable and can be used as a gauge to maintain control over project costs.

Claims against the City

Taking steps to mitigate the problems that the Department has identified may lessen the likelihood that contractors will submit construction claims against the City. Contractors for 30 sampled projects that were completed late and had cost overruns submitted 18 monetary claims, four of which the City paid \$887,717 as of September 13, 2012.⁸ Five additional claims associated with these projects totaling more than \$5.4 million are still being adjudicated by the City.

Projects Completed both Late and Over Budget

In 26 (8 percent) cases, the capital projects were not completed on time and also exceeded the original contract and contingency amounts. (See Appendix IV.) As an example of these cases, the Department awarded a \$2,976,469 contract (No. 20080002852) to St. John Enterprises Inc. to construct a field house in Soundview Park in the Bronx. The Department instructed the contractor to commence work on September 3, 2007. The scheduled completion date was November 30, 2008; however, the actual completion date was November 23, 2010. The construction period totaled 1,168 days rather than the 445 days specified in the contract—almost two years longer. Furthermore, the final cost of the contract, which totaled \$4,052,000, was 24 percent higher than the \$3,274,116 cost of the original contract and contingency

by the Contractor, Consultant or the Agency that are revealed during construction.” 3) “Design Omission: Items omitted from the contract documents, but required to fulfill the intent of the contract.” 4) “Design Error: Items of work not in the contract documents or incorrectly included in the contract requiring the alteration of the bid contract work prior to installation or revisions to contract work already installed.” 5) “Administrative Change (scope change): Any contract revision or change due to revised or pending changes in the requirements of regulatory agencies which were not in effect at the time of the bid.”

⁸ One additional claim was withdrawn and eight additional claims were disallowed.

amount.

In another example, the Department awarded a \$1,777,719 contract (No. 20060045302) to Virginia Construction Co. for the construction of a Tuscan Garden in the Staten Island Botanical Garden. The Department instructed the contractor to commence work on December 1, 2006. The scheduled completion date was November 25, 2007; however, the actual completion date was November 30, 2010. The construction period totaled 1,333 days rather than the 360 days specified in the contract—more than three years longer.⁹ Furthermore, the final cost of the contract, which totaled \$2,782,086, was 14 percent higher than the \$1,977,719 cost of the original contract and contingency amount.

Our review of file documentation for both projects indicates that the reasons for the delays and cost overruns were attributable to factors such as quantity overruns, field conditions, design errors and omissions, revisions to the work scopes, and problems with contractors. We acknowledge that these factors may adversely affect construction project schedules and costs. However, we note that the budget amounts already contained \$497,647 for funds that were meant to cover these types of contingencies. However, the cost overruns, which totaled \$1,582,251, still exceeded the contingency amounts by three times.¹⁰ Completing projects on time is an important goal to ensure that the public derives prompt benefit from new, renovated, and safe recreational facilities. Completing projects within their originally budgeted amounts is an important goal to ensure that funding is not diverted from other project improvements. Moreover, the Department's Construction Manual advised that, if project costs do exceed the contingency factor, "Additional funding above this amount can often be secured, but the process is time-consuming and requires submission of documents and obtaining approvals from outside the Agency (OMB and ODC)."

Recommendations

The Department should:

1. Ensure that capital projects are completed within their originally scheduled timeframes.

Department Response: "It is our goal to complete each capital project in a safe, cost effective and timely manner. However, there are several causes of delays that are out of Parks' direct control. For example, instances of poor contractor performance or contractor defaults require us to rebid projects--these occurrences can add months, or even years, to project timelines. While contractor defaults are in progress, the clock on the project scheduled completion date does not stop. Additionally, there are instances where unexpected field conditions can lead to scope changes that cannot be anticipated.

For those delays that are within our control, Parks is constantly working to improve performance and complete projects within the scheduled completion dates. In the past few years, we have set up quarterly meetings with regulatory agencies to set priorities and resolve permitting issues. In addition, we have regular meetings with contractors, daily and weekly reports from field residents indentifying issues, and

⁹ The actual delay was 1,461 days. However, we excluded from our calculation 128 delay days (1,461 - 128 = 1,333) that were attributable to a plumbing contractor who the Department declared to be in default.

¹⁰ The contingency amount for the Soundview project was \$297,647 and the cost overrun totaled \$777,884. For the Tuscan Garden project, the contingency amount was \$200,000 and the cost overrun totaled \$804,367.

biweekly reports sent directly to the Deputy Commissioner, Chiefs and Deputy Chiefs, follow-up meetings to those biweekly reports, emails/correspondence, meeting minutes and progress schedules. All of these measures contribute to the continued improvement of our program.

Although we agree that capital projects should be completed within their scheduled timeframes, Parks disagrees with the percent of projects identified as completed late during the scope of the audit period. Parks provided the Comptroller with information about 15 Programmatic Scope Changes, which if included in the calculations, would decrease the number of projects completed late.”

Auditor Comment: We acknowledge the Department’s concern that some project delays are “out of Parks’ direct control.” However, the Department lacked sufficient information to establish the extent to which project delays were caused by factors that were out of its control.

The Department classified the causes of project delays in six major categories in an Excel spreadsheet entitled “Causes of Delays in Construction Completions, FY11.” Two categories (Contractor and Labor and Scope Changes) appear consistent with factors that the Department cited as being out of its control (i.e., “poor contractor performance or contractor defaults” and “scope changes that cannot be anticipated”). The Department, however, did not provide any information or analyses regarding the magnitude of these delay factors. We, therefore, analyzed documentation for the 30 sampled projects to determine the number of instances in which projects were delayed due to poor contractor performance and unanticipated scope changes. In the case of the sampled projects, those factors represented only 4 percent of instances in which projects were delayed. Therefore, while some delay factors may be difficult to control, the large number of projects that were not completed within schedule (47 percent) points to widespread problems with the Department’s effectiveness in completing project work in a timely manner.

The Department asserts that 15 projects should not be considered late because of delays that were attributable to “programmatic scope changes.” We asked the Department to substantiate this assertion as stated in our draft audit report section “Projects Completed Late”, by providing us “with delay analyses for these projects to verify whether the delays were in fact, attributable to programmatic scope changes. However, the Department did not provide us with this information.” The written response still lacked documentation, so we cannot substantiate the Department’s assertion about the 15 projects.

2. Ensure that capital projects are completed within their original contract and contingency amounts.

Department Response: “It is important to note that there are several inflated calculations used to support this Recommendation. Specifically, the Report overstates the following amounts:

- Total construction costs for the projects within the scope of the audit are overstated by approximately \$58 million mainly because the Report includes contracts M144-101M and M144-104MA for an ongoing project in East River Park. Although Parks sent an email to the Comptroller dated April 16, 2012 indicating that these two contracts were only a completed phase of a yet to be completed larger project, the Comptroller still included these projects in the Report. (The Report alludes to these contracts in note 4, but there is no

mention of the specific project, no explanation of why these contracts were retained in the audit sample, nor does the Report mention the construction cost these ongoing projects add to the total construction cost of the projects that were completed in FY10 and 11.) Because M144-101M and M144-104MA are not within the scope of the audit, the number of projects in the audit period should actually be 313 (not 315) and the total construction costs of the projects in the audit period totaled \$438M (not \$496.3M).

- Additional construction management costs incurred by delays in completing projects are overstated by more than \$1 million. The Report's analysis of additional construction management costs also includes contracts M144-101M and M144-104MA. However, as mentioned above, these contracts should not be included in the Report because they are part of an ongoing project. Consequently, the additional construction management costs for the projects that were monitored by private consultants totaled \$1,182,656 (not \$2,210,373).
- The additional costs of projects that exceeded their budgets and contingency are overstated by nearly \$500,000. Appendix III of the Report lists the over budget amount for the Poe Park Visitors Center in the Bronx as \$1,234,802. However, according to Parks' records, the project is \$751,217 over budget, bringing the total to \$9,995,572 (not \$10,479,157), or 2.3% (\$9.9M / \$438M) of construction costs.

While Parks will continue to ensure that capital projects are completed within their original contract and contingency amounts, we believe (and the facts demonstrate that) we do exceedingly well in managing our budgets. The Report states that 10% (30 of 313 projects) of the capital projects completed in FY10 and 11 exceeded their original budget and contingency amount, or more positively 90% of our projects were completed within budget. While we will seek to improve this percentage, we believe this is an indication of competent and strong oversight of our budget. Furthermore, the Report does not disclose that the 313 completed capital projects had a budget and contingency amount of nearly \$472 million, resulting in Parks coming in \$33.5 million (\$472M - \$438M) or 7% under its capital budget and contingency during FY10 and 11, a fact worthy of mention in the Report.

Instead, the Report focuses only on the 10% (30 of 313 projects) of capital projects that exceeded budget and contingency amounts by a sum of \$10.4 million (more accurately, \$9.9M as noted above). This only represents 2.3% of overall construction costs--meaning Parks was 98% on budget and contingency for actual construction costs. As a result, Parks disagrees with this finding."

Auditor Comment: The Department believes that contract nos. M144-101M and M144-104MA should not have been included in our analysis because these projects were not completed during our audit scope (Fiscal Years 2010 and 2011). Nevertheless, the projects were included in a list of completed projects in Fiscal Years 2010 and 2011 that we obtained on November 28, 2011 from the Department's Q&A system—the record database for capital construction projects. The Department's April 16, 2012, e-mail notification, which stated that the projects were not, in fact, completed led us to consider several matters. First of all, the Department was not able to provide more accurate information about the status of these projects until five months after we obtained the Q&A database, another indication that the Department may not have a firm handle on its oversight of capital

projects. Second, the disparity with the information in the Q&A database corroborated our finding about problems with obtaining reliable data (see report section “Problems with Reporting Data”). Finally, the two projects were fraught with delays, additional construction management costs, and costly design errors and omissions. The Department’s “Final Cost Projection” indicates that the construction cost as of May 16, 2011, for these projects was \$58 million—\$3.8 million more than originally budgeted. Moreover, as confirmed by the Department’s September 9, 2012, “Consultant Supervision Cost” analysis, the additional costs to pay for private construction managers to oversee these two projects has cost the City \$1,027,717. Given these matters, we considered as valid the retention of these projects in our audit as examples of problems with the Department’s oversight of capital projects.

According to the Department’s “Final Cost Projection” that was provided to us on September 26, 2012, the total construction cost for the Poe Park Visitors Center project consisting of multiple contractors is \$3,969,734. The project should not have cost more than \$2,734,935, which is the original budget amount plus a 10 percent contingency. Therefore, we calculated that the amount of the cost overrun as \$1,234,802 (\$3,969,734 less \$2,734,935), which is 45 percent more than the original budget and contingency amount.

Our assessment of the capital program’s cost effectiveness was reached after considering that work for a significant number of completed projects cost more than anticipated. Department officials disdained our finding that more than \$10 million was overspent on project budgets because this amount—in their opinion—was “only” 2.3 percent of overall construction costs. But the Department chose to overlook the fact that the \$10 million in overspending was on top of its spending all its contingency funding—a generous amount totaling more than \$76 million. The Department’s Construction Manual states that contingency funding (which provides for contracts to be increased by 10 percent or \$200,000) is to cover “overruns and change orders.” Therefore, we contend that cost increases that exceeded their contingency amounts for 10 of 30 sampled projects was significant enough to conclude that the Department was not overseeing capital construction projects in a timely and cost effective manner.

3. Take appropriate steps to identify and mitigate problems that cause project delays and cost overruns and develop specific plans to do so.

