

DEPARTMENT OF CULTURAL AFFAIRS

FY 2008 Capital Budget Workshop for
Cultural Organizations
July 17th & 18th, 2007



Capital Workshop Agenda

Introduction

- Goals of the DCA Capital Program
- Expectations
- Budget Cycle

Preliminary Scope Review and Approval

- Capital Eligibility
- Public Interest
- Organizational and City Requirements

Project Administration & Management

- DDC Managed
- DDC Pass Through
- EDC Funding Agreement
- Equipment Agreements

Final Review and Approval

- OMB and the Comptroller
- Example Capital Project

Concluding Remarks

- Trends and Issues in the Capital Program
- Contact Information

Introduction: Why are we here today?

- **Overview of the capital funding process for cultural organizations:**
 - Funding constraints and time frames
 - What makes a cultural organization's capital project successful
- **And to initiate the first step in the process:**
 - Meet fellow cultural organizations and City agencies involved in the process (DCA, DDC, EDC, OMB and DCAS)
 - Hand in program
 - Schedule next date to meet with project manager



Introduction: 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**
- **Preserve and promote the highest quality cultural facilities, programs and collections**
- **Ensure public safety**



American Museum of Natural History

Introduction: What expectations come along with my funding award?

- Organization agrees to comply with City requirements, approvals, and the City's contracting process in order to receive funds

- Organization uses these funds to create or enhance a capital asset for its facility



- The allocation for the organization's project in the City capital budget does not guarantee:

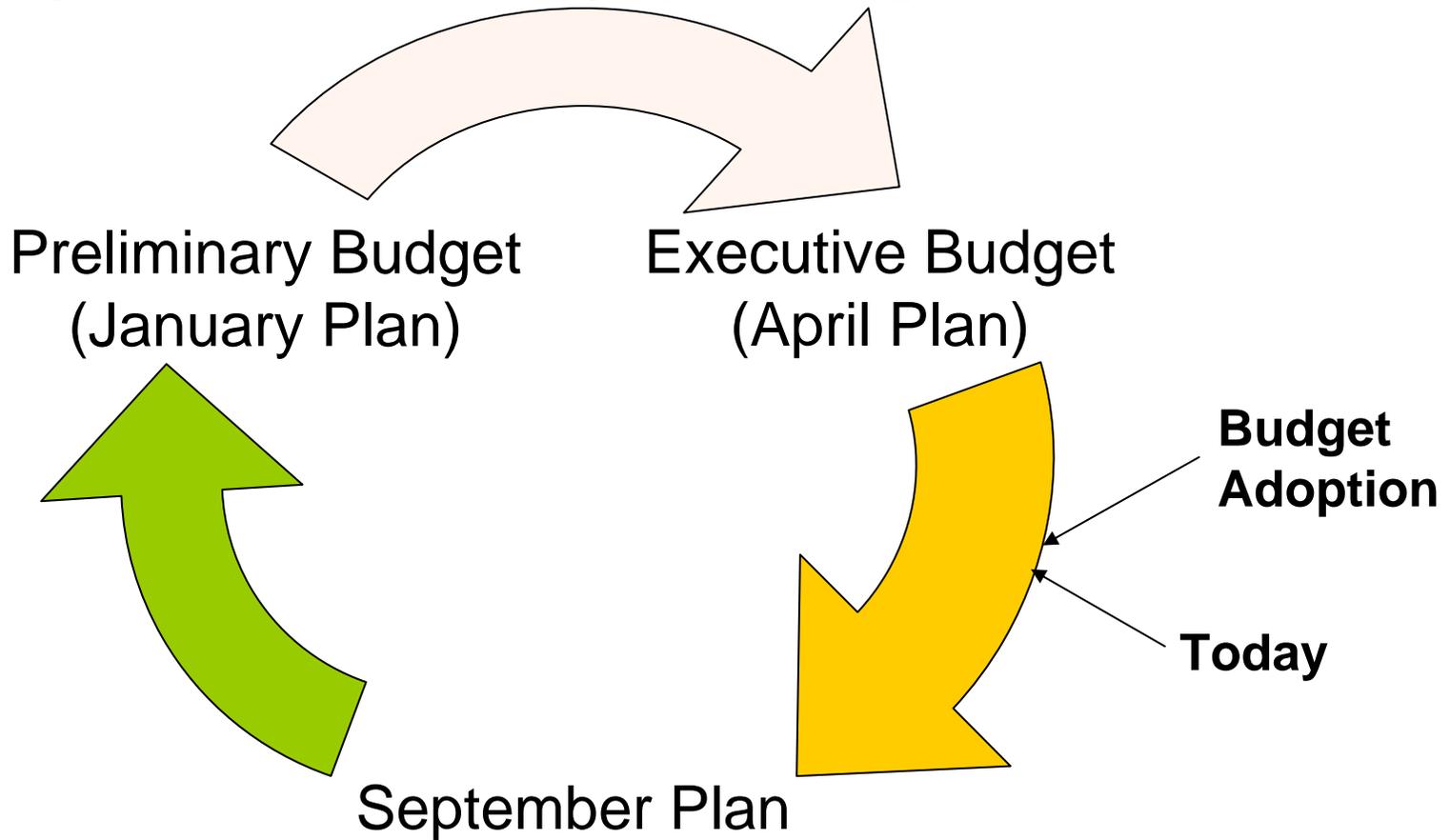
- Required approval by government entities

