



www.nyc.gov/culture

DEPARTMENT OF CULTURAL AFFAIRS

FY 2012
Capital Budget Workshop

WHY ARE WE HERE TODAY?



David H. Koch Theater: Renovation

◎ To overview the capital funding process

- What makes a cultural organization's capital project successful
- Funding constraints and time frames

◎ To initiate the process

- Meet fellow cultural organizations and learn about City agencies (DCA, DDC, EDC, DCAS, OMB) involved in the process
- Schedule a meeting with DCA project manager

DCA'S GOALS FOR FUNDING CAPITAL IMPROVEMENTS

To enhance the public experience of cultural life in New York City through projects that:

- Increase accessibility to public cultural amenities throughout the City
- Contribute to the economic vibrancy of the City and maximize the effectiveness of public/private partnerships
- Preserve and promote the highest quality cultural facilities, programs and collections



Lillian and Amy Goldman Stone Mill at the New York Botanical Garden

PUBLIC INTEREST

Every project must establish a City interest by:



Museum of the Moving Image: Renovation and Construction

- ◎ **Restrictive Covenant**
When capital funds are being used for a capital improvement (for non-City owned property)

AND/OR

- ◎ **Security Agreement**
When capital funds are being used to invest in movable equipment or systems (e.g. computer system, furniture) (applies to all capital projects)

WHAT EXPECTATIONS GO ALONG WITH MY FUNDING?

- ⊙ **Organization agrees to:**
 - Follow the City process, comply with all requirements, and obtain approvals in order to successfully complete the project
 - Initiate project with DCA and respond to City requests for information in a timely manner

- ⊙ **Your funding allocation does NOT guarantee:**
 - Required approval by government entities
 - Disbursement of funding according to a pre-conceived timeline
 - Disbursement of funding for a pre-conceived scope of work or equipment purchase



Noguchi Museum: Renovation

**FUNDS ARE NOT SAFE
FROM BUDGET CUTS**

ORGANIZATION RESPONSIBILITIES



Lincoln Center Campus: Renovation

- ⦿ **Design approvals for non-City funded design or construction projects on city-owned property, and capital projects on privately owned property using City funds for design or construction**
 - DCA approval at design phase milestones (Schematic Design, Design Development, Construction Documents)
 - DCA approval prior to submission to PDC or LPC
 - Include information on operating implications (increased costs, maintenance, security, etc.)

- ⦿ **Operational Responsibilities:**
 - Filings with DOB, FDNY, etc.
 - Violations
 - Maintenance Plan
 - Certificate of Occupancy
 - Public Assembly permits

- ⦿ **DCA approval of donor credit, naming rights, press announcements and signage**

WHERE ARE WE NOW IN THE CITY'S BUDGET CYCLE?



These plans occur three times during the fiscal year, when the City's budget is updated to reflect current project funding needs.

RESTRICTIVE COVENANT & SECURITY AGREEMENT

Use Restriction

- The improved property or purchased equipment must be used consistently with the mission of the organization for the duration of the useful life of the improvement or equipment

Recorded Against (Real) Property

- Any current and future owners (or lessors) of property are bound by use restriction (during the covenant term)

First Priority Lien

- Other liens against property (mortgages, financing, loans, etc.) *must* be subordinated to the City's interest

YOUR ORGANIZATION **MUST** AGREE TO THESE CONDITIONS TO RECEIVE CAPITAL FUNDING

FULLY FUNDING THE PROJECT

Before the project starts, any gap between funds available and total project cost **must** be closed through secure private sources such as:

◎ **Non-City contributions**

◎ **Bank financing**



St. George Theater: Equipment Procurement

CAPITAL CONSTRUCTION PROCESS

1 DCA

2 DDC/EDC/DCA/DCAS

3 OMB

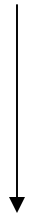
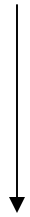
4 Comptroller

**Scope Review
& Approval**

**Administration
& Management**

**Project Review
& Approval**

**Final Review
& Approval**



Establishes project eligibility and feasibility

Works with organization, consultants, and contractors to manage design and construction process

Reviews the project for compliance and issues necessary funding approvals

Reviews and authorizes capital projects for conformity with applicable accounting directives

DIRECTIVE 10: CHARGES TO THE CAPITAL PROJECTS FUND

In order to attain capital eligibility, a project must comply with the Directive 10 and its definition of comprehensive betterment.