Department Response: “We agree that Parks should take additional steps to identify and mitigate problems that cause project delays, however we believe we are effectively overseeing cost overruns. As stated above and in the Report, Parks conducts regular meetings with contractors, has field staff prepare daily and weekly reports to identify problems, requires biweekly reports to the Deputy Commissioner, Chiefs and Deputy Chiefs outlining urgent problems that need immediate resolution, and holding follow-up meetings to the biweekly reports. Although many of the delay causes are out of our direct control, we have already begun implementing measures to improve our permitting process by working with regulatory agencies to expedite the processes and resolve external delays.”

Auditor Comment: Notwithstanding the Department’s belief about “effectively overseeing cost overruns,” the additional costs to complete the 30 sampled projects totaled \$10,479,157 and ranged up to 55 percent above the original contract and contingency amounts.

4. Ensure that project cost estimates are reliable. Use the estimates as a gauge to maintain control over project costs.

Department Response: “The Report states that Parks cannot manage construction projects cost effectively, in part, because of project cost estimate problems. This is another instance in which the Report appears to go out of its way to find fault where there is none. Cost estimates are an educated assumption given the scope of a project. Managing the cost of a project during construction involves making decisions in the field to ensure that the work does not exceed the budget. These are mutually exclusive parts of the capital process and one is not contingent upon the other.

Even if cost estimates were related to maintaining control over project costs, the Comptroller's finding does not take into account that cost estimates are put together when a project is in the 80% design phase and contractor bids may not be received for six months or more after a cost estimate is prepared. Naturally, there are times when our cost estimates will differ from the bids received—for example, when raw material costs for items such as copper or aluminum drastically increase from the time a cost estimate is prepared to the time when bids are submitted. The Comptroller's finding also doesn't take into account that, as previously stated, Parks completes 90% of its projects within scheduled budget and contingency, a very high percentage by any standards, indicating that any issue with the cost estimates is not negatively impacting our ability to maintain control of project costs. The Report focuses on cost estimates for 19 of the 30 projects that were over budget, or 6% (19 of 313) of the overall number of projects in the scope of the audit. Furthermore it states that this small sample of cost estimates is evidence of a widespread issue that is negatively impacting our ability to manage projects. We do not believe this is the case.”

Auditor Comment: According to “The Civil Engineering Handbook,” “Estimates classified as detailed estimates are prepared after the scope and definition of a project are essentially complete. To prepare a detailed estimate requires considerable effort in gathering information and systematically forecasting costs.” Therefore, if, as the Department asserts, cost estimates “are put together when a project is in the 80% design phase,” there should be sufficient information to prepare a detailed estimate that is not simply “an educated assumption.” But as stated in the audit, estimated costs for the sampled projects had a wide range of accuracy—between 46 percent lower and 122 higher than the original contract and contingency amounts.

We focused on 30 projects to carry out a detailed examination of Department files and assess specific causes for schedule delays and cost overruns. That review found that 63 percent—not 6 percent—of project estimates were not reliable indicators of the actual cost of the work.

Problems with Controlling Project Schedules

Department procedures require that capital construction projects be monitored by project engineers who may be either in-house staff or private consultants.¹¹ Our review of 30 sampled project files indicated that project engineers monitored the projects in accordance

¹¹ Sixteen of 30 sampled projects were monitored by the Department's in-house staff of engineers; 14 projects were monitored by engineers employed by private consultants. If a project is monitored by a consultant engineer, a Department engineer is still assigned to oversee the consultant.

with the Department's January 2010 Construction Procedure Manual by preparing and submitting daily and weekly progress reports to the borough director of construction, evaluating cost overruns, monitoring compliance with prevailing wage labor laws, evaluating proposed change orders, and reviewing and approving payment requisitions.

However, our review indicated that the Department is hampered in its ability to adequately oversee the capital program because of a lack of reliable schedule information. According to the Department's Construction Procedure Manual, Section 3.35 (Progress Schedule), which has procedures for overseeing capital projects: "A bar graph progress schedule must be submitted to the supervisor within ten days of the order to work date. Revised progress schedules will be required if it be deemed that the original schedule is no longer appropriate . . . Proposed progress schedules or revisions required thereto are to be submitted directly to Borough Director . . ." Additionally, according to Section 9.2 of the Department's Standard Construction Contract:

"The proposed schedule shall be revised as directed by the Engineer, until finally approved by the engineer . . ." Pursuant to the Article 11, the contractor must notify the engineer in writing, of any condition, which may affect the progress schedule including as to why, and in what respect such condition is causing or may cause delay."

However, our review of the 30 sampled project files found that:

- 24 (80 percent) did not contain approved preliminary schedules, and
- 22 (73 percent) did not contain approved schedule revisions.

Eight of the 30 sampled projects involved multiple contractors (i.e., "Wicks Law" contracts).¹² In all eight cases, project files lacked approved preliminary schedules for all contractors. Furthermore, only two projects contained approved revised schedules for all contractors. Progress schedules for work that is done under the Wicks Law are even more critical than work involving a single contractor because they involve coordination between more than one contractor. This is spelled out in Contract Article 12, which requires that contractors are required to coordinate their work with all other contractors who have been awarded contracts on the same project.

Project schedules are critical tools for managing the progress of a project to ensure its timely completion within budget. Schedules enable the Department to coordinate inspection activities in accordance with key milestones and ensure that work is carried out in an orderly and expeditious manner. As indicated by our review, schedules that are incomplete or have not been approved hamper the Department's ability to carry out capital construction projects in a timely and cost effective manner.

Recommendation

5. The Department should ensure that progress schedules are submitted, approved, and regularly updated.

Department Response: "The Report states that Parks is hampered in its ability to adequately oversee its capital program because of a lack of 'approved' preliminary and revised schedule information. While the Report acknowledged that Parks

¹² The New York State Wicks Law requires that separate contracts be awarded for electrical, plumbing, and mechanical work for state and local government construction projects costing more than a certain amount. In New York City, the current threshold is \$3 million; prior to July 2008, it was \$50,000.

prepared daily and weekly reports, evaluated cost overruns, monitored compliance with prevailing wage labor laws, evaluated proposed change orders and reviewed payment requisitions before approving payments, it appears that these actions were not considered important factors in determining the adequacy of Parks' oversight. Moreover, the Report does not make it clear that a large majority of the project files reviewed contained preliminary and revised schedule information that were disregarded because the Comptroller did not consider them to be "approved." The Report states that only 20% of the sampled projects had approved preliminary schedules, when in fact 64% of the projects had approved preliminary schedules. We agree that project files should have approved preliminary schedules, and we continue to work with our contractors to achieve this goal, but it is important for the Report to reflect the documentation that was actually present within our project files.

While progress schedules are important, they are only one of the tools Parks uses to monitor progress. As noted previously, Parks has meetings with contractors, daily and weekly reports, biweekly reports, follow-up meetings to the biweekly reports, emails/correspondence, meeting minutes, and progress schedules, which when combined, encompass Parks' oversight of our capital program."

Auditor Comment: In accordance with the Department's Construction Procedure Manual, Section 3.35 (Progress Schedule), all projects (100 percent) should have approved schedules—not simply 20 percent as our review found or only 64 percent as the Department contends.

Problems with Project Planning

The Department does not have a reliable process and lacks written procedures to ensure that specific projects are selected and targeted for completion. Although the Department selects as a goal a number of projects to be completed in a given fiscal year, it does not identify those projects or categorize specific projects as priorities. Therefore, projects that were not previously completed and are not selected to be completed in a following fiscal year can continue to be delayed for an indeterminate period. Furthermore, the Department lacks a reliable method to track the status of incomplete projects. Accordingly, it is our opinion that problems with completing capital construction projects in a timely and cost effective manner can be partly attributed to the Department's failure to prioritize project work and allocate appropriate resources to those projects.

The Department's annual planning procedure is to "target" a number of construction projects to be completed in a given fiscal year by taking 1) projects that have scheduled construction completion dates in the current fiscal year; 2) projects that were not completed in the previous fiscal year and are assumed will be completed in the upcoming fiscal year; and 3) projects that are in the procurement phase and are expected to be completed in the upcoming fiscal year. After calculating these figures, Department officials reduce the total number of projects to be completed by estimating the percentage of projects that will likely be delayed and over budget. The resultant number is the "target" quantity of capital projects that the Department expects to complete.

The Department's planning procedure is flawed, however, because the Department cannot ascertain for a given year which specific planned capital projects were slated for completion, the specific projects that were not completed in previous fiscal years, and projects that are in the procurement phase and are expected to be completed in the current fiscal year. Furthermore, the Department could not provide us with the factor by which it

reduced the number of projects that were slated for completion. Accordingly, the lack of transparency in ascertaining the status of planned recreational projects may have an adverse effect by hindering the public's ability to track and be informed about the status of capital projects.

An example of the Department's problems with ensuring that specific projects are targeted for completion is the status of a capital project (Contract No. 20080026983) to construct a \$7.6 million community center in Marine Park in Brooklyn. The Department instructed the contractor to commence work on April 28, 2008, and scheduled the project to be completed by October 19, 2009 (Fiscal Year 2010). The Department's Q&A database indicated that the anticipated completion date for this project would be October 31, 2011. However, as of August 15, 2012, the project has not been completed—already over 33 months late. The Department's website does not provide any information about when the project will actually be completed. Consequently, there is no way for the public to know the status of the project, including the anticipated completion date.

In our opinion, the Department's planning procedure is too haphazard and is not a reliable means for identifying specific "target" projects and ensuring that completed projects were, in fact, selected for completion within a specific timeframe and budget. Moreover, there is no way to ascertain whether specific projects have been targeted for completion in a given fiscal year. In addition, the Department lacks a reliable system for tracking and reporting the progress of projects to ensure that specific projects will be started and completed in a timely manner.

Recommendations

The Department should:

6. Establish formal written procedures for identifying projects and determining a target number of capital projects for completion.

Department Response: "With regard to Recommendation 6, we do not believe we need to establish formal written procedures for identifying projects and determining a target number of capital projects for completion. We determine this target number for the purposes of our MMR indicator. Additionally, our method of determining our target number of projects to be completed in a given fiscal year has little correlation with our ability to manage our construction projects. It does not mean that we don't know which projects are slated for completion, which projects have not been completed by their scheduled completion date, or that there's a lack of transparency to the public about any Parks project. We know the status of all of our projects at any given time."

Auditor Comment: During the course of the audit, we asked the Department for a list of projects that were slated for completion in Fiscal Years 2010 and 2011. The Department was unable to provide us with this information. Moreover, we could not ascertain whether 12 of 247 projects that should have been completed in Fiscal Year 2009 and were not completed were either slated for completion in Fiscal Years 2010 or 2011 or, if slated, were still not completed. Consequently, as of the date that we concluded our audit field work (March 30, 2012), those projects have already been delayed three years, and there is no way to determine when they will be targeted for completion and actually completed. Furthermore, there is a lack of transparency about the status of various projects because the Department's website does not report a scheduled completion date; the website only reports the start date

and the actual completion date. Consequently, if a project is not complete, there is no way for the public to know when it will be completed.

7. Track the progress of projects that have been slated for completion in a given time period.

Department Response: “With regard to Recommendation 7, we do track the progress of projects that have been slated for completion in a given time period. The Comptroller was given access to all of our biweekly reports during the audit period and saw that each borough team submits a biweekly report showing not only the OTW and SCD for each project, but the percent complete so the Deputy Commissioner, Chiefs, and Deputy Chiefs can track progress.”