- Disbursement of funding according to a pre-conceived timeline

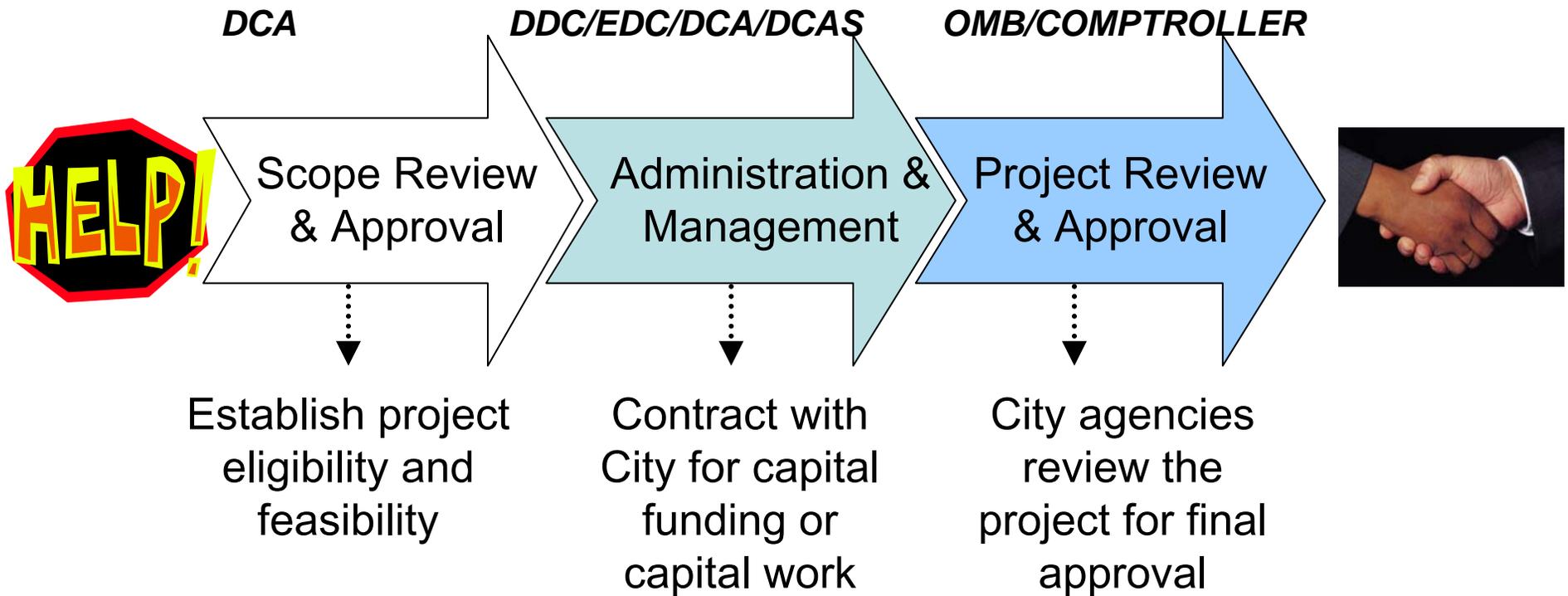
- Funds are safe from budget cuts

Introduction: Where are we now in the City's Budget Cycle?

The three "Plans" are times during the fiscal year when the City's budget is updated to reflect current project funding needs.



Overview of Capital Process for Cultural Organizations



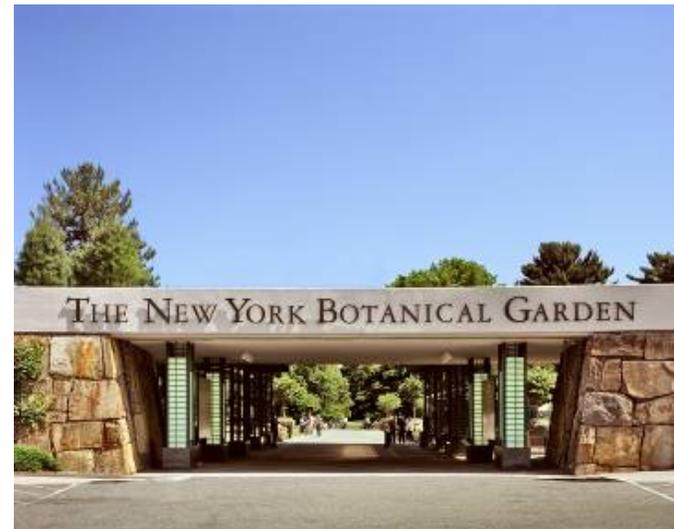
Project schedules can vary greatly from 6 months or more; every project generally follows these steps.



I. An Overview of DCA's Role: Scope Review and Approval

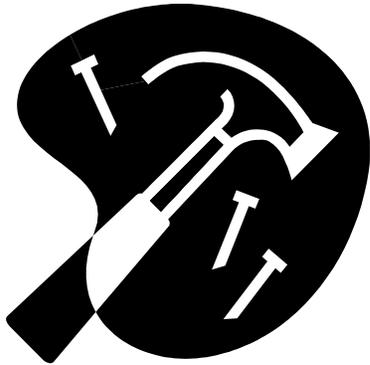
DCA works with Cultural Organization to Identify Project Scope and Feasibility:

1. Capital Eligibility
2. City Requirements
3. Public Purpose
4. Fully Funded Project
5. Organizational Criteria
6. Assign Managing Agency:
 - Department of Design and Construction (DDC)
 - Economic Development Corporation (EDC)
 - Department of Citywide Administrative Services (DCAS)
 - Department of Cultural Affairs (DCA)



1-1 Capital Eligibility

What types of projects are capitally eligible?



Construction/Renovation

- Construction of new facility
- Expansion of existing facility
- Upgrade/renovation of existing space
- Upgrade/replacement of building system
- \$500,000 minimum initial City contribution for non-City owned property



Equipment

- Equipment system purchases (over \$35K)
- Initial outfitting for furniture and moveable equipment

1-1 Capital Eligibility: What is a capital eligible project?

Comprehensive

- Creates new asset or systems upgrade of existing asset

City Purpose

- Provides public benefit for improvement's useful life

Long-Term Investment

- Useful life of 5-10 years for equipment and 10-30 years for construction/renovation

Minimum City Contribution

- Minimum City contribution of at least \$35,000 for equipment* and \$500,000 for renovation/construction (for non-City owned property)



*Initial outfitting agreements do not require a minimum capital allocation.

1-1 Capital Eligibility

What are capitally INELIGIBLE costs?