- The Directive 10 defines **comprehensive betterment** as extensive, physically connected, and typically involved in all four trades. It specifically does not allow work in non-contiguous spaces unless they are functionally related, i.e. dependent upon each other and necessary for the asset to function for its primary purpose.
- If the project does not meet this definition of **comprehensive betterment**, the cost of renovations to different areas of a building or element of infrastructure must each be \$35,000 minimum.

CAPITAL ELIGIBILITY

1

Scope Review & Approval

Comprehensive

- Creates new asset/systems
- Upgrade of existing asset

City Purpose

- Provides public benefit for improvement's or equipment's useful life

Long Term Investment

- Equipment: 5-10 years
- Construction/renovation: 10-30 years

Minimum City Contribution

- Moveable equipment: at least \$35K
- Non-moveable equipment: at least \$250K
- Construction/renovation: at least \$500K
(for non-City owned property)

PROJECTS WITH CAPITAL ELIGIBILITY

1 Scope Review & Approval

Construction/ Renovation

- Construction of new facility
- Expansion of existing facility
- Upgrade/renovation of contiguous existing space
- Upgrade/replacement of building system e.g. HVAC
- \$500K minimum initial City contribution for non-City owned property

Equipment

- Equipment systems or standalone equipment (at least \$35K)
- \$250K minimum for non-moveable equipment



Exit Art: Equipment Procurement

INELIGIBLE CAPITAL COSTS

Maintenance

- Repair/Maintenance work e.g. roof patching
- Painting and carpeting unrelated to capital project
- Extended warranties
- Maintenance agreements & service contracts

Operational

- Employees' salaries
- Administrative expenses
- Training

Studies

- Environmental assessments (as a stand-alone item)
- Feasibility studies

Fixtures

- Fixtures or equipment that requires attachment to the property is ineligible without a restrictive covenant
- Organization-specific signage/donor plaques

Other

- Fundraising, financing, or legal fees
- Work performed prior to the capital award
- Organization's project management costs
- Custom databases
- Owner's representative fees

These Local Laws and City Policies may apply to your Capital project.

Local Law 86: Green Buildings Law

- Applies to capital projects with City contribution over \$2M or >50% of project costs
- Sustainable design intended to reduce energy consumption
- LL86 analysis meeting held before design starts
- www.nyc.gov/oec
- http://www.nyc.gov/html/oec/html/green/ll86_basics.shtml

Local Laws 118, 119, 120, & 121: EPP

- Applies to projects > \$15K and requiring a DOB permit but not covered by LEED requirements of LL86
- Requires Environmentally Preferable Purchasing of certain construction products cited in NYC EPP Minimum Standards
- Equipment purchases (<\$100K) and emergencies are exempt
- www.nyc.gov/html/mocs/html/programs/epp.shtml

Tropical Hardwoods

- Maximum reduction of the use of tropical hardwoods

LOCAL LAWS AND CITY POLICIES

1

Scope Review & Approval

M/WBE Legislation

- Sets goals for participation of minority or women owned construction and professional service firms in City projects
- <http://www.nyc.gov/html/law/html/opportunities/opportunities.shtml>

Wick's Law

- Contracts <\$3M can use one General construction contract instead of 4 separate primes (typically General, Plumbing, HVAC & Electrical) previously required by Wick's Law; contracts >\$3M must comply with Wick's Law
- General contractor must include names and prices of Plumbing, HVAC & Electrical sub-contractors

Interfund Agreement Fees: IFA

- Applies to all capital projects
- An administrative fee that is deducted from your capital funding allocation
- Ranges from 2.5-14%