Auditor Comment: Our examination of biweekly reports provided by the Department showed that the reports did not include all projects slated for completion. Furthermore, there were instances when biweekly reports did not cover the entire construction period and did not always include pertinent information such as the OTW, SCD, and percent complete. Therefore, we doubt that the biweekly reports can be solely relied upon to track progress.

8. Develop indicators to track the status of incomplete projects.

Department Response: “With regard to Recommendation 8, we disagree that we need to establish indicators to track the status of incomplete projects. As mentioned in our response to Recommendation 7, each biweekly report from the borough teams shows the OTW and SCD for each project, in addition to the percent complete so progress can be tracked. If we know a project will not meet its SCD, the project remains on the list of active projects in the biweekly and receives a revised SCD, taking any delays into account. Although the Comptroller cites the Marine Park project in Brooklyn as an example of a late project where there is ambiguity on the SCD, the new SCD is both in our Q&A system and the Parks website so the public is aware. We believe that since we already have a tracking system in place for incomplete projects, an indicator would not improve our system.”

Auditor Comment: We searched the Department’s website on November 20, 2012, and found that it still lacked information about the scheduled completion date of the Marine Park project. The website tracks only “date started” and “date completed;” as the project is not completed, there is no date of completion. Because the website does not track the scheduled completion date and/or the revised scheduled completion date, the information lacks transparency. For example, although the Marine Park project had a scheduled completion date in Fiscal Year 2010, the fact that the project was already delayed by 33 months could not be determined.

Procedures Not Followed for Recouping Costs Related to Design Errors and Omissions

The Department did not adhere to procedures for recouping from consultants the cost of change order work that resulted from design errors or design omissions. Consequently, the Department has foregone an opportunity to recoup from consultants in Fiscal Years 2010 and 2011 up to \$4,004,407 in costs for 48 change orders associated with the 315 completed projects that were

necessitated by consultant design errors and omissions.¹³

In cases in which a change order is classified as a design error or design omission, Department procedures stipulate that the Deputy Chief of Construction notify in writing the Department's Capital Division Legal Counsel. According to the Department's Construction Manual, change orders that are necessitated by design errors or design omissions that exceed \$3,000 must be submitted for review for possible recoupment by the City's Law Department.^{14 15} However, the Department's informal policy is to seek recoupment from design consultants for the cost of change orders attributable to design errors or omissions only in cases where the individual change order amount exceeds \$100,000. Three of the 48 change orders totaling \$3,168,360 exceeded this threshold amount. However, there was no evidence in Department files that all required notifications were either submitted or that the Legal Counsel carried out reviews of the change orders.

Consequently, the Department has foregone an opportunity to recoup from consultants in Fiscal Years 2010 and 2011 \$353,100 in costs for two change orders that were necessitated by design errors. Moreover—although we understand that recovering the costs of design omission change orders may be less likely—procedures for recouping funds from consultants were not followed for an additional change order totaling \$2,815,260 that was necessitated by a design omission. The combined value of the remedial change orders totaled \$3,168,360, which should have been considered for possible recoupment. (See Table 1 on page 21.)

¹³ There were an additional 42 change orders totaling \$878,092 that were necessitated by design errors or omissions that pertained to projects that were designed by the Department's in-house staff. In these cases, cost recoupment is obviously not a feasible alternative.

¹⁴ This requirement is consistent with the City's former Office of the Director of Construction Directive 47, Amendment No. 1 dated September 21, 1992, which stipulated that change orders that result from design errors or omissions that individually exceed \$3,000 be referred to the agency's legal counsel for review. That Directive has not been superseded.

¹⁵ Associated with the 315 completed projects were 28 change orders totaling \$44,518 whose threshold amounts were less than \$3,000. These change orders were classified as design errors or omissions and pertained to projects that were designed by private consultants.

Table 1

Change Orders Exceeding \$100,000
Classified as
Design Error or Omission

Contract No.	Consultant	Change Order No.	Change Order Amount	Change Order Classification	Work Description
20080002147	R.G. Roesch Architecture	9	\$125,000	Design Error	Extend Piles to revised bridge deck
20080002147	R.G. Roesch Architecture	04F	\$2,815,260	Design Omission	Additional cost to complete cast-in-place concrete pile work
20090028272	The Rockwell Group	7	\$228,100	Design Error	Redesign and modifications to proposed sewer
		Total =	\$3,168,360		

We attribute deficiencies in the process for recouping design error and omission costs to the Department's ambiguity concerning its written and informal standards that spells out the threshold amounts for seeking recoupment from consultants. However, in a related matter, we note that the Department has recently started to notify consultants about change orders that are classified as design errors or omissions, an appropriate step for ensuring that consultants are held accountable for design errors and omissions.

Department Response: "The Report states that Parks has deficiencies in its process for recouping design error and omission costs because of ambiguity in its written procedures, and highlights three contracts (for two projects): one with the Rockwell Group (\$228,100 for sewer redesign) and the other with R.G. Roesch Architecture (\$2,940,260 for pile work) that had change orders over \$100,000, which the Comptroller believes should have been considered for possible recoupment. (It is important to note that if the City did seek to recoup costs connected with a design error or omission, it would only seek the difference between the cost of work as performed by the contractor versus the estimated cost of the work had it been competitively bid.) Parks Counsel did consider these contracts for possible recoupment, but determined that recoupment was not appropriate for the following reasons:

- The design by the Rockwell Group was provided pro bono, and we do not deem it appropriate to seek fees for an omission from work that was provided to the City as a gift.
- The designs by R.G. Roesch were for construction of a bike and pedestrian path along the Hudson River in Riverside Park. A large portion of the design errors occurred because Parks (under budget constraints and because of other recently conducted water-based borings) approved only land-based borings for determining the pile designs that would support the new pathway. Water-based borings would have required a barge and rig, and been substantially more expensive for the City. Once [sic] Consequently, a change order was necessary. However, we do not believe a successful case could be brought against the design consultant for not doing water-based borings."

Auditor Comment: There was no evidence in Department files that it considered the noted change orders for possible recoupment. If the Department indeed used the Rockwell Group to provide pro bono design services, then its decision to do so cost the City \$228,100 because of a design error as indicated in the change order.

Despite the lack of file evidence, the Department asserts that it considered for recoupment three change orders highlighted in Table 1 that exceeded \$100,000. However, the Department's response does not explain why it did not consider for recoupment an additional 45 design error and omission change orders totaling \$836,047 that were over \$3,000 and less than \$100,000 (\$4,004,407 less \$3,168,3600). As required by the Department's Construction Manual, change orders that are necessitated by design errors or design omissions that exceed \$3,000 must be submitted for review for possible recoupment by the City's Law Department. However, there was no evidence that the Department carried out these required reviews, a deficiency that we attribute to the Department's ambiguity with its standards that spell out the threshold amounts for seeking recoupment from consultants.

Regarding two change orders for a bike and pedestrian path, the Department asserts that, "Water-based borings would have required a barge and rig, and been substantially more expensive for the City." While the Department did not provide a cost estimate for that work, the noted change order cost the City more than \$2.8 million because, as noted in the change order, "This Change Order is the *additional cost* [italics added for emphasis] to fulfill the work per item 68, Cast in Place Concrete Piles. The additional work was based on a differing subsurface condition than indicated in Contract documents." As noted, there was no file documentation to substantiate the basis of the Department's decision not to seek recoupment from the consultant.

Recommendations

The Department should:

9. Ensure that all appropriate change orders necessitated by consultant design errors and omissions be referred to the Capital Division's Legal Counsel for review and possible recoupment. If the Legal Counsel believes that recoupment should be sought, the change order should be sent to the Law Department.

Department Response: "Parks will continue to ensure that all appropriate change orders (those that that exceed \$3,000) necessitated by consultant design errors and omissions are reviewed by our Legal Counsel for possible recoupment by the Law Department."

Auditor Comment: The Department's response about ensuring a legal review for change orders exceeding \$3,000 is inconsistent with its position that it would only review design error and omission change orders that exceeded \$100,000. Consequently, problems with recouping design error and omission change order costs could be attributable to the Department's ambiguity regarding the threshold amount that would trigger a legal review.

10. Immediately transmit to the Capital Division's Legal Counsel for its review all applicable change orders identified in this report that were classified as design errors and omissions.

Department Response: “With regard to Recommendation 10, prior to the commencement of this audit engagement, Parks Legal had already reviewed the change orders in question and determined that recoupment should not be pursued. We will work to ensure that our decisions are documented in our files.”

Auditor Comment: We did not find any evidence to corroborate the Department’s claim that it reviewed the noted change orders before the commencement of this audit. First of all, the Department’s legal counsel told us at a meeting on January 26, 2012, that it did not review any change orders exceeding \$100,000 during Fiscal Years 2010 and 2011. We also asked legal counsel to provide all related documentation pertaining to change orders that were necessitated by design errors and omissions in Fiscal Years 2010 and 2011. As of the date of the Department’s written response to this audit (November 16, 2012), we did not receive any requested documentation.

11. Develop written policies and procedures that govern the process of referring change orders to the Legal Counsel. In that regard, the Department should consider whether the current threshold amount for referring change orders is appropriate or should be revised.

Department Response: “With regard to Recommendation 11, Parks already has written procedures that govern the process of referring change orders to Legal Counsel--the amount that triggers review by Legal Counsel is \$3,000, as stated in our procedures and in accordance with the City’s former Office of the Director of Construction Directive 47. However, currently, the change order amount for recoupment is reviewed on a case by case by the Law Department.”

Auditor Comment: As previously stated, the Department’s response about ensuring a legal review for change orders exceeding \$3,000 is inconsistent with its position that it would only review design error and omission change orders that exceeded \$100,000. Therefore, the Department should clarify its actual position by developing unambiguous procedures for the review of change orders that are necessitated by design errors and omissions.

Misleading Statistics in the Mayor’s Management Report

The MMR provides overall statistics for various “critical” agency performance indicators. The Department, however, is not providing accurate information to the MMR about the number of projects completed on time. According to the Fiscal Year 2010 MMR, the Department completed 150 projects of which 114 (76 percent) were completed “on-time or early.” In contrast, our review of the Department’s Q&A records indicated that in Fiscal Year 2010, 83 (55 percent) of 150 projects were completed on time—which is 21 percentage points less than reported in the MMR. Similarly, according to the Fiscal Year 2011 MMR, the Department completed 165 projects of which 130 (79 percent) were completed “on-time or early.” In contrast, our review of the Department’s Q&A records indicated that in Fiscal Year 2011, 83 (50 percent) of 165 projects were completed “on-time or early”—which is 29 percentage points less than reported in the MMR.

The statistics for Fiscal Years 2010 and 2011 are shown in Table 2 for projects completed “on-time or early.”

Table 2

Comparison of Performance
Indicators Reported versus Actual

		Fiscal Year 2010			Fiscal Year 2011		
		per MMR	Auditor analysis	Diff	per MMR	Auditor analysis	Diff
		A	B	A-B	C	D	C-D
Timeliness	#s of projects	Actual	Actual		Actual	Actual	
		150	150	0	165	165	0
	On-time	76%	55%	21%	79%	50%	29%
	#s of projects	114	83	31	130	83	47

According to the MMR “Performance Indicator Definitions,” a project is considered on time if it is completed no later than 30 days after its scheduled completion date. However, our review found that the Department reported timeliness statistics to the MMR based on a project being completed no later than 120 days after its scheduled completion date. Accordingly, the Department’s MMR statistics about project timeliness were misleading because they provided for a time span that was 90 days longer (i.e., 120 days less 30 days) than permitted under the MMR definition of timeliness.