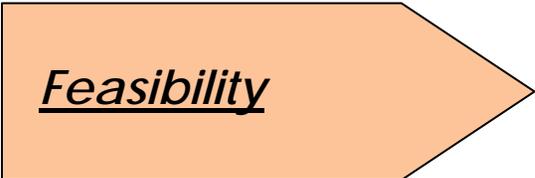
Maintenance

- Repair and maintenance work
- Painting & carpeting unrelated to capital project
- Extended warranties
- Maintenance agreements & service contracts



Operational

- Employees' salaries, except for union shop theatres
- Administrative expenses



Feasibility

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



Other

- Fundraising, financing, or legal fees
- Work performed prior to capital award
- Organization's project management costs

1-2 Public Interest

Every project must establish a City interest through one of the following methods:

1. City ownership of the property
2. Non-City Owned Property:

Restrictive Covenant

When capital funds are being used for a capital improvement

-OR-

Security Agreement

When capital funds are used to invest in movable equipment or systems (i.e. computer system, furniture)



Brooklyn Museum of Art

1-2 Public Interest: Restrictive Covenant & Security Agreement

Use Restriction

- Mandates use of the improved property or purchased equipment in a manner consistent with the mission of the organization
- Term = useful life of the capital improvement (up to 30 yrs) or equipment (5 yrs)

Recorded against (real) property

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

First Priority Lien

- Other liens against property (mortgages, financing, loans, etc.) *must* be subordinated to covenant



Q & A: Scope Review and Approval

DCA works with Cultural Organization to Identify Project Scope and Feasibility:

1. Capital Eligibility
2. City Requirements
3. Public Purpose



1-3 Organizational Criteria

Your organization must demonstrate the following to initiate your capital project and establish organizational capacity to handle the capital project:

Management Plan

- Describes how the project will be staged and managed by the organization

Funding Plan

- Outlines current and anticipated sources of financial support

Financial Capability

- Demonstrates ability to meet financial obligations; depending on the project, may include legal expenses, cost overruns, escalation costs, etc.

1-3 Organizational Criteria (cont'd)

**Status of
Resulting
Facility**

- Shows how the facility will result in increased public access, be immediately usable by the organization, and enhance programming

**Project Complexity,
Expertise of Client
Organization**

- Confirms that the organization has the special knowledge and expertise to successfully complete the project

1-4 City Requirements

These requirements should be flagged at the beginning of scope development and will be discussed with your DCA project manager.



**Local Law 86:
Green Buildings Law**

- Requires sustainable design for certain City-funded capital projects
- Applies to all City-owned buildings
- Projects hold LL86 analysis meeting before design start



Wicks Law

- Requires separate prime contracts for general contracting, electrical, mechanical, and plumbing.*

1-4 City Requirements (cont'd)

M/WBE Legislation

- Requires participation by minority- or women-owned construction and professional services firms in City projects

Art Commission and Landmarks Preservation Commission Reviews

- Required for City-owned property
- Primarily applies to exterior work
- Conceptual, preliminary and final designs are reviewed

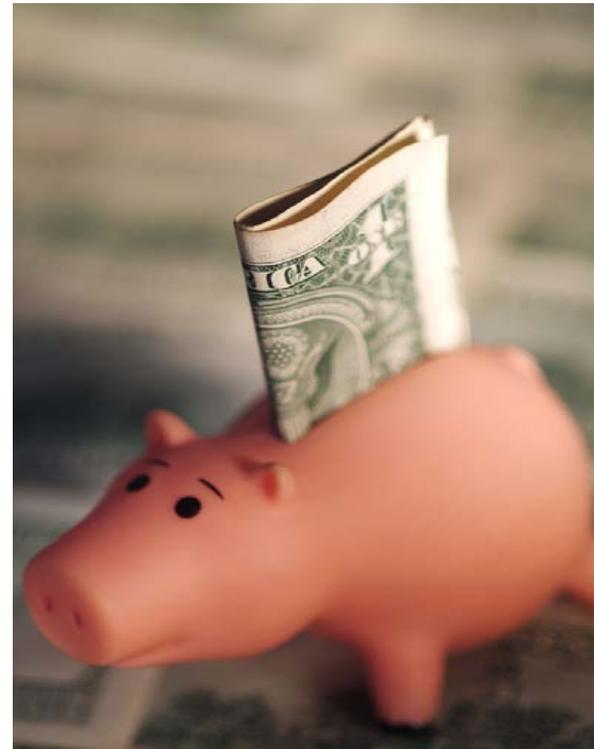
Interfund Agreement (IFA) Fees

- An administrative fee taken from City's capital funding allocation
- Applies to projects managed by DDC