Landmarks
Preservation
Commission: LPC

- Applies to landmarked property
- Conceptual, preliminary and final designs are reviewed and approved
- <http://www.nyc.gov/html/lpc/html/home/home.shtml>

Public Design
Commission

- Applies to exterior work on or above City-owned property
- Conceptual, preliminary and final designs are reviewed and approved
- <http://home2.nyc.gov/html/artcom/html/home/home.shtml>

Introductory
Number 1010-A
(FDNY)

- As of June 29, 2009, inspections performed by the FDNY are subject to a fee paid for by the organization
- http://www.nyc.gov/html/fdny/pdf/firecode/fee_exemption_legislation_notice_091809.pdf

Department of
Buildings
(DoB)

- Applies to all construction/renovation projects
- Fees for inspections and permits performed by the DoB
- <http://www.nyc.gov/html/dob/html/home/home.shtml>

Local Law 58

- Mandates that the design and construction of buildings accommodate the needs of disabled persons, including appropriate routes of movement on the interior and exterior of the building, interior room modifications, and adjustment of facilities
- <http://www.nyc.gov/html/mopd/html/waiver/waiver.shtml>

Greater, Greener Building Plans: Local Laws 84, 85, 87, and 88

- Energy conservation laws apply to privately-owned commercial & mixed-use buildings that meet the following criteria:
 - Building is 50,000 gross square feet or more OR
 - Two or more buildings on the same tax lot that together exceed 100,000 gross square feet OR
 - Two or more buildings held in the condominium form of ownership that are governed by the same board of managers and that together exceed 100,000 gross square feet

PROJECT ADMINISTRATION & MANAGEMENT

There are **FOUR** ways to manage your project:

A. DDC Managed

B. DDC Cultural Capital Grant

C. EDC Funding Agreement

D. Equipment Procurement
DCA, DCAS, or DDC



52nd Street Project at Archstone Clinton: Interior Improvement

DCA DETERMINES MANAGING AGENCY

Step 1

DCA, a representative from the proposed managing agency, and the cultural organization establish:

- Public purpose
- Capital eligibility
- Project complexity
- Organization capacity
- City requirements
- Project budget

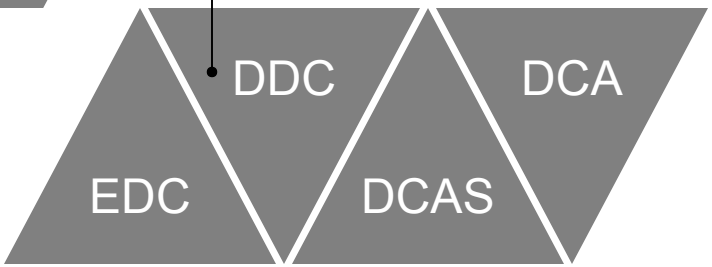
Step 2

DCA/DDC & the cultural organization finalize the program or equipment list

The Program:
DCA template document that describes the scope of the project, overall development plan and a project budget

Step 3

DCA sends the program to the appropriate managing agency



Process Overview:

DCA sends the program to the appropriate managing agency:

DDC Managed

Design + Construction

DDC Cultural Capital Grant

EDC Funding Agreement

Equipment Procurement Through:

- DCA
- OR
- DCAS
- OR
- DDC

DDC MANAGED PROJECT

2A Administration & Management

DDC administers your project and its funding:

- Procurement and compliance of consultants, contractors, and construction managers if necessary
- Management contracts for design and construction
- Review and approval of design
- Regulatory approval review
- Construction progress
- Budget management and oversight
- Compliance and payment administration