Accurately reporting and recording statistics in the Mayor’s Management Report is a critical goal for ensuring that the public is provided with reliable measurements of an agency’s performance.

Recommendation

12. The Department should correct reporting deficiencies and provide accurate and reliable data for reporting in the MMR about the actual percentages of projects completed on time or early.

Department Response: “Parks has already met with the Mayor’s Office of Operations and issued revised MMR totals for previous fiscal years. Further, Parks has corrected this matter moving forward.”

Problems with Reporting Data

Project that Required Wicks Law Contracts

Eight of the 30 sampled projects involved Wicks law contracts. One of the eight projects involved three Wicks Law contracts (Nos. 20090030222, 20090038238, and 20090040066) to reconstruct the playground and restrooms in the Sara D. Roosevelt Park in Manhattan. The Department reported that the project was completed in a timely manner because project work was only delayed 25 days. However, our review found that the Department neglected to report

that work for two of the three contracts—which involved critical electrical and plumbing items that were necessary to complete the project—was delayed 217 days.¹⁶ Therefore, the overall project could not be considered complete until the work included in all three contracts was finished.

Recommendation

13. The Department should correct inaccurate data entries and ensure that data is recorded accurately in the Q&A system.

Department Response: “Parks agrees, and we do everything we can to ensure data is recorded accurately. We will continue to [Sic] seek improvement, although there will always be a few instances of human error. As mentioned to the Comptroller, Parks is currently in the process of replacing the division's 20-year old, DOS-based Q&A system, with a new project management software system called Unifier. Because Unifier is one database (and Q&A is approximately 30 databases), we expect the data entry to be simplified and more expeditious.”

¹⁶ A Department analysis attributed some of the delays that beset the plumbing contract to “DOB plumbing filing delays” and also concluded that the “Agency failed to file plumbing work for DOB approval.”

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. 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. This audit was conducted by auditors with engineering backgrounds.

The scope of this audit covers capital construction projects that were completed in Fiscal Years 2010 and 2011.

We obtained background information about the Department and its Capital Projects Division from the Department's website and reviewed prior audits of the Department conducted by the Office of the New York City Comptroller. Additionally, we reviewed statistics in the Mayor's Management Report for Fiscal Year 2011.

To understand the policies, procedures, and internal controls governing the Department's role in carrying out capital construction projects in a timely and cost effective manner, we interviewed Department personnel, including the Deputy Commissioner for Capital Projects, Chief of Capital Program Management, Agency Chief Contracting Officer, Engineering Audit Officer, Chief of Construction, Chief Engineer, and Associate Counsel for Capital Projects.

To understand the policies, procedures, and regulations governing capital projects, we reviewed the Department's:

- Organization charts, C.1.1
- Flowcharts—design process, bid and procurement process, and construction process
- Capital plans for Fiscal Years 2010 and 2011, C.1.1
- January 2010 "*Construction Procedure Manual*"
- Spring 2007 "*Design Manual for Landscape Architecture*"
- June 2011 "*Causes of Delays in Construction Completions*" analysis, and

Design and construction directives pertaining to capital projects.

We also conducted a walk-through of the Q&A system with the Director of Systems and Analysis to understand how data is recorded in the system during the various phases of a capital project including design, procurement, construction, and close-out. We obtained sample screen-shots of various Q&A elements (e.g., "status" for overall project information, "contract" for procurement information, "construction" for construction data, and "change orders" for change order data) in which all capital project information is maintained. Furthermore, we obtained information to understand the Q&A data fields that are used for determining if a project was delayed and for calculating the extent of delay. Similarly, we obtained information about the Q&A data fields that are used for determining whether a project was over-budget and for calculating the amount of any budget overruns.

We documented our understanding of operations in memoranda, whose accuracy we asked Department officials to review and confirm.

The Department provided us with lists of completed capital projects obtained from the Q&A system's archived dataset for Fiscal Years 2010 and 2011, which are reported by the Department as the source data for the MMR.¹⁷ According to the Department, there were 150 projects completed in Fiscal Year 2010 and 165 projects completed in Fiscal Year 2011. The total number of projects completed in the two years was 315, of which the construction cost (exclusive of costs for design, construction management, and resident engineering services) totaled \$496.3 million. Three hundred fifteen projects were associated with 309 contracts. (The numbers of projects and contracts differ because a Wicks Law project may have multiple contracts. Additionally, there may be a single contract that may involve work at multiple sites).

The Department also provided another Q&A dataset dated November 28, 2011, which included additional data fields. We compared the November 2011 dataset with the archived dataset to ascertain whether the total numbers of completed projects in Fiscal Years 2010 and 2011 and specific projects (by project number) matched. We obtained clarifications from the Department for any discrepancies and reconciled the information so that the November 2011 dataset included all projects that were in the archived dataset. As another test of reliability, we compared additional key fields (i.e., scheduled completion date, actual completion date, registered cost, actual construction cost, etc.) in both datasets to verify the consistency of specific dates and cost data that was used to report statistics for “on time” and “within budget” in the Mayor’s Management Report. For certain cases, we found variances in registered costs, actual construction costs, and actual completion dates between the two datasets. For those discrepancies, we obtained clarifications from Department officials.

To determine whether the Department is carrying out capital construction projects in a timely and cost effective manner, we analyzed the Q&A data, developed various spreadsheets, and derived statistics about the number of projects completed and the number and percentage of projects completed on time and within budget. We compared the results with the information that was recorded in the MMR.

We examined Department files for 30 sampled capital projects completed in Fiscal Years 2010 and 2011 to assess specific causes for schedule delays and cost overruns. We reviewed documentation including cost estimates for quantity overruns, schedules, and delay analyses. We asked Department officials to provide us with any documentation that was missing from the files. The actual construction cost for the 30 sampled projects totaled \$131.7 million. Our samples consisted of:

- Five of the 149 delayed projects that had the longest schedule delays (ranging from 585 to 1,211 days)
- Five of the 30 projects that had the highest cost overruns (ranging from \$275,000 to \$2.1 million)
- Three of the 26 projects that had both cost overruns and schedule delays
- 17 projects that consisted of work at multiple site locations and projects that were required to comply with the provisions of the Wicks Law.

Additionally, we reviewed the Comptroller’s OAISIS system to ascertain whether contractors associated with the 30 sampled projects that had schedule and cost overruns

¹⁷ The archived dataset is a “snapshot” of Q&A data at a particular time. For statistics reported in the FY 2010 MMR, the dataset was relevant as of July/August 2010.

(i.e., 5+5+3+17) had submitted any construction claims against the City.

Furthermore, we analyzed the delayed projects to ascertain how many pertained to projects that were supervised by consultant construction managers. The Department provided us with a list of 12 consultant construction supervision contracts that were in effect in Fiscal Year 2011. Using the Comptroller's OASIS system, we reviewed the hourly rates that were stipulated in 11 of the 12 consultant contracts, derived an average hourly rate, and calculated the additional cost for consultant supervision (i.e., construction management) for 48 delayed projects.¹⁸

To determine the cost reasonableness of project cost estimates, we reviewed the estimates for the 30 projects that were not completed within their original contract and contingency amounts and compared the estimates with the actual construction costs.

Furthermore, we examined evidence of any measures by senior Department officials to administer and oversee project schedules and budgets. We examined bi-weekly status reports submitted by borough team leaders to senior management and requested evidence of any subsequent actions taken to mitigate or address problems with construction delays and cost overruns. We also examined the Department's Fiscal Year 2011 analysis of the causes of project delays and sought evidence of any written plans and schedules that might have been implemented to mitigate delays systematically.

Moreover, we obtained and analyzed spreadsheets that provided information about the change orders associated with the projects completed in Fiscal Years 2010 and 2011 and identified numbers of change orders that were necessitated by design errors or omissions. We determined whether the Department followed procedures for recouping costs related to these type of change orders.

Finally, we reviewed the Department's procedures for planning and scheduling projects. We developed our findings and conclusions on the basis of our analyses. The results of the above tests while not projected to the populations from which the samples were drawn, provided a reasonable basis for us to satisfy our audit objectives.

¹⁸ The Department did not provide a contract number for one of the 12 contracts. Therefore, we could not obtain an hourly rate specified in that contract.