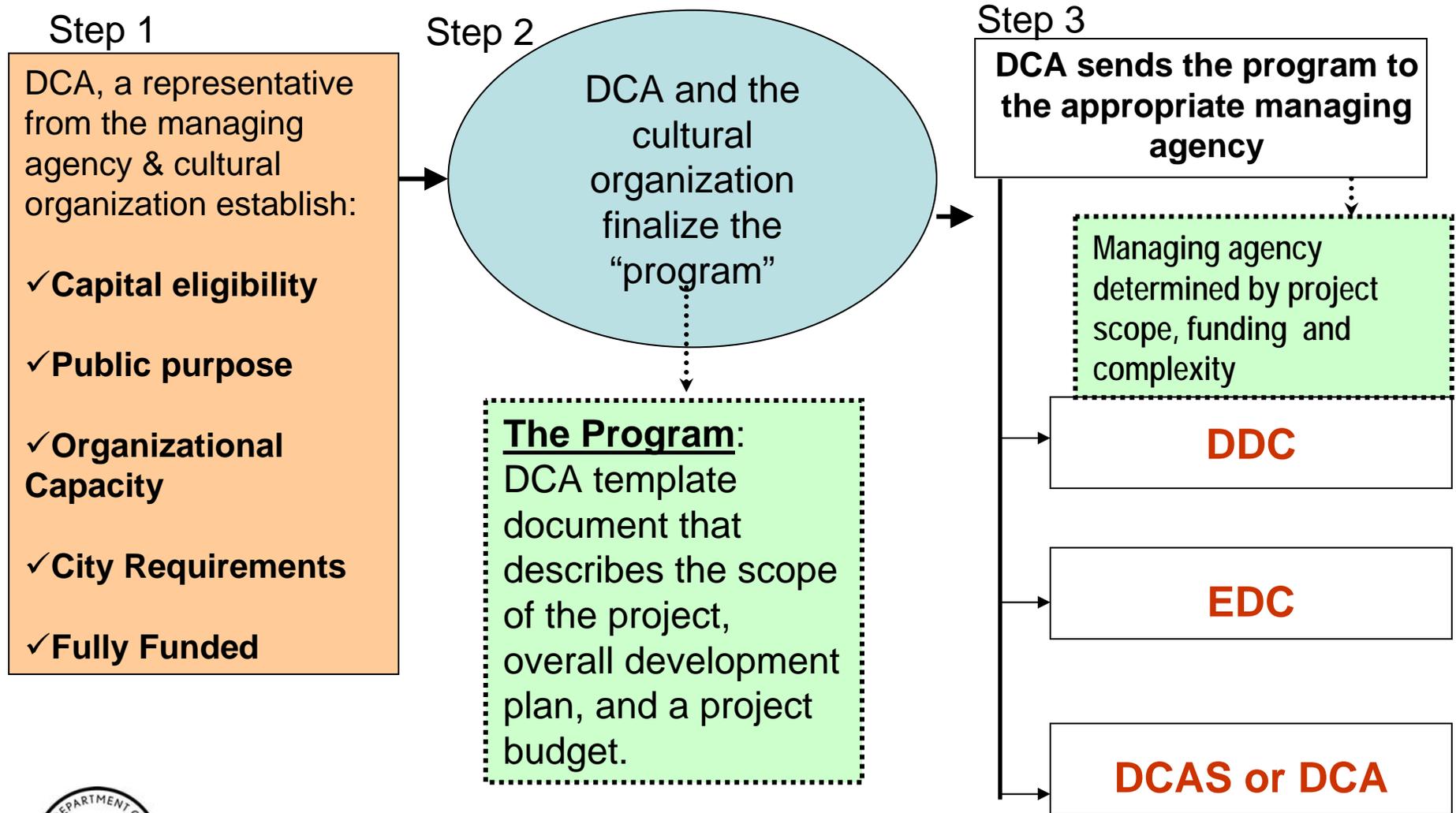
1-5: Project is fully funded

Before the City-funded project can be initiated, any gap between funds available and total project cost must be closed through:

- Secured non-City funding sources
- Financing



1-6 DCA Determines Managing Agency





Q & A: Scope Review and Approval

DCA works with Cultural Organization to Identify Project Scope and Feasibility:

1. Fully Funded Project
2. Organizational Criteria
3. Assign Managing Agency:

- Department of Design and Construction (DDC)
- Economic Development Corporation (EDC)
- Department of Citywide Administrative Services (DCAS)
- Department of Cultural Affairs (DCA)



New York Theatre Workshop





2: Project Administration & Management

Capital Projects:

1. DDC Administration
 - a. DDC Managed Design and Construction
 - b. Pass Through Agreement
2. EDC Funding Agreement
3. Equipment Purchase: DCA, DCAS, or DDC



El Museo del Barrio



2-1 DDC Managed Project

What is a DDC-managed project?

Your project and its funding are administered by DDC, including:

- Procurement and compliance of consultants and contractors
- Manages contracts for design and construction
- Review and approval of design and construction progress
- Review regulatory approvals and administer compliance and payments



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

2-1 DDC Managed Project Criteria

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



Wave Hill

2-1 DDC Managed Process Overview: Design

DDC can contract for design in one of the following ways:



**Design &
Construction
Excellence**

1. What is it? A new contracting method that emphasizes quality in the selection process.
2. Selection: A competitive procurement among DDC's list of 24 architects for small projects and 8 architects for larger projects. The selection process takes about 3 months.
3. Design Schedule: Varies from 9 months – 2 years depending on the size of the project.

2-1 DDC Managed Process Overview: Design (cont'd)



Requirements Contract

1. What is it? Specialized architectural firms in mechanical, electrical, engineering, exterior, landmark, and landscaping that are on retainer contract with DDC.
2. Selection: Ranges from 2 – 3 months and firm is chosen based on the relevant scope of work.
3. Design Schedule: Varies from 6 months – 1 year.



Request for Proposal (RFP)

1. What is it? Publicly released procurement method whereby a custom RFP and contract is written for the specific project.
2. Selection: Firm is chosen based on specific project needs and process typically exceeds 6 months.
3. Design Schedule: Varies greatly depending on project size, but it is recorded in the contract with the architect.

2-1 DDC Managed Process Overview: Construction

DDC can contract for construction in one of the following ways:



1. What is it? Contract documents and specifications are open to the contracting community. Lowest responsible bidder is awarded the project.
2. Selection Time: ranges from 5-6 months.
4. Construction Schedule: varies, but typically 1 – 2 years.
5. Option to have DDC manage project in-house or supplement management with a construction manager.

2-1 DDC Managed Process Overview: Construction (cont'd)



**JOCS (Job
Order
Contracting
System)**

1. What is it? On-call, requirement contracts that are best used for small, simple projects.
2. Selection Time: is shorter because contractor is already registered with DDC.
4. Construction Schedule: varies, but typically shorter because smaller projects, ranging around 1 year or less.



2-2 DDC "Pass Through"

What is a Pass Through agreement?