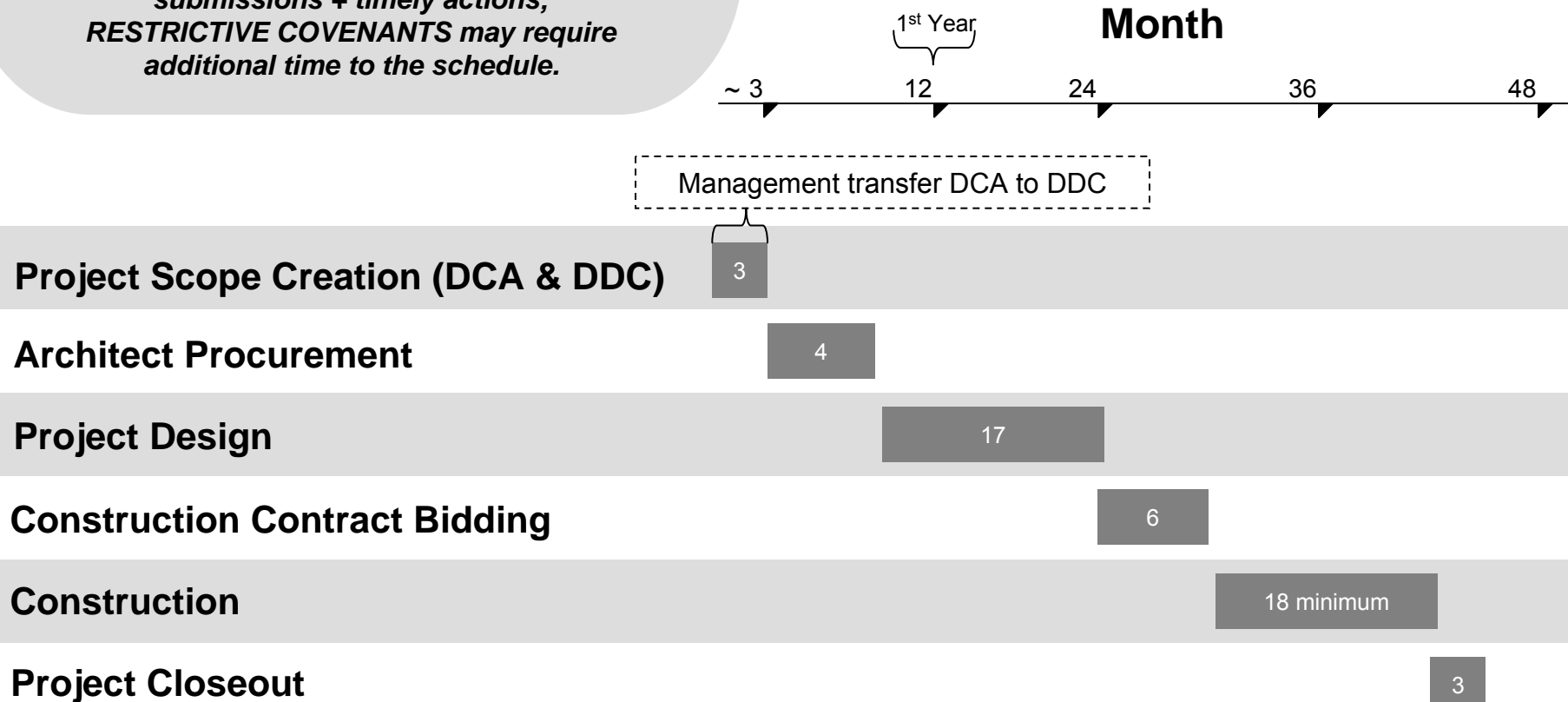
Lillian and Amy Goldman Stone Mill at the New York Botanical Garden

Project Team: Cultural Organization, DCA, DDC and Consultants
DDC-managed projects use both in-house resources and private consultants and contractors

DDC MANAGED: TIMELINE

2A Administration & Management

Note: Timeframes depend on the scale, budget, and complexity of the project. The timeline shown above represents optimal durations without delays, and is based on complete submissions + timely actions; RESTRICTIVE COVENANTS may require additional time to the schedule.



- Cultural organization that would benefit from DDC's project management and design resources
- Project phases to be managed include design and construction (DDC does not manage design only)



Lincoln Center: Campus Renovation

DDC can contract for design in THREE ways:

Design and Construction Excellence

A quality-based selection for procurement of design services.

This process allows the City to hire firms based on their qualifications and the established quality of their past work, rather than on the more traditional lowest bid methodology.