List of Delayed Projects

No.	Project No.	Project Description	Borough	Reg. No.	Contractor	Delay Days
1	X118-301MA/601M	SOUNDVIEW PARK - CONSTR OF	Bronx	20080002852	ST. JOHN ENTERPRISES,	693
2	XG-1205MA1	BRONX - PAVEMENTS, FENCES,	Bronx	20080040342	QUIGG DEVELOPMENT CORP.	636
3	X040-204M/504M	POE PARK VISITORS CENTER -	Bronx	20080006008	J.R. GROUP OF NEW YORK,	578
4	X092-607M	VAN CORTLANDT PARK -	Bronx	20090026358	COPPOLA PAVING &	451
5	XG-31700-201M	BRONX RIVER GREENWAY	Bronx	20060037055	GALVIN BROTHERS INC.	373
6	XG-31700-105M	CONSTR OF PORTION - BRONX	Bronx	20090027709	RED WING INDUSTRIES	344
7	X002-207M	BX ADM BLDG/RANAQUA -	Bronx	20080021345	TWS CONTRACTING CORP.	306
8	X088-306M	PUGSLEY CREEK PARK GREENWAY	Bronx	20080008508	GALVIN BROTHERS INC.	286
9	X016-107M/307M	OWEN DOLEN PARK/GOLDEN AGE	Bronx	20090027944	TUCKAHOE CONSTRUCTION	243
10	XG-506M	FOUR SITES: SOUNDVIEW PK,	Bronx	20070043929	WILLIAM A. GROSS	227
11	XG-709M*PLANYC	SCHOOLYARD @ PS 87X	Bronx	20090032484	FGI CORPORATION	214
12	X086-108M	CHARLTON GARDEN PLGD -	Bronx	20090039756	A.R. BROTHERS	213
13	X243-108M	ROCKS & ROOTS PARK - CONSTR	Bronx	20090038435	PROFESSIONAL PAVERS	209
14	XG-807MA	FENCING, GUIDERAILS,	Bronx	20080036054	QUIGG DEVELOPMENT CORP.	205
15	XG-607MR	P.E., S.S., HANDBALL COURTS	Bronx	20090024183	QUIGG DEVELOPMENT CORP.	202
16	X284-107M	PRINTERS PARK - CONSTR OF A	Bronx	20090003509	DELL-TECH ENTERPRISES,	199
17	X165-105M	EDENWALD PLAYGROUND	Bronx	20080031976	MEDCO ELECTRIC CO. INC.	187
18	XG-209M*PLANYC	SCHOOLYARD @ PS 310X	Bronx	20090032457	FGI CORPORATION	163
19	X118-201MA	SOUNDVIEW PARK - CONSTR OF	Bronx	20080042538	GALVIN BROTHERS INC.	156
20	XG-707MR	PAVEMENTS, SIDEWALKS,	Bronx	20090024267	QUIGG DEVELOPMENT CORP.	141
21	XG-709M*PLANYC	SCHOOLYARD @ IS 135X	Bronx	20090032484	FGI CORPORATION	138
22	X081-108M	PORTIONS OF MOUNT EDEN	Bronx	20090006509	MIME CONSTRUCTION CORP.	107
23	X039-607M	PELHAM BAY PARK - PORTION	Bronx	20090009597	L-C CONSTRUCTION	101
24	XG-1205MA1*	NOBLE PLGD - BALLFIELD	Bronx	20080040342	QUIGG DEVELOPMENT CORP.	98
25	X187-106M	CAMPANARO PLAYGROUND &	Bronx	20090010477	UA CONSTRUCTION CORP	80
26	X158-106M	SEDGWICK PLAYGROUND	Bronx	20090010417	UA CONSTRUCTION CORP	66
27	X080-109M	PORTIONS OF HENRY HUDSON	Bronx	20090038760	MINELLI CONSTRUCTION	60
28	X102-205MA1/505M	VINCENT CICCARONE PARK -	Bronx	20100002904	PENTA RESTORATION CORP.	60
29	X104-107MA1	WILLIAMSBRIDGE OVAL - PLGDS	Bronx	20100008681	CONTI OF NEW YORK LLC.	60
30	XG-507M	BRONX - BOILERS & HEATING	Bronx	20100007452	MARIC PLUMBING &	58
31	X251-109M	CO-OP CITY (NORTH & SOUTH)	Bronx	20100013982	INTERPHASE ELECTRIC	57
32	X010-806M	CROTONA PARK - TREMONT	Bronx	20101403196	FGI CORPORATION	48
33	X010-109M	CROTONA PARK - CONSTR OF	Bronx	20101422233	DEROSA TENNIS	46
34	X026-107M	HINES PARK - RETAINING WALL	Bronx	20090035075	RUBY CONSTRUCTION	24
35	XG-209M PLANYC	SCHOOLYARDS @ PS 310X & PS	Bronx	20090032457	FGI CORPORATION	17
36	B129-106M/406M	KAISER PARK - REC BLDG	Brooklyn	20080007864	VISHAL CONSTRUCTION,	930
37	BG-1208M*PLANYC	SCHOOLYARD @ IS 96K	Brooklyn	20090006596	CP PERMA PAVING	683
38	BG-1208M PLANYC	SCHOOLYARDS @ PS105K,	Brooklyn	20090006596	CP PERMA PAVING	555
39	B380-106M/406M	ROBERT E. VENABLE PARK -	Brooklyn	20090017665	LIGHT HOUSE DESIGNS	421
40	BG-507MR	P.E., S.S., HANDBALL CTS,	Brooklyn	20090025131	T. PYRAMID, INC.	383
41	BG-1108M PLANYC	SCHOOLYARDS @ PS 48K, PS	Brooklyn	20090006566	CP PERMA PAVING	345
42	B058-106MA	MCCARREN PARK - CONSTR OF A	Brooklyn	20080039429	PIR & D CONSTRUCTION	271
43	BG-908M	PORTIONS OF: OCEAN PKWY	Brooklyn	20090039198	PROFESSIONAL PAVERS	239
44	BG-1809M*PLANYC	SCHOOLYARD @ PS 222K	Brooklyn	20100018467	CP PERMA PAVING	217
45	BG-109M PLANYC	SCHOOLYARDS @ PS 99K, PS	Brooklyn	20090037653	U.A. CONSTRUCTION CORP.	195
46	B380-105M	ROBERT VENABLE PARK -	Brooklyn	20080040690	ATLAS ROLL-OFF CORP.	182
47	BG-209M*PLANYC	SCHOOLYARD @ PS 254K	Brooklyn	20100008734	PAUL J. SCARIANO, INC.	170
48	B129-108M	KAISER PARK - BASKETBALL	Brooklyn	20100011294	PIONEER LANDSCAPING &	169
49	BG-409M*PLANYC	SCHOOLYARD @ PS 209K	Brooklyn	20090033466	AHURA CONSTRUCTION	167
50	B166-110M	EMERGENCY STABILIZATION &	Brooklyn	20101408583	TUCCI EQUIPMENT RENTAL	166
51	B068-107M	PARADE GROUNDS - FIELD 4 &	Brooklyn	20100011558	L-C CONSTRUCTION	155
52	BG-1208M*PLANYC	SCHOOLYARD @ PS 97K	Brooklyn	20090006596	CP PERMA PAVING	136
53	B232-106M	DEAN PLGD - BALLFIELD	Brooklyn	20080029549	ADVANCE BUILDERS INC.	117
54	BG-1108M*PLANYC	SCHOOLYARD @ PS 48K	Brooklyn	20090006566	CP PERMA PAVING	114
55	BG-407M	BROOKLYN - BOILERS &	Brooklyn	20090036148	KORDUN CONSTRUCTION	88
56	BG-407M*	METROPOLITAN POOL &	Brooklyn	20090036148	KORDUN CONSTRUCTION	88
57	BG-1109M PLANYC	BROOKLYN - TREES - CB 1-18	Brooklyn	20090029891	J. PIZZIRUSSO	84
58	B250-107M	PS 269 (NOSTRAND) PLGD	Brooklyn	20090020949	UA CONSTRUCTION CORP	81
59	BG-707MR	PAVEMENTS, SIDEWALKS,	Brooklyn	20090025133	T. PYRAMID, INC.	74
60	B073-107M	PROSPECT PARK/VANDERBILT	Brooklyn	20090032973	PENTA RESTORATION CORP.	62
61	BG-1008MR	BROOKLYN - CB 1-18 -	Brooklyn	20101411566	OLSON'S CREATIVE	55
62	B146-108M	LEIF ERICSON PLGD -	Brooklyn	20090030501	THE LANDTEK GROUP INC.	52
63	BG-1809M*PLANYC	SCHOOLYARD @ PS 104K	Brooklyn	20100018467	CP PERMA PAVING	41
64	B018-206M	CANARSIE PARK - PHASE II	Brooklyn	20090036218	WILLIAM A. GROSS	36
65	B055-108M	FRANCES HAMBURGER STERNBERG	Brooklyn	20090039179	CMC CONSTRUCTION INC.	33

No.	Project No.	Project Description	Borough	Reg. No.	Contractor	Delay Days
66	BG-38350-109M	KINGSBOROUGH COMM COLLEGE -	Brooklyn	20100003250	APPLIED LANDSCAPE	25
67	BG-1809M PLANYC	SCHOOLYARDS AT PS 104K, PS	Brooklyn	20100018467	CP PERMA PAVING	23
68	BG-509M PLANYC	CB 1-18 - PAVING OF NEWLY	Brooklyn	20090027752	SIEDLECKI CONSTRUCTION	19
69	BG-1509M	P.E., S.S., PAVEMENTS,	Brooklyn	20090039590	CP PERMA PAVING	15
70	BG-508M*PLANYC	SCHOOLYARD @ PS 243K	Brooklyn	20080043208	JCC CONSTRUCTION CORP.	13
71	BG-109M*PLANYC	SCHOOLYARD @ PS 193K	Brooklyn	20090037653	U.A. CONSTRUCTION CORP.	12
72	BG-1809M*PLANYC	SCHOOLYARD @ PS 185K	Brooklyn	20100018467	CP PERMA PAVING	8
73	CNYG-508M	CITYWIDE - P.E., S.S.,	Citywide	20080041920	TBO SITESCAPES, INC.	625
74	CNYG-1607M	CITYWIDE - REMOVAL OF	Citywide	20070044283	QUIGG DEVELOPMENT CORP.	545
75	CNYG-3508MR (PLANYC)	TREES - BROOKLYN, S.I. &	Citywide	20090030425	CAPRI LANDSCAPING CORP.	423
76	CNYG-707MA*	CONEY ISL BOARDWALK - W.	Citywide	20080039088	D'ONOFRIO GENERAL	392
77	CNYG-1607M*	LUNA PARK PLGD (B296)	Citywide	20070044283	QUIGG DEVELOPMENT CORP.	288
78	CNYG-208M*PLANYC	SCHOOLYARD @ PS 236K	Citywide	20090011444	CP PERMA PAVING	221
79	CNYG-108M PLANYC	SCHOOLYARDS @ PS 68X & IS	Citywide	20080043166	JCC CONSTRUCTION CORP.	179
80	CNYG-1607M*	FORT TOTTEN PLGD (Q458)	Citywide	20070044283	QUIGG DEVELOPMENT CORP.	148
81	CNYG-3609M PLANYC	TREES - MANHATTAN & THE	Citywide	20100016954	M & D LANDSCAPING &	131
82	CNYG-508M*	HIGHBRIDGE PARK - LAUREL	Citywide	20080041920	TBO SITESCAPES, INC.	78
83	CNYG-208M*PLANYC	SCHOOLYARD @ IS 252K	Citywide	20090011444	CP PERMA PAVING	64
84	CNYG-908M PLANYC	SCHOOLYARDS @ IS 77Q, PS	Citywide	20080043100	JCC CONSTRUCTION CORP.	51
85	CNYG-1806M	CITYWIDE - RECONSTR &	Citywide	20070043573	TROCOM CONSTRUCTION	41
86	CNYG-4109M*PLANYC	SCHOOLYARD @ PS 631K	Citywide	20101413982	JPR CONSTRUCTION CO.,	40
87	CNYG-2109M PLANYC	BRONX & MANHATTAN - STREET	Citywide	20090039640	DA COSTA LANDSCAPING	27
88	CNYG-707MA*	CONEY ISL BOARDWALK -	Citywide	20080039088	D'ONOFRIO GENERAL	26
89	M144-101M*	EAST RIVER PARK - STA 33+20	Manhattan	20050009200	PILE FOUNDATION	757
90	MG-607M	PAVEMENTS, SIDEWALKS,	Manhattan	20070044372	QUIGG DEVELOPMENT CORP.	653
91	M208-104MA1	CONSTR OF HARLEM RIVER PK	Manhattan	20070013260	PHOENIX MARINE CO.,INC.	469
92	M144-104MA*	EAST RIVER PARK - STA 48+40	Manhattan	20060032411	TULLY CONSTRUCTION	384
93	M071-297A	RIVERSIDE PARK -	Manhattan	20080002147	LOMMA CONSTRUCTION	366
94	M089-107M/407M	UNION SQUARE PK - CONSTR OF	Manhattan	20080029546	PADILLA CONSTRUCTION	325
95	M308-108M	WASHINGTON MARKET PARK -	Manhattan	20090035868	MARPAT CONSTRUCTION	252
96	MG-407MR	P.E., S.S., HANDBALL CTS &	Manhattan	20090025321	QUIGG DEVELOPMENT CORP.	226
97	M071-209M	RIVERSIDE PARK - FENCES,	Manhattan	20090037722	PROFESSIONAL PAVERS	203
98	MG-39325-107M	CONSTRUCTION OF JOHN DELURY	Manhattan	20090035955	TROCOM CONSTRUCTION	161
99	M077-106MA	ST. NICHOLAS PARK - PATH &	Manhattan	20090015619	EAST END SOLUTIONS,	104
100	MG-607MR	PAVEMENTS, SIDEWALKS,	Manhattan	20090025172	QUIGG DEVELOPMENT CORP.	84
101	M047-109M	THOMAS JEFFERSON PARK -	Manhattan	20090040078	MEC-CON ASSOCIATES INC.	60
102	MG-41050-107M	TITANIC PARK	Manhattan	20100013962	ARGUS CONSTRUCTION &	59
103	MG-507MR	FENCING, CUSTOM GATES,	Manhattan	20090025932	AMERICAN CHAIN LINK &	58
104	M058-109MA/209M	MARCUS GARVEY PK -	Manhattan	20101413942	TRITON STRUCTURAL	43
105	MG-509M*	MADISON SQUARE PARK (M052)	Manhattan	20090039488	QUIGG DEVELOPMENT CORP.	35
106	M088-107M	TOMPKINS SQUARE PARK - PLGD	Manhattan	20080042813	LAPOMA SITEWORK &	32
107	M043-108M	ISHAM PARK - (INDIAN ROAD)	Manhattan	20100013986	ARGUS CONSTRUCTION &	30
108	M011-109M PLANYC	CHELSEA PARK - BALLFIELDS	Manhattan	20101414388	RESTANI CONSTRUCTION	23
109	M037-110M	HIGHBRIDGE AQUEDUCT WATER	Manhattan	20111401711	UA CONSTRUCTION CORP	3
110	MG-509M	PAVEMENTS, FENCES, BASEBALL	Manhattan	20090039488	QUIGG DEVELOPMENT CORP.	2
111	QG-405MR	FENCING, GUIDERAILS,	Queens	20060045586	CRAFT FENCE, INC.	1181
112	Q099-604M	FMCP - HIGH VOLTAGE	Queens	20060040145	EXPERT ELECTRIC, INC.	685
113	QG-507MR	P.E., S.S., BENCHES,	Queens	20090026101	T. PYRAMID, INC.	386
114	QG-1109M PLANYC	SCHOOLYARDS @ PS 116Q & IS	Queens	20100005603	JAL EE ELECTRIC INC.	284
115	QG-1109M*PLANYC	SCHOOLYARD @ PS 116Q	Queens	20100005603	JAL EE ELECTRIC INC.	257
116	Q015-107M/307M	FOREST PARK/OVERLOOK	Queens	20080020283	BRYCE CONSTRUCTION INC.	185
117	Q448-108MA	ROY WILKINS SO. QNS PARK -	Queens	20090028857	JCC CONSTRUCTION CORP.	178
118	QG-707MA	FENCING, BASEBALL	Queens	20090005730	AMERICAN CHAIN LINK &	171
119	Q401-108M	LOST BATTALION HALL - LOBBY	Queens	20090025855	A.R. BROTHERS	139
120	Q010-107M	LITTLE BAY PARK - CONSTR OF	Queens	20100004620	UNIVERSAL DEVELOPMENT	138
121	QG-1508M*PLANYC	SCHOOLYARD @ IS 25Q	Queens	20080043162	JCC CONSTRUCTION CORP.	128
122	Q458-108M-OMBP	FORT TOTTEN -	Queens	20090015261	CASSONE LEASING, INC.	126
123	Q099-107MA	FMCP - FOUNTAIN & POOL	Queens	20100005545	ATLAS ROLL-OFF CORP.	126
124	Q392-107M	IDLEWILD PARK - CRICKET	Queens	20080042362	WILLIAM A. GROSS	111
125	QG-1109M*PLANYC	SCHOOLYARD @ IS 238Q	Queens	20100005603	JAL EE ELECTRIC INC.	103
126	Q126-107MA	FRANCIS LEWIS PARK - BOCCIE	Queens	20090028974	CAREFREE IMPROVEMENTS	91
127	Q492-107M	GAS TANK PARK - CONSTR OF	Queens	20090038548	WILLIAM A. GROSS	90
128	QG-47100-108M	LOCUST GROVE CIVIC TRIANGLE	Queens	20090025545	CMC CONSTRUCTION INC.	89
129	QG-1608M PLANYC	TREES - UDALL'S PARK	Queens	20090015624	DRAGONETTI BROTHERS	87
130	Q094-107M	PALS OVAL - BALLFIELDS WITH	Queens	20080042306	WILLIAM A. GROSS	76