Contract between DDC and cultural organization awarded City capital funding, which agrees to the following:

- Specific requirements, approvals, and the Pass Through process to receive funds
- Funds can be used to reimburse vendor for improved capital asset
- Organization's responsible for any cost overruns



Carnegie Hall

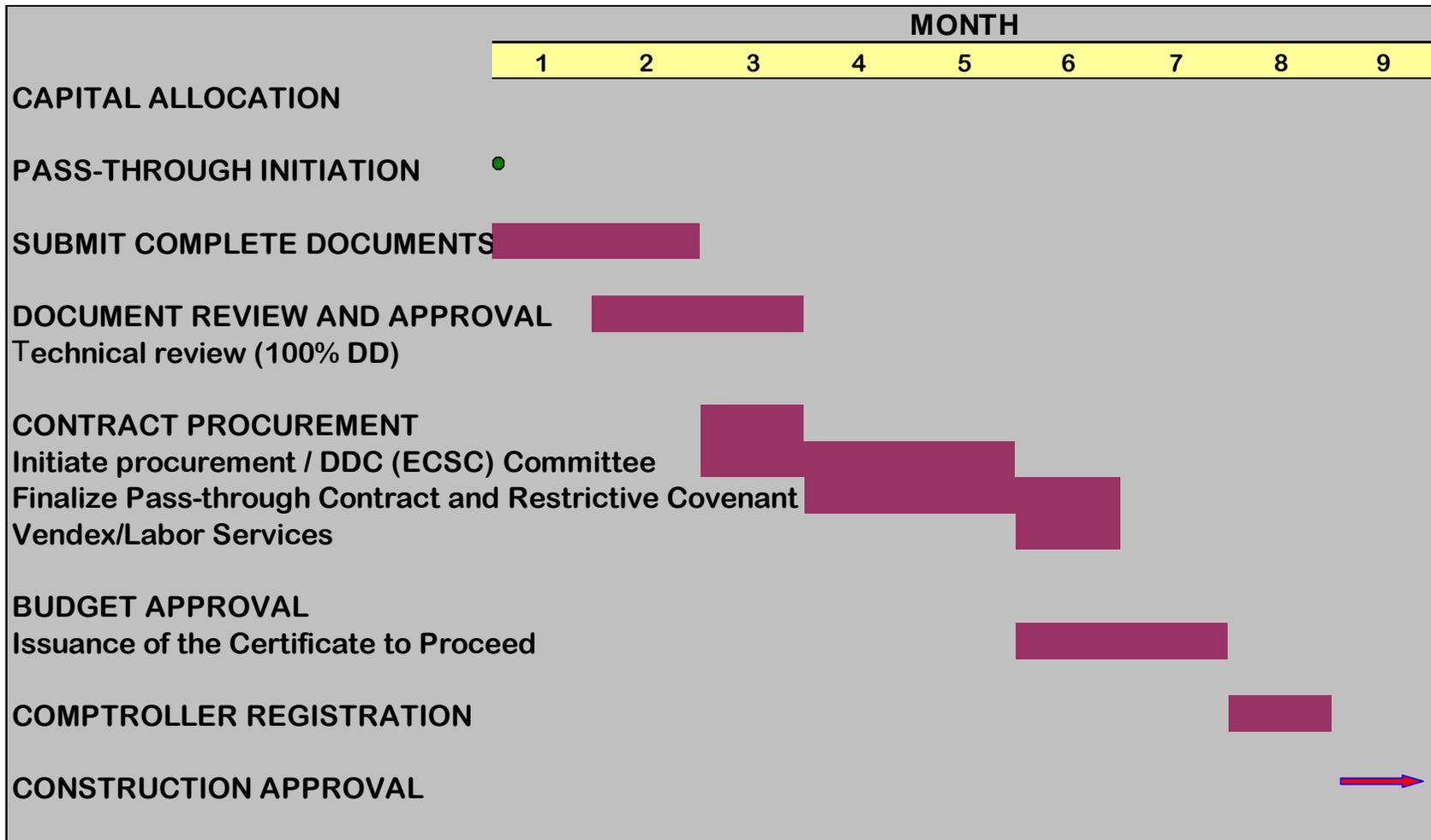
2-2 DDC “Pass Through” Project Criteria

- City funding is at least \$1 million
- Project types include major renovation and construction
- Organization has capacity and financial capability to oversee and manage its capital project
- Mechanism is ideal for hard construction costs
- Project is technically complex and has special scheduling needs



Mark Morris Dance Group

2-2 DDC "Pass Through" Timeline



note: timeframes shown above are optimal durations without delays, and based on complete submissions + timely actions; RESTRICTIVE COVENANTS may require additional time to the schedule



2-3 EDC Funding Agreement

What is a 'funding agreement'?

Contract between EDC and a non-City organization allocated City capital funding, which agrees to the following:

- Specific requirements, approvals and the FA process in order to receive funds
- Funds can be used to reimburse vendor for new or improved capital asset