Selection and Award takes about 3 months.

Design Schedule varies from 9 months – 2 years depending on the size of the project.

Request for Proposal (RFP)

A custom RFP and contract is written for projects that require special expertise.

Firm is chosen based on specific project needs and process typically exceeds 6 months.

Design Schedule varies greatly depending on project size, but it is recorded in the contract with the architect.

Requirements Contract

Specialized firms in mechanical, electrical, engineering, exterior, landmark and landscaping that are on retainer contract with DDC.

Selection takes 4–6 months

Design Schedule takes 6-12 months.

DDC can contract for construction in TWO ways:

Public BID

The DDC openly and competitively bids the project:

Selection Time: 5-6 months.

Construction Schedule varies, typically 1 – 2 years.

DDC manages project in-house or supplements management with a construction manager.

JOCS

Job Order Contracting System:

On-call, requirement contracts that are best used for small, simple projects.

Construction Schedule varies, but is typically shorter because of small size of projects - 1 year or less.

A DDC Cultural Capital Grant allows a cultural organization to manage its own project while protecting the City's investment of public dollars. A "CCG":

- Guarantees scope at a fixed price
- Allows capital funds to be reimbursed to the organization; cost overruns are borne by the organization
- Assures robust public-private funding partnerships



Brooklyn Children's Museum: Expansion

DDC CCG TIMELINE

2B Administration & Management

Note: Timeframes depend on the scale, budget, and complexity of the project. The timeline shown above represents optimal durations without delays, and is based on complete submissions + timely actions; RESTRICTIVE COVENANTS may require additional time to the schedule.



CCG INITIATION (Application to DDC for Technical Compliance Review) ●

Submit CCG Package [2.5]

Package Review and Approval Presentation Held ●

**CCG Finalization
Legal Agmt and Restrictive Covenant Compliance Paperwork** [2]

Issuance of the Certificate to Proceed (OMB) ●

Comptroller Registration [1.5]

Construction →

Project Closeout ●

Project Planning

- Clear rationale for project
- Comprehensive, recent master plan or strategic plan; project is technically complex and has special scheduling needs
- Compliance Paperwork (Vendex, Insurance, RC etc)
- Project types include major renovation and construction; contract mechanism is ideal for construction

Project Managerial Capacity

- Relevant project management experience
- Addresses future maintenance/operation changes
- Familiarity with approvals (ULURP, LPC, PDC, etc)

**Organizational
Managerial
Capacity**

- Successful execution of mission
- An actively engaged Board
- Effective leadership/administration staff

**Financial
Capacity**

- Project requires significant private contribution
- Capacity to fully finance project / cover all cost overruns Capital campaign/plan with realistic goals
- Institutional track record of successful fundraising campaigns
- City funding is at least \$1M in current fiscal year

EDC FUNDING AGREEMENT

2C Administration & Management

Contract between EDC and a non-City organization allocated City capital funding that meets the following conditions:

- Project has an economic development focus
- Organization has capacity to implement and maintain its capital project
- Project is technically complex and has special scheduling needs
- Organization is responsible for any cost overruns
- Specific requirements, approvals and the Funding Agreement (FA) process in order to receive funds
- Project requires significant private contribution
- City funding is at least \$500K and <50% of total project cost