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No.	Project No.	Project Description	Borough	Reg. No.	Contractor	Delay Days
131	QG-2408M PLANYC	SCHOOLYARDS @ IS 61Q & PS	Queens	20090038223	UA CONSTRUCTION CORP	71
132	Q459-106M	DUBOS POINT PARK AREA REHAB	Queens	20090040098	EAST END SOLUTIONS,	61
133	Q453-106M	QUEENS COUNTY FARM MUSEUM -	Queens	20100003095	UA CONSTRUCTION CORP.	59
134	QG-1508M PLANYC	SCHOOLYARDS @ PS 129Q, PS	Queens	20080043162	JCC CONSTRUCTION CORP.	53
135	Q021-108M	CUNNINGHAM PARK -	Queens	20090038541	WILLIAM A. GROSS	47
136	QG-307M	QUEENS - BOILERS & HEATING	Queens	20100019016	WARD MECHANICAL CORP.	47
137	QG-209M PLANYC	SCHOOLYARDS @ PS 51Q, PS	Queens	20090038172	UA CONSTRUCTION CORP	39
138	Q141-107M	PORTION OF JOHN F. MURRAY	Queens	20090040206	UA CONSTRUCTION CORP	31
139	Q476-106M	COLLEGE POINT SPORTS PARK -	Queens	20080041359	RESTANI CONSTRUCTION	25
140	Q099-208M	FMCP - OLMSTED CENTER -	Queens	20090015851	JACK'S INSULATION	22
141	QG-607MR	PAVEMENTS, SIDEWALKS,	Queens	20090030565	TBO SITESCAPES, INC.	21
142	Q119-108M	JUDGE MEM.PLGD (LINCOLN PK)	Queens	20101411453	DEROSA TENNIS	9
143	Q015-109M	FOREST PARK - BANDSHELL	Queens	20100011719	L-C CONSTRUCTION	5
144	R116-105MA/405M	CONSTR OF TUSCAN GARDEN &	Staten Island	20060045302	VIRGINIA CONSTRUCTION &	1071
145	R116-606MA	S.I. BOTANICAL GARDEN -	Staten Island	20090010336	PERFETTO ENTERPRISES	309
146	R145-107MA	NELSON AVE WATERFRONT PARK	Staten Island	20090033727	RAVINE CONSTRUCTION	171
147	R005-105M/405M	CLOVE LAKES PARK - CONSTR	Staten Island	20090025406	TUCKAHOE CONSTRUCTION	151
148	RG-609M	STATEN ISLAND - CONSTR OF	Staten Island	20100009829	SHAZI CONSTRUCTION	41
149	RG-407MR*	CONFERENCE HOUSE PARK	Staten Island	20090024915	CP PERMA PAVING	1

List of Sampled Projects

Sample No.	Project No.	Project Description	Borough	Reg. No.	Contractor	Over Budget	Delayed
1	X118-301MA/601M	SOUNDVIEW PARK - CONSTR OF	Bronx	20080002852	ST. JOHN ENTERPRISES,	X	X
2	X040-204M/504M	POE PARK VISITORS CENTER -	Bronx	20080006008	J.R. GROUP OF NEW YORK,	X	X
3	XG-709M*PLANYC	SCHOOLYARD @ IS 135X	Bronx	20090032484	FGI CORPORATION		X
4	X102-205MA1/505M	VINCENT CICCARONE PARK -	Bronx	20100002904	PENTA RESTORATION CORP.	X	X
5	B129-106M/406M	KAISER PARK - REC BLDG	Brooklyn	20080007864	VISHAL CONSTRUCTION,	X	X
6	BG-38250-108M	BUSHWICK INLET PARK -	Brooklyn	20090027754	WILLIAM A. GROSS	X	
7	BG-1208M PLANYC	SCHOOLYARDS @ PS105K,	Brooklyn	20090006596	CP PERMA PAVING	X	X
8	B380-105M	ROBERT VENABLE PARK -	Brooklyn	20080040690	ATLAS ROLL-OFF CORP.	X	X
9	BG-38350-109M	KINGSBOROUGH COMM COLLEGE -	Brooklyn	20100003250	APPLIED LANDSCAPE	X	X
10	CNYG-1607M*	LUNA PARK PLGD (B296)	Brooklyn	20070044283	QUIGG DEVELOPMENT CORP.		X
11	BG-1108M PLANYC	SCHOOLYARDS @ PS 48K, PS	Brooklyn	20090006566	CP PERMA PAVING		X
12	BG-507MR*	MARCY PLGD - PHASE II	Brooklyn	20090025131	T. PYRAMID, INC.		
13	BG-109M PLANYC	SCHOOLYARDS @ PS 99K, PS	Brooklyn	20090037653	U.A. CONSTRUCTION CORP.		X
14	BG-209M*PLANYC	SCHOOLYARD @ PS 254K	Brooklyn	20100008734	PAUL J. SCARIANO, INC.		X
15	BG-1809M*PLANYC	SCHOOLYARD @ PS 104K	Brooklyn	20100018467	CP PERMA PAVING		X
17	CNYG-4109M*PLANYC	SCHOOLYARD @ PS 249K	Brooklyn	20101413982	JPR CONSTRUCTION CO.,		
16	CNYG-1508M PLANYC	RECONSTR OF ASPHALT	Citywide	20100009954	APPLIED LANDSCAPE		
18	M144-101M*	EAST RIVER PARK - STA 33+20	Manhattan	20050009200	PILE FOUNDATION		X
19	M071-297A	RIVERSIDE PARK -	Manhattan	20080002147	LOMMA CONSTRUCTION	X	X
20	MG-607M	PAVEMENTS, SIDEWALKS,	Manhattan	20070044372	QUIGG DEVELOPMENT CORP.	X	X
21	M105-107M;108M/208M	SARA D. ROOSEVELT PARK -	Manhattan	20090030222	PADILLA CONSTRUCTION		
22	MG-509M*	MADISON SQUARE PARK (M052)	Manhattan	20090039488	QUIGG DEVELOPMENT CORP.		X
23	QG-405MR	FENCING, GUIDERAILS,	Queens	20060045586	CRAFT FENCE, INC.		X
24	Q099-604M	FMCP - HIGH VOLTAGE	Queens	20060040145	EXPERT ELECTRIC, INC.		X
25	Q096-108M	SOUTHERN FIELDS - CONSTR OF	Queens	20100008555	WILLIAM A. GROSS	X	
26	Q015-107M;307M	FOREST PARK/OVERLOOK	Queens	20080020283	BRYCE CONSTRUCTION INC.		X
27	QG-1709MA PLANYC	SCHOOLYARDS @ PS 160Q & PS	Queens	20101425231	EMPIRE CONTROL		
28	R116-105MA/405M	CONSTR OF TUSCAN GARDEN &	Staten Island	20060045302	VIRGINIA CONSTRUCTION &	X	X
29	CNYG-508M*	MARKHAM PLGD (R076)	Staten Island	20080041920	TBO SITESCAPES, INC.		
30	R005-105M/405M	CLOVE LAKES PARK - CONSTR	Staten Island	20090025406	TUCKAHOE CONSTRUCTION	X	X