Museum of the Moving Image

- Organization's responsible for any cost overruns

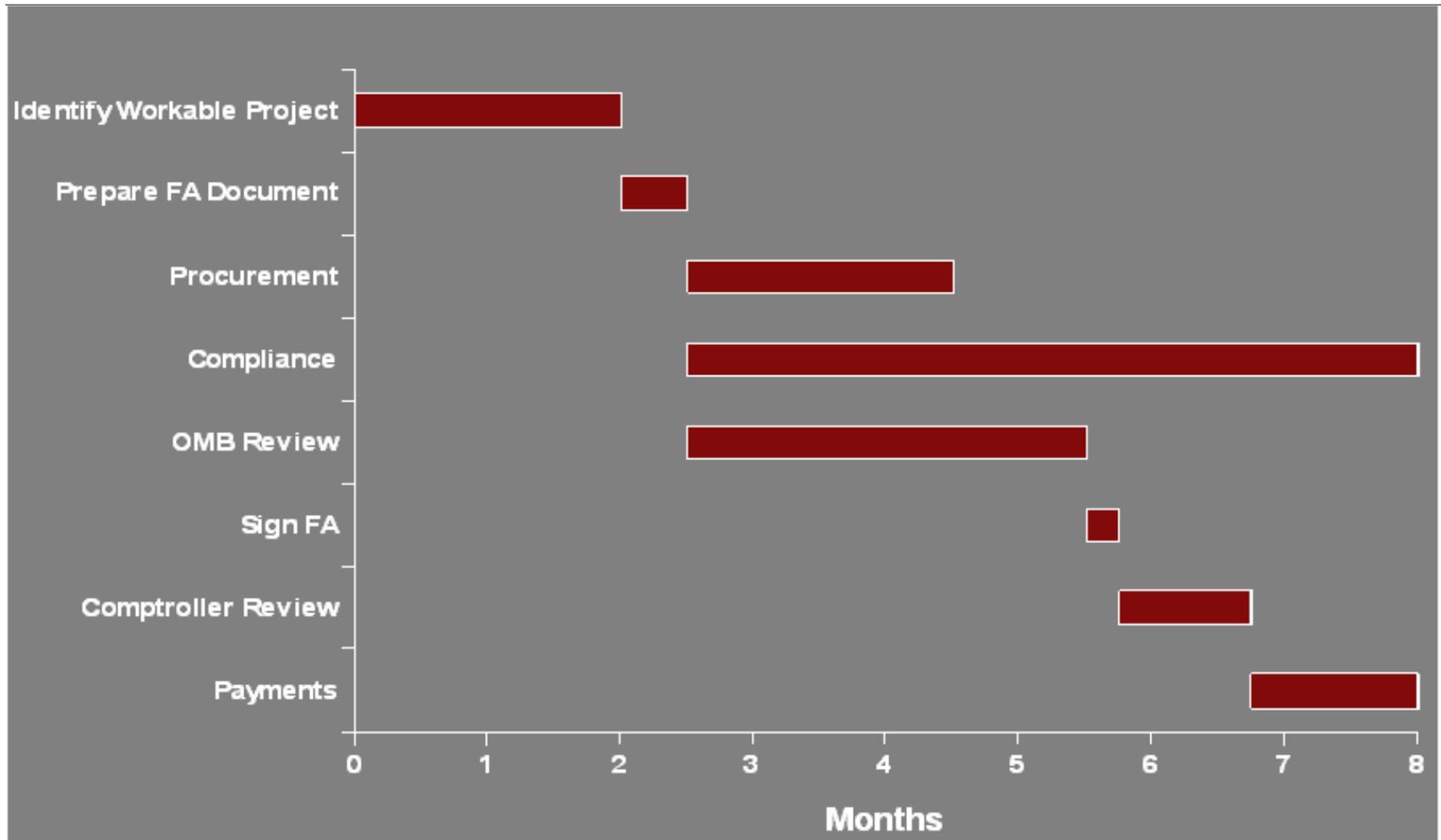
2-3 EDC Funding Agreement Criteria

- City funding is at least \$500K and < 50% of total project cost
- Project types include renovation and new construction
- Cultural organization has appropriate capacity to implement and maintain its capital project
- Project has economic development purpose
- Project is technically complex and has special scheduling needs



Pregones Theatre

2-3 EDC Funding Agreement Timeline



note: timeframes shown above are optimal durations without delays, and based on complete submissions + timely actions;

RESTRICTIVE COVENANTS may require additional time to the schedule

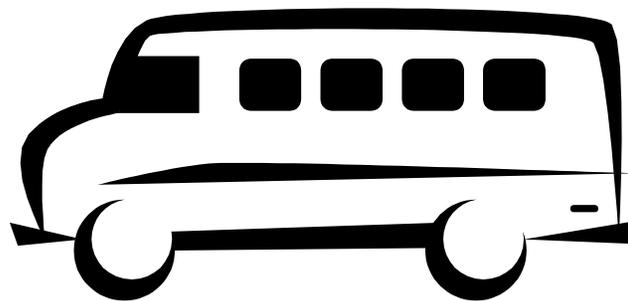




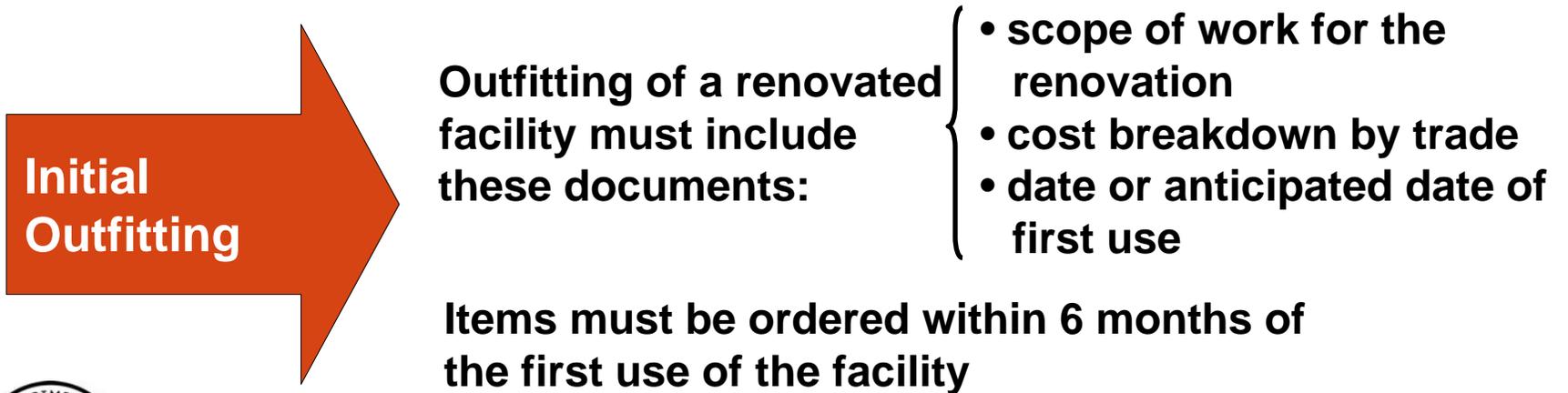
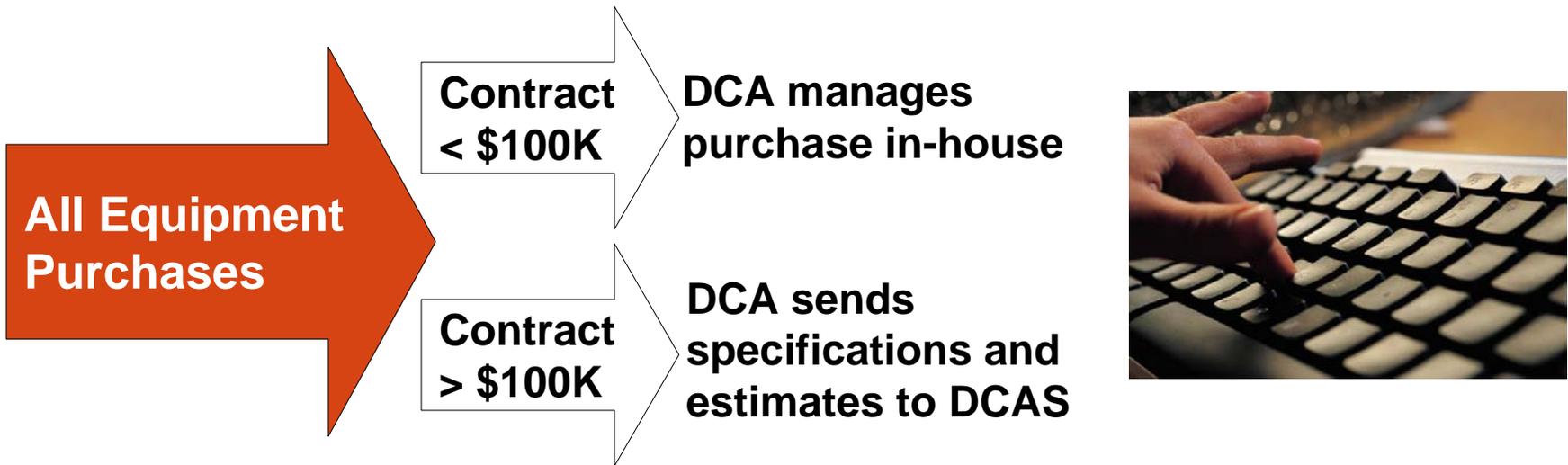
2-4 DCA Equipment Project Criteria