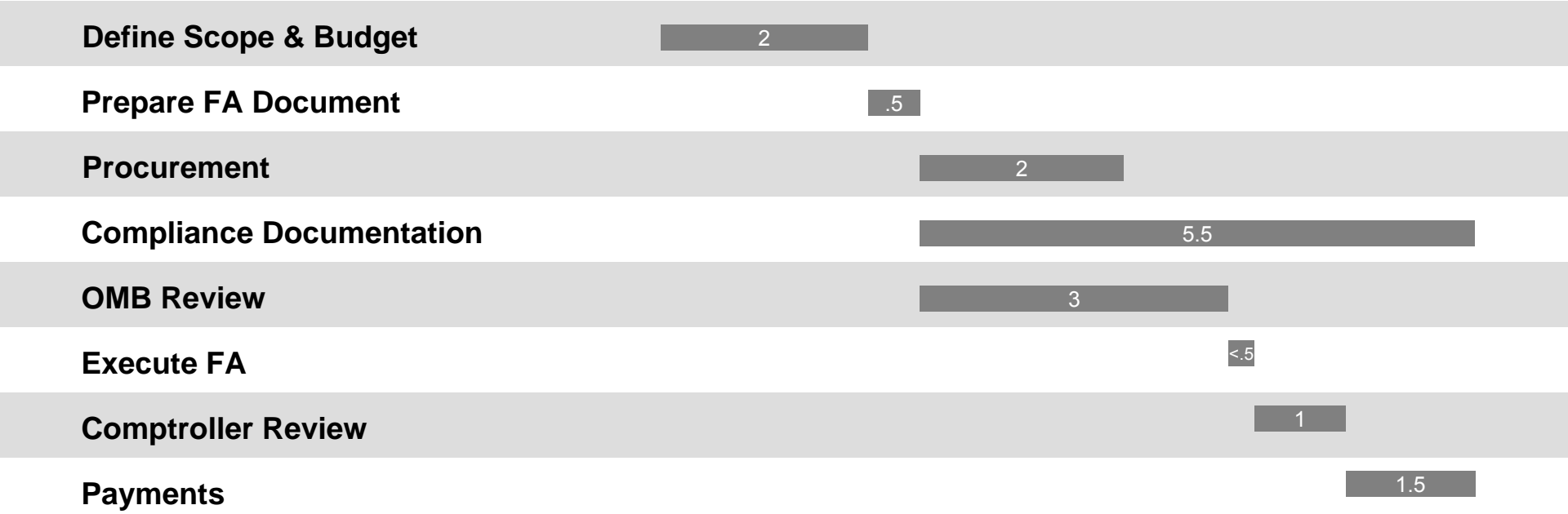


Museum of the Moving Image: Renovation and Construction

EDC FUNDING AGREEMENT: TIMELINE

2C Administration & Management

Note: Timeframes depend on the scale, budget, and complexity of the project. The timeline shown above represents optimal durations without delays, and is based on complete submissions + timely actions; RESTRICTIVE COVENANTS may require additional time to the schedule.



Capital Equipment Background

All equipment contracts are governed by the NYC Comptroller's Directive 10- Charges to the Capital Projects Fund, NYS law, Chapter 13 of the City Charter and the Rules of the NYC Procurement Policy Board