List of Over Budget Projects

No.	Project No.	Project Description	Borough	Reg. No.	Contractor	Over Budget Amt
1	X040-204M/504M	POE PARK VISITORS CENTER -	Bronx	20080006008	J.R. GROUP OF NEW YORK,	\$ 1,234,802
2	X118-301MA/601M	SOUNDVIEW PARK - CONSTR OF	Bronx	20080002852	ST. JOHN ENTERPRISES,	\$ 777,884
3	X348-107MA	CONSTR OF A SKATE PLAZA @	Bronx	20090038479	A.R. BROTHERS	\$ 543,463
4	X102-205MA1/505M	VINCENT CICCARONE PARK -	Bronx	20100002904	PENTA RESTORATION CORP.	\$ 304,182
5	X010-109M	CROTONA PARK - CONSTR OF	Bronx	20101422233	DEROSA TENNIS	\$ 173,770
6	X165-105M	EDENWALD PLAYGROUND	Bronx	20080031976	MEDCO ELECTRIC CO. INC.	\$ 163,000
7	X086-108M	CHARLTON GARDEN PLGD -	Bronx	20090039756	A.R. BROTHERS	\$ 139,150
8	X016-107M;307M	OWEN DOLEN PARK/GOLDEN AGE	Bronx	20090027944	TUCKAHOE CONSTRUCTION	\$ 25,893
9	X118-102M	SOUNDVIEW PARK -	Bronx	20111409286	VERNON HILLS	\$ 25,435
10	BG-1208M PLANYC	SCHOOLYARDS @ PS105K,	Brooklyn	20090006596	CP PERMA PAVING	\$ 572,000
11	B129-106M/406M	KAISER PARK - REC BLDG	Brooklyn	20080007864	VISHAL CONSTRUCTION,	\$ 449,674
12	B380-105M	ROBERT VENABLE PARK -	Brooklyn	20080040690	ATLAS ROLL-OFF CORP.	\$ 435,990
13	BG-38350-109M	KINGSBOROUGH COMM COLLEGE -	Brooklyn	20100003250	APPLIED LANDSCAPE	\$ 430,129
14	B380-106M/406M	ROBERT E. VENABLE PARK -	Brooklyn	20090017665	LIGHT HOUSE DESIGNS	\$ 161,028
15	B250-107M	PS 269 (NOSTRAND) PLGD	Brooklyn	20090020949	UA CONSTRUCTION CORP	\$ 149,493
16	BG-1809M PLANYC	SCHOOLYARDS AT PS 104K, PS	Brooklyn	20100018467	CP PERMA PAVING	\$ 103,317
17	B146-108M	LEIF ERICSON PLGD -	Brooklyn	20090030501	THE LANDTEK GROUP INC.	\$ 87,276
18	CNYG-508M	CITYWIDE - P.E., S.S.,	Citywide	20080041920	TBO SITESCAPES, INC.	\$ 60,000
19	M071-297A	RIVERSIDE PARK -	Manhattan	20080002147	LOMMA CONSTRUCTION	\$ 1,753,617
20	MG-607M	PAVEMENTS, SIDEWALKS,	Manhattan	20070044372	QUIGG DEVELOPMENT CORP.	\$ 800,000
21	M089-107M/407M	UNION SQUARE PK - CONSTR OF	Manhattan	20080029546	PADILLA CONSTRUCTION	\$ 309,454
22	MG-509M	PAVEMENTS, FENCES, BASEBALL	Manhattan	20090039488	QUIGG DEVELOPMENT CORP.	\$ 300,000
23	M011-109M PLANYC	CHELSEA PARK - BALLFIELDS	Manhattan	20101414388	RESTANI CONSTRUCTION	\$ 159,570
24	M014-107M	JACKIE ROBINSON PARK -	Manhattan	20080042541	SANDHU CONTRACTING INC.	\$ 21,160
25	M105-107M;108M/208	SARA D. ROOSEVELT PARK -	Manhattan	20090030222	PADILLA CONSTRUCTION	\$ 16,910
26	QG-1508M PLANYC	SCHOOLYARDS @ PS 129Q, PS	Queens	20080043162	JCC CONSTRUCTION CORP.	\$ 182,000
27	QG-1109M PLANYC	SCHOOLYARDS @ PS 116Q & IS	Queens	20100005603	JA LEE ELECTRIC INC.	\$ 100,949
28	R116-105MA/405M	CONSTR OF TUSCAN GARDEN &	Staten Island	20060045302	VIRGINIA CONSTRUCTION &	\$ 804,367
29	RG-609M	STATEN ISLAND - CONSTR OF	Staten Island	20100009829	SHAZI CONSTRUCTION	\$ 150,000
30	R005-105M/405M	CLOVE LAKES PARK - CONSTR	Staten Island	20090025406	TUCKAHOE CONSTRUCTION	\$ 44,646
						\$ 10,479,157

List of Projects Delayed and Over Budget

No.	Project No.	Project Description	Borough	Reg. No.	Contractor	Delay Days	Over Budget Amt
1	X040-204M/504M	POE PARK VISITORS CENTER -	Bronx	20080006008	J.R. GROUP OF NEW YORK,	578	\$ 1,234,802
2	X118-301MA/601M	SOUNDVIEW PARK - CONSTR OF	Bronx	20080002852	ST. JOHN ENTERPRISES,	693	\$ 777,884
3	X102-205MA1/505M	VINCENT CICCARONE PARK -	Bronx	20100002904	PENTA RESTORATION CORP.	60	\$ 304,182
4	X010-109M	CROTONA PARK - CONSTR OF	Bronx	20101422233	DEROSA TENNIS	46	\$ 173,770
5	X165-105M	EDENWALD PLAYGROUND	Bronx	20080031976	MEDCO ELECTRIC CO. INC.	187	\$ 163,000
6	X086-108M	CHARLTON GARDEN PLGD -	Bronx	20090039756	A.R. BROTHERS	213	\$ 139,150
7	X016-107M/307M	OWEN DOLEN PARK/GOLDEN AGE	Bronx	20090027944	TUCKAHOE CONSTRUCTION	243	\$ 25,893
8	BG-1208M PLANYC	SCHOOLYARDS @ PS105K,	Brooklyn	20090006596	CP PERMA PAVING	555	\$ 572,000
9	B129-106M/406M	KAISER PARK - REC BLDG	Brooklyn	20080007864	VISHAL CONSTRUCTION,	930	\$ 449,674
10	B380-105M	ROBERT VENABLE PARK -	Brooklyn	20080040690	ATLAS ROLL-OFF CORP.	182	\$ 435,990
11	BG-38350-109M	KINGSBOROUGH COMM COLLEGE -	Brooklyn	20100003250	APPLIED LANDSCAPE	25	\$ 430,129
12	B380-106M/406M	ROBERT E. VENABLE PARK -	Brooklyn	20090017665	LIGHT HOUSE DESIGNS	421	\$ 161,028
13	B250-107M	PS 269 (NOSTRAND) PLGD	Brooklyn	20090020949	UA CONSTRUCTION CORP	81	\$ 149,493
14	BG-1809M PLANYC	SCHOOLYARDS AT PS 104K, PS	Brooklyn	20100018467	CP PERMA PAVING	23	\$ 103,317
15	B146-108M	LEIF ERICSON PLGD -	Brooklyn	20090030501	THE LANDTEK GROUP INC.	52	\$ 87,276
16	CNYG-508M	CITYWIDE - P.E., S.S.,	Citywide	20080041920	TBO SITESCAPES, INC.	625	\$ 60,000
17	M071-297A	RIVERSIDE PARK -	Manhattan	20080002147	LOMMA CONSTRUCTION	366	\$ 1,753,617
18	MG-607M	PAVEMENTS, SIDEWALKS,	Manhattan	20070044372	QUIGG DEVELOPMENT CORP.	653	\$ 800,000
19	M089-107M/407M	UNION SQUARE PK - CONSTR OF	Manhattan	20080029546	PADILLA CONSTRUCTION	325	\$ 309,454
20	MG-509M	PAVEMENTS, FENCES, BASEBALL	Manhattan	20090039488	QUIGG DEVELOPMENT CORP.	2	\$ 300,000
21	M011-109M PLANYC	CHELSEA PARK - BALLFIELDS	Manhattan	20101414388	RESTANI CONSTRUCTION	23	\$ 159,570
22	QG-1508M PLANYC	SCHOOLYARDS @ PS 129Q, PS	Queens	20080043162	JCC CONSTRUCTION CORP.	53	\$ 182,000
23	QG-1109M PLANYC	SCHOOLYARDS @ PS 116Q & IS	Queens	20100005603	JAL EE ELECTRIC INC.	284	\$ 100,949
24	R116-105MA/405M	CONSTR OF TUSCAN GARDEN &	Staten Island	20060045302	VIRGINIA CONSTRUCTION &	1071	\$ 804,367
25	RG-609M	STATEN ISLAND - CONSTR OF	Staten Island	20100009829	SHAZI CONSTRUCTION	41	\$ 150,000
26	R005-105M/405M	CLOVE LAKES PARK - CONSTR	Staten Island	20090025406	TUCKAHOE CONSTRUCTION	151	\$ 44,646



NYC Parks

November 16, 2012

H. Tina Kim
Deputy Comptroller for Audit
City of New York Office of the Comptroller
One Centre Street
New York, NY 10007-2341

**Re: Comptroller's Draft Audit Report, 7E-067A
Department of Parks & Recreation's Oversight of Capital Projects**

Dear Deputy Comptroller Kim:

This letter addresses the findings and recommendations ("Recommendations") contained in the New York City Comptroller's ("Comptroller") Draft Audit Report ("Report"), dated October 23, 2012, on the Department of Parks & Recreation's ("Parks" or "the Department") oversight of capital projects.

Parks is committed to continuing to improve its oversight of capital projects. In keeping with this commitment, we recognize and agree with the Report's Recommendations that certain improvements are needed with respect to mitigating the causes of project delays or revising MMR indicators on project completions.

Unfortunately, the Report does not recognize where Parks' oversight has largely achieved positive results. In fact, there are several instances where the Report appears to go out of its way to find fault where there is overwhelming indication of strong performance. As a result, this Report does little to reflect the actual success of our capital program, and the great effort that goes into its oversight. In particular, the Report is mistaken in its assessment that Parks does not oversee capital construction projects in a cost-effective manner. It is hard to understand how the Comptroller has reached this conclusion when the Report itself acknowledges that 90% of the projects completed during FY10 and FY11 were on budget. In fact, a careful analysis of the Report reveals that cost overruns equal only 2.3% of Parks actual construction costs during the two year audit period. Indeed, Parks' results have demonstrated that it is effectively maintaining project costs, and effectively overseeing many other elements of its capital program. Therefore, we strongly disagree with many of the Report's findings and conclusions. Our responses to the Report's individual Recommendations follow below.

Recommendation 1 – The Department should ensure that capital projects are completed within their originally scheduled timeframes.

It is our goal to complete each capital project in a safe, cost effective and timely manner. However, there are several causes of delays that are out of Parks' direct control. For example, instances of poor

contractor performance or contractor defaults require us to rebid projects--these occurrences can add months, or even years, to project timelines. While contractor defaults are in progress, the clock on the project scheduled completion date does not stop. Additionally, there are instances where unexpected field conditions can lead to scope changes that cannot be anticipated.

For those delays that are within our control, Parks is constantly working to improve performance and complete projects within the scheduled completion dates. In the past few years, we have set up quarterly meetings with regulatory agencies to set priorities and resolve permitting issues. In addition, we have regular meetings with contractors, daily and weekly reports from field residents identifying issues, and biweekly reports sent directly to the Deputy Commissioner, Chiefs and Deputy Chiefs, follow-up meetings to those biweekly reports, emails/correspondence, meeting minutes and progress schedules. All of these measures contribute to the continued improvement of our program.

Although we agree that capital projects should be completed within their scheduled timeframes, Parks disagrees with the percent of projects identified as completed late during the scope of the audit period. Parks provided the Comptroller with information about 15 Programmatic Scope Changes, which if included in the calculations, would decrease the number of projects completed late.

Recommendation 2 – The Department should ensure that capital projects are completed within their original contract and contingency amounts.