What constitutes equipment?

- Initial outfitting (i.e. moveable equipment, furniture, etc.)
- Technology systems (i.e. lighting, A/V, sound, upgrades, computers, etc)
- Vehicles
- Each system is \$35K or over, unless it is initial outfitting
- If there are multiple components to the system, it must be demonstrated how each part or group of parts is integral to the system
- Useful life of equipment must be 5 years



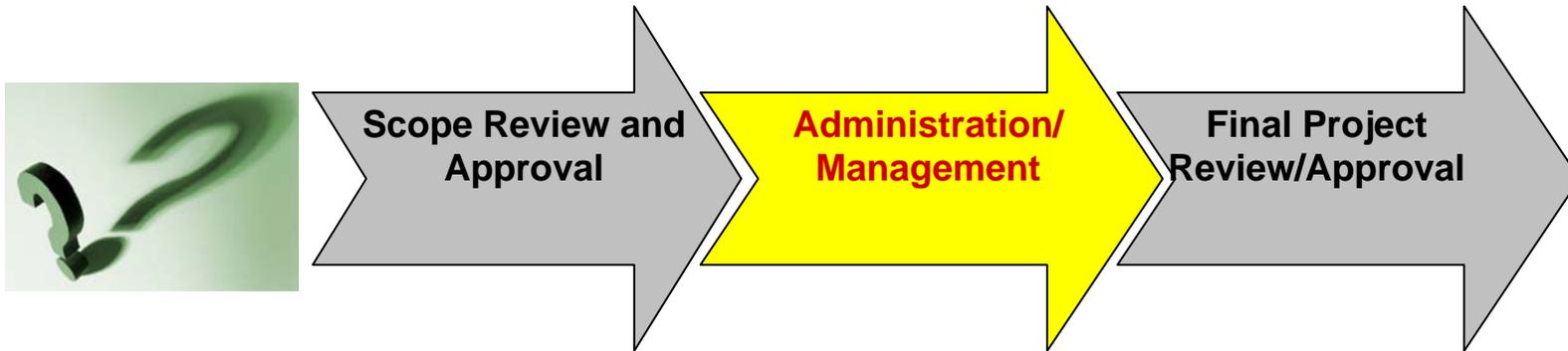
2-4 DCA Equipment Project Criteria



2-4 DCA Equipment Timeline

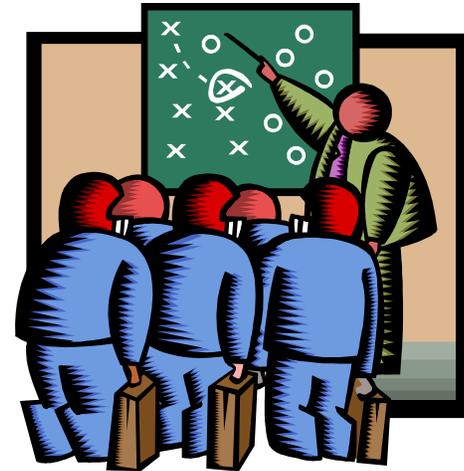
1. Organization sends specifications and estimates to DCA
2. Signed legal agreement and proof of secure public interest through City ownership or security agreement
3. DCA requests a Certificate to Proceed (CP) from OMB
4. Comptroller review of equipment
5. DCA/DCAS issues bid packages
6. DCAS and/or DCA receive bids from vendors and selects the lowest qualified bidder
7. DCAS and/or DCA enter into contract with vendor
8. Organization receives equipment*
9. DCAS and/or DCA inspect equipment
10. DCAS and/or DCA issue final payment to vendor

* After an acceptable bid package is assembled, it is likely to be at least 6 months before the equipment arrives