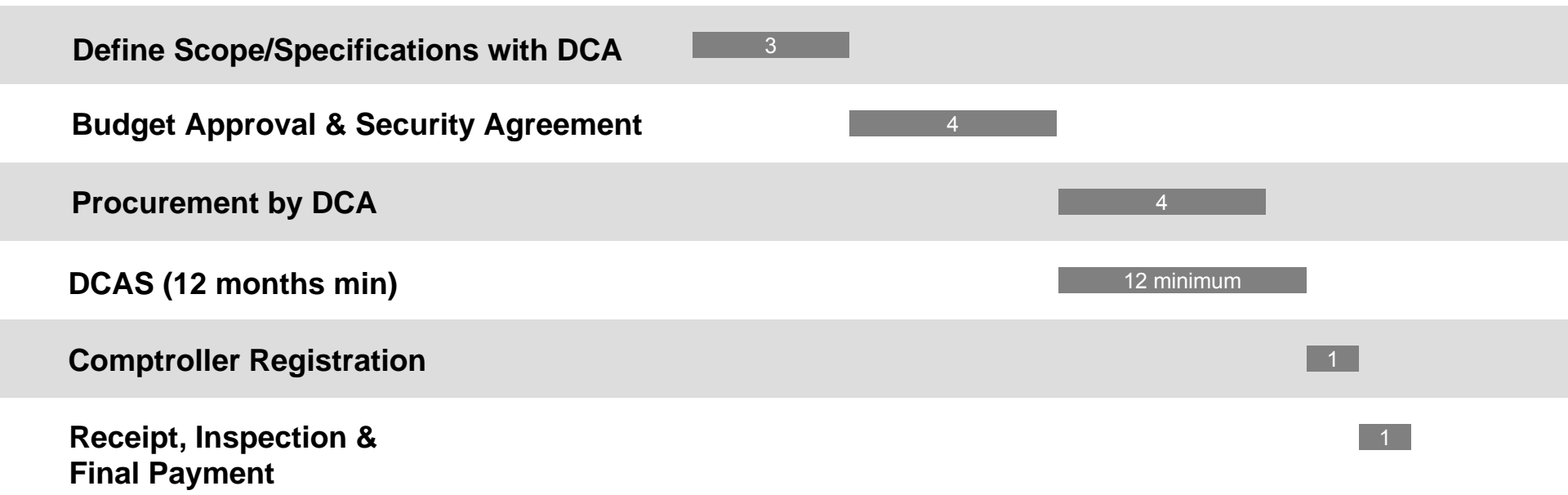


Commissioner of the Department of Cultural Affairs Kate D. Levin discusses the new lighting system at the Chocolate Factory Theater

CAPITAL EQUIPMENT PROCUREMENT: TIMELINE

2D Administration & Management

Note: Timeframes shown are optimal durations without delays and based on complete submissions and timely actions.



What constitutes an
*equipment system
project?*

- Each system **must** be \$35K or over
- If there are multiple components to the system, it **must** be demonstrated how each part or group of parts is Interrelated and integral to the system
- Useful life of equipment **must** be at least 5 years



Film Forum: Equipment Procurement

DCA EQUIPMENT: CAPITAL ELIGIBILITY

Equipment with Capital Eligibility

- ✓ **Equipment Systems**
 - Theatrical lighting
 - Audio Visual systems
 - Sound systems
 - I.T. systems

- ✓ **Vehicles**

Equipment WITHOUT Capital Eligibility

- × **Laptops, PDAs, other handheld devices**

- × **Software**

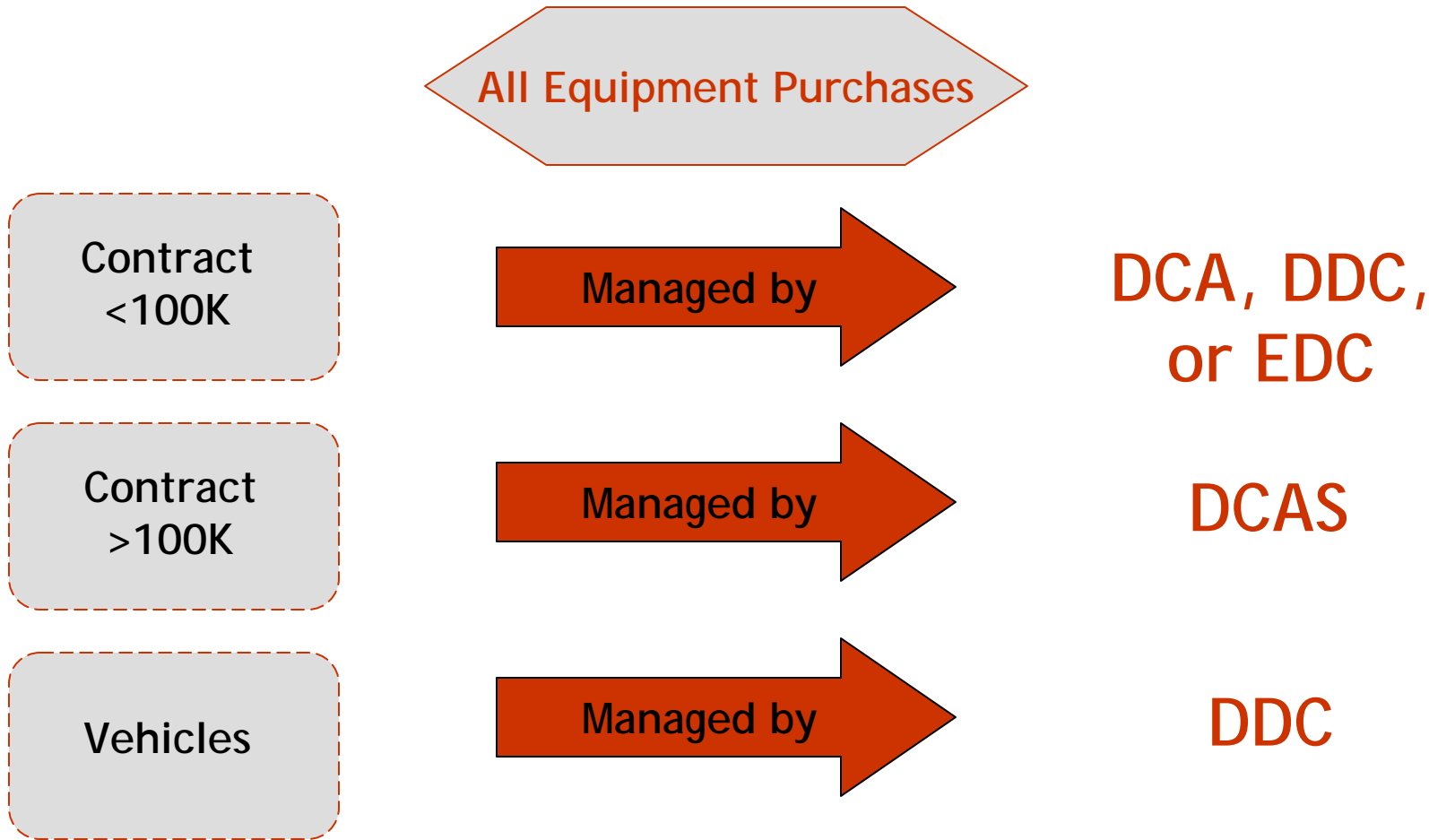
- Ineligible in a system purchase
- × **Carrying cases**