It is important to note that there are several inflated calculations used to support this Recommendation. Specifically, the Report overstates the following amounts:

- Total construction costs for the projects within the scope of the audit are overstated by approximately \$58 million mainly because the Report includes contracts M144-101M and M144-104MA for an ongoing project in East River Park. Although Parks sent an email to the Comptroller dated April 16, 2012 indicating that these two contracts were only a completed *phase* of a yet to be completed larger project, the Comptroller still included these projects in the Report. (The Report alludes to these contracts in note 4, but there is no mention of the specific project, no explanation of why these contracts were retained in the audit sample, nor does the Report mention the construction cost these ongoing projects add to the total construction cost of the projects that were completed in FY10 and 11.) Because M144-101M and M144-104MA are not within the scope of the audit, the number of projects in the audit period should actually be 313 (not 315) and the total construction costs of the projects in the audit period totaled \$438M (not \$496.3M).
- Additional construction management costs incurred by delays in completing projects are overstated by more than \$1 million. The Report's analysis of additional construction management costs also includes contracts M144-101M and M144-104MA. However, as mentioned above, these contracts should not be included in the Report because they are part of an ongoing project. Consequently, the additional construction management costs for the projects that were monitored by private consultants totaled \$1,182,656 (not \$2,210,373).
- The additional costs of projects that exceeded their budgets and contingency are overstated by nearly \$500,000. Appendix III of the Report lists the over budget amount for the Poe Park Visitors Center in the Bronx as \$1,234,802. However, according to Parks' records, the project is \$751,217 over budget, bringing the total to \$9,995,572 (not \$10,479,157), or 2.3% (\$9.9M / \$438M) of construction costs.

While Parks will continue to ensure that capital projects are completed within their original contract and contingency amounts, we believe (and the facts demonstrate that) we do exceedingly well in managing our budgets. The Report states that 10% (30 of 313 projects) of the capital projects completed in FY10 and 11 exceeded their original budget and contingency amount, or more positively 90% of our projects were completed within budget. While we will seek to improve this percentage, we believe this is an indication of competent and strong oversight of our budget. Furthermore, the Report does not disclose that the 313 completed capital projects had a budget and contingency amount of nearly \$472 million, resulting in Parks coming in \$33.5 million (\$472M - \$438M) or 7% under its capital budget and contingency during FY10 and 11, a fact worthy of mention in the Report.

Instead, the Report focuses only on the 10% (30 of 313 projects) of capital projects that exceeded budget and contingency amounts by a sum of \$10.4 million (more accurately, \$9.9M as noted above). This only represents 2.3% of overall construction costs--meaning Parks was 98% on budget and contingency for actual construction costs. As a result, Parks disagrees with this finding.

Recommendation 3 – The Department should take appropriate steps to identify and mitigate problems that cause project delays and cost overruns and develop specific plans to do so.

We agree that Parks should take additional steps to identify and mitigate problems that cause project delays, however we believe we are effectively overseeing cost overruns. As stated above and in the Report, Parks conducts regular meetings with contractors, has field staff prepare daily and weekly reports to identify problems, requires biweekly reports to the Deputy Commissioner, Chiefs and Deputy Chiefs outlining urgent problems that need immediate resolution, and holding follow-up meetings to the biweekly reports. Although many of the delay causes are out of our direct control, we have already begun implementing measures to improve our permitting process by working with regulatory agencies to expedite the processes and resolve external delays.

Recommendation 4 – The Department should ensure that project cost estimates are reliable; use the estimates as a gauge to maintain control over projects costs.

The Report states that Parks cannot manage construction projects cost effectively, in part, because of project cost estimate problems. This is another instance in which the Report appears to go out of its way to find fault where there is none. Cost estimates are an educated assumption given the scope of a project. Managing the cost of a project during construction involves making decisions in the field to ensure that the work does not exceed the budget. These are mutually exclusive parts of the capital process and one is not contingent upon the other.

Even if cost estimates were related to maintaining control over project costs, the Comptroller's finding does not take into account that cost estimates are put together when a project is in the 80% design phase and contractor bids may not be received for six months or more after a cost estimate is prepared. Naturally, there are times when our cost estimates will differ from the bids received--for example, when raw material costs for items such as copper or aluminum drastically increase from the time a cost estimate is prepared to the time when bids are submitted. The Comptroller's finding also doesn't take into account that, as previously stated, Parks completes 90% of its projects within scheduled budget and contingency, a very high percentage by any standards, indicating that any issue with the cost estimates is not negatively impacting our ability to maintain control of project costs. The Report focuses on cost estimates for 19 of the 30 projects that were over budget, or 6% (19 of 313) of the overall number of projects in the scope of the audit. Furthermore it states that this small sample of cost estimates is

evidence of a widespread issue that is negatively impacting our ability to manage projects. We do not believe this is the case.

Recommendation 5 – The Department should ensure that progress schedules are submitted, approved and regularly updated.

The Report states that Parks is hampered in its ability to adequately oversee its capital program because of a lack of "approved" preliminary and revised schedule information. While the Report acknowledged that Parks prepared daily and weekly reports, evaluated cost overruns, monitored compliance with prevailing wage labor laws, evaluated proposed change orders and reviewed payment requisitions before approving payments, it appears that these actions were not considered important factors in determining the adequacy of Parks' oversight. Moreover, the Report does not make it clear that a large majority of the project files reviewed contained preliminary and revised schedule information that were disregarded because the Comptroller did not consider them to be "approved" The Report states that only 20% of the sampled projects had approved preliminary schedules, when in fact 64% of the projects had approved preliminary schedules. We agree that project files should have approved preliminary schedules, and we continue to work with our contractors to achieve this goal, but it is important for the Report to reflect the documentation that was actually present within our project files.

While progress schedules are important, they are only one of the tools Parks uses to monitor progress. As noted previously, Parks has meetings with contractors, daily and weekly reports, biweekly reports, follow-up meetings to the biweekly reports, emails/correspondence, meeting minutes, and progress schedules, which when combined, encompass Parks' oversight of our capital program.

Recommendation 6 – The Department should establish formal written procedures for identifying projects and determining a target number of capital projects for completion.

Recommendation 7 – The Department should track the progress of projects that have been slated for completion in a given time period.

Recommendation 8 – The Department should develop indicators to track the status of incomplete projects.

The Report states that Parks' planning procedure is "...too haphazard and not a reliable means for identifying specific 'target' projects...moreover, there is no way to ascertain whether specific projects have been targeted for completion in a given fiscal year." This is another instance where we believe the Report is not providing an accurate reflection of Parks' oversight of capital projects.

We would like to state emphatically that Parks' planning process is not haphazard or unreliable. Every Parks capital project has an order to work date (OTW) and a scheduled completion date (SCD). As mentioned several times, there is an enormous amount of oversight in the capital program, including meetings with contractors, daily and weekly reports, biweekly reports (which includes a listing of the OTW and SCD for every project in design and construction), follow-up meetings to the biweekly reports, emails/correspondence, meeting minutes, and progress schedules. Parks' completion of 313 construction projects during the audit period (90% within budget), is a strong indication that the process is not haphazard or unreliable.

With regard to Recommendation 6, we do not believe we need to establish formal written procedures for identifying projects and determining a target number of capital projects for completion. We determine this target number for the purposes of our MMR indicator. Additionally, our method of determining our target number of projects to be completed in a given fiscal year has little correlation with our ability to

manage our construction projects. It does not mean that we don't know which projects are slated for completion, which projects have not been completed by their scheduled completion date, or that there's a lack of transparency to the public about any Parks project. We know the status of all of our projects at any given time.

With regard to Recommendation 7, we do track the progress of projects that have been slated for completion in a given time period. The Comptroller was given access to all of our biweekly reports during the audit period and saw that each borough team submits a biweekly report showing not only the OTW and SCD for each project, but the percent complete so the Deputy Commissioner, Chiefs, and Deputy Chiefs can track progress.

With regard to Recommendation 8, we disagree that we need to establish indicators to track the status of incomplete projects. As mentioned in our response to Recommendation 7, each biweekly report from the borough teams shows the OTW and SCD for each project, in addition to the percent complete so progress can be tracked. If we know a project will not meet its SCD, the project remains on the list of active projects in the biweekly and receives a revised SCD, taking any delays into account. Although the Comptroller cites the Marine Park project in Brooklyn as an example of a late project where there is ambiguity on the SCD, the new SCD is both in our Q&A system and the Parks website so the public is aware. We believe that since we already have a tracking system in place for incomplete projects, an indicator would not improve our system.

Recommendation 9 – The Department should ensure that all appropriate change orders necessitated by consultant design errors and omissions be referred to the Capital Division's Legal Counsel for review and possible recoupment. If the Legal Counsel believes that recoupment should be sought, the change order should be sent to the Law Department.

Recommendation 10 – The Department should immediately transmit to the Capital Division's Legal Counsel for its review all applicable change orders identified in this report that were classified as design errors and omissions.

Recommendation 11 – The Department should develop written policies and procedures that govern the process of referring change orders to the Legal Counsel. In that regard, the Department should consider whether the current threshold amount for referring change orders is appropriate or should be revised.

The Report states that Parks has deficiencies in its process for recouping design error and omission costs because of ambiguity in its written procedures, and highlights three contracts (for two projects): one with the Rockwell Group (\$228,100 for sewer redesign) and the other with R.G. Roesch Architecture (\$2,940,260 for pile work) that had change orders over \$100,000, which the Comptroller believes should have been considered for possible recoupment. (It is important to note that if the City did seek to recoup costs connected with a design error or omission, it would only seek the difference between the cost of work as performed by the contractor versus the estimated cost of the work had it been competitively bid.) Parks Counsel did consider these contracts for possible recoupment, but determined that recoupment was not appropriate for the following reasons:

- The design by the Rockwell Group was provided pro bono, and we do not deem it appropriate to seek fees for an omission from work that was provided to the City as a gift.
- The designs by R.G. Roesch were for construction of a bike and pedestrian path along the Hudson River in Riverside Park. A large portion of the design errors occurred because Parks (under budget constraints and because of other recently conducted water-based borings) approved only land-based borings for determining the pile designs that would support the new pathway. Water-based borings would have required a barge and rig, and been substantially more expensive for the City. Once

Consequently, a change order was necessary. However, we do not believe a successful case could be brought against the design consultant for not doing water-based borings.

With regard to Recommendation 9, Parks will continue to ensure that all appropriate change orders (those that exceed \$3,000) necessitated by consultant design errors and omissions are reviewed by our Legal Counsel for possible recoupment by the Law Department.

With regard to Recommendation 10, prior to the commencement of this audit engagement, Parks Legal had already reviewed the change orders in question and determined that recoupment should not be pursued. We will work to ensure that our decisions are documented in our files.

With regard to Recommendation 11, Parks already has written procedures that govern the process of referring change orders to Legal Counsel--the amount that triggers review by Legal Counsel is \$3,000, as stated in our procedures and in accordance with the City's former Office of the Director of Construction Directive 47. However, currently, the change order amount for recoupment is reviewed on a case by case by the Law Department.

Recommendation 12 – The Department should correct reporting deficiencies and provide accurate and reliable data for reporting in the MMR about the actual percentages of projects completed on time or early.

Parks has already met with the Mayor's Office of Operations and issued revised MMR totals for previous fiscal years. Further, Parks has corrected this matter moving forward.

Recommendation 13 – The Department should correct inaccurate data entries and ensure that data is recorded accurately in the Q & A system.

Parks agrees, and we do everything we can to ensure data is recorded accurately. We will continue seek improvement, although there will always be a few instances of human error. As mentioned to the Comptroller, Parks is currently in the process of replacing the division's 20-year old, DOS-based Q&A system, with a new project management software system called Unifier. Because Unifier is one database (and Q&A is approximately 30 databases), we expect the data entry to be simplified and more expeditious.

Thank you and your audit staff for the time and effort devoted to completing this Report.

Sincerely,



Therese Braddick

Cc: Veronica M. White, Commissioner
Robert L. Garafola, Deputy Commissioner
George Davis, Mayor's Office of Operations