Q & A: Project Administration & Management

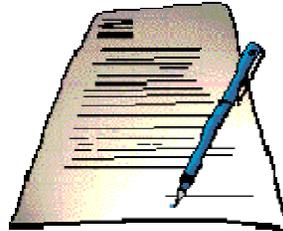
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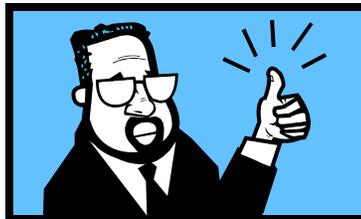


3: Project Approvals: OMB and the Comptroller

1. OMB Review



2. Comptroller



3-1 OMB – The Office of Management and Budget

- OMB reviews project documentation:
 - Capitably eligible project scope
 - City ownership
 - or-
 - City's first priority interest in non-City owned property
 - Itemized budget
- Review time is estimated to be 30 days but can be longer
- If OMB approves the project, OMB will issue a Certificate to Proceed (CP)



3-2 Comptroller

- Comptroller verifies:
 - All contractual compliance (vendex, insurance, employment report, etc) approved and current
 - Vendors were competitively procured
- Process includes:
 - 30 days for Comptroller review
- If Comptroller approves, contract or purchase order is registered



4 Example of a Successful Project: Queens Botanical Garden – Flushing, Queens

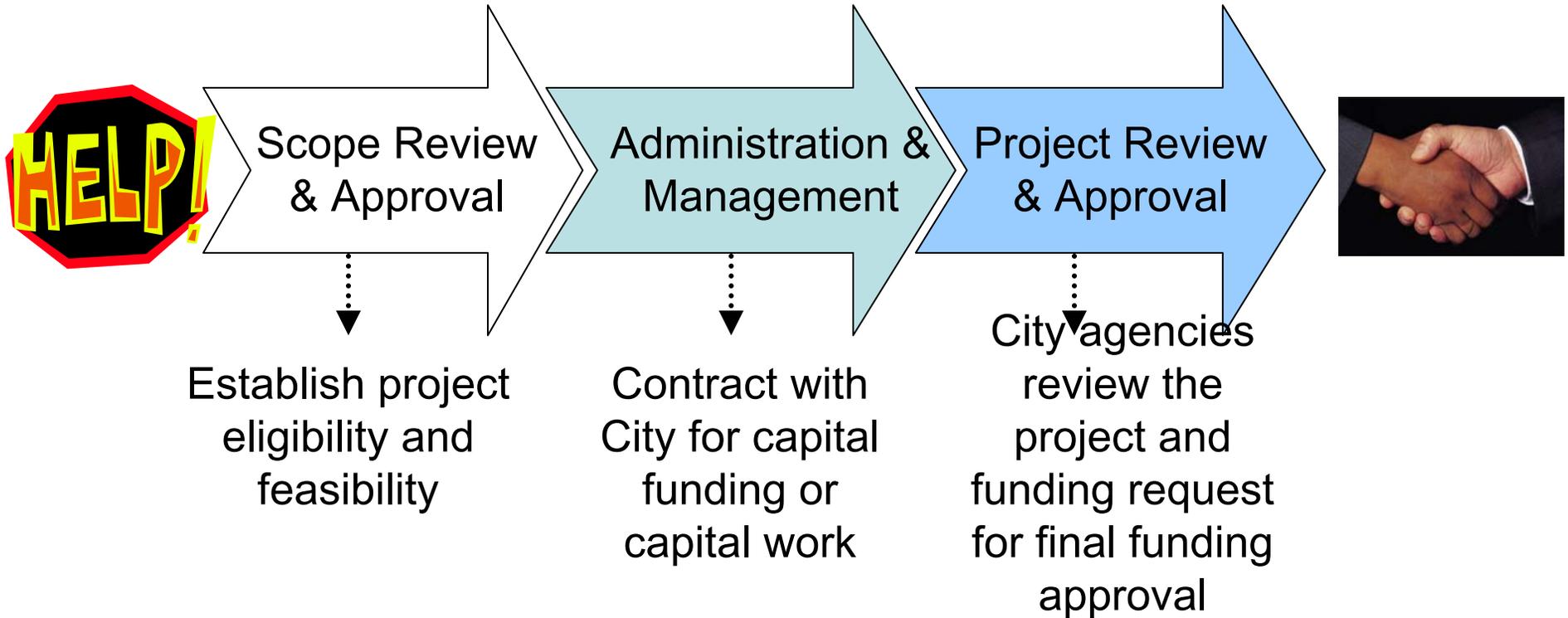
Project: Construction of a new Visitor Center & Administration Building, Horticultural Facility and Sustainable Landscapes

- Clearly defined mission that guided the planning and design process
- Planning process that incorporated short- and long-term organizational development
- Dedication to environmental stewardship and sustainability
- Very responsive in working with DCA and DDC to refine scope and budget for Phase I
- Leveraged City funds with private fundraising





Q & A: Overview of Capital Process for Cultural Organizations



Projects schedules can vary greatly from 6 months or more; every project generally follows these steps.

Trends and Issues for the Capital Program

Current fiscal climate

Expense implications resulting from a capital project

Pass Through Reform

Large capital projects, banking funds

Project Closeout – Substantial Completion

Partnerships – housing, mixed use, open space



DCA Capital Unit Contacts

**Susan Chin, Assistant Commissioner
of Capital Projects**
(212) 513-9331
schin@culture.nyc.gov

Angela Blocker
(212) 513-9337
ablocker@culture.nyc.gov

David Bryant
(212) 513-9334
dbryant@culture.nyc.gov

Andy Burmeister
(212) 513-9333
aburmeister@culture.nyc.gov

Alicia Grossman
(212) 513-9330
agrossman@culture.nyc.gov

Edith Henegan
(212) 513-9335
ehenegan@culture.nyc.gov

Thalia Husain
(212) 513-9336
thusain@culture.nyc.gov

Victor Metoyer
(212) 513-9332
vmetoyer@culture.nyc.gov



Next Steps

1. Turn in program with project scope description
2. Sign up for your next project meeting