- × **Projection screens**

- × **Equipment that needs to be attached or mounted to non-City owned property is ineligible without a Restrictive Covenant**

An additional equipment meeting will be held in mid August

Who manages the procurement process?



- OMB reviews project documentation:

- Capitably eligible project scope
- Itemized Budget & Funding status
- Legal Agreement (contract)
- City ownership

-OR-

- If Non-City ownership,
Restrictive Covenant and/or
Security Agreement

- Review time is estimated to be 60 days

- If OMB approves the project, OMB will issue a Certificate to Proceed (CP)



Queens Theatre in the Park: Expansion



Next Step:

- Prepare compliance paperwork and award
- Submit to Comptroller for registration

COMPTROLLER

4

Final Review & Approval

- Comptroller verifies procedural compliance and accuracy of agreement information
- 30 days for Comptroller review
- If the Comptroller gives approval, the contract or purchase order is registered or the grant is filled



Next Step:

- Design/construction commences
- Equipment is purchased
- Requisition process may begin



Signature Theatre Center: Construction

DCA CAPITAL UNIT CONTACTS

Susan Chin

Assistant Commissioner, Capital Unit

(212) 513-9331

schin@culture.nyc.gov

Angela Blocker

Capital Projects Manager

(212) 513-9337

ablocker@culture.nyc.gov

David Bryant

Capital Projects Manager

(212) 513-9334

dbryant@culture.nyc.gov

Andy Burmeister

Director of Capital Projects

(212) 513-9333

aburmeister@culture.nyc.gov

Adelin Chin

Director of Special Projects

(212) 513-9330

achin@culture.nyc.gov

Carolyn Sarkis

Project Manager

(212) 513-9360

csarkis@culture.nyc.gov



Betsy McClelland

Capital Projects Manager

(212) 513-9336

bmcclelland@culture.nyc.gov

Victor Metoyer

Deputy Director of Capital Projects

(212) 513-9332

vmetoyer@culture.nyc.gov

José Jiménez

Deputy Agency Chief Contracting Officer

(212) 513-9314

jjimenez@culture.nyc.gov