



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

WILLIAM C. THOMPSON, JR.
COMPTROLLER



NYC Construction Contractor Association Newsletter

New York City's future is largely dependent upon our ability to maintain our infrastructure while continuing to develop new and important projects and public improvements. Thus, the construction industry plays a pivotal role in our pursuit of growth that is forward-looking, yet safe and responsible.

Unfortunately, construction managed by New York City has often been plagued by a sluggish bureaucracy, closed to new ideas and resistant to change. In recent years, this problem has worsened as we struggle with soaring labor and escalation costs coupled with the sheer number and scale of projects being built by the City.

A significant part of the problem is a flawed change order process. As we all know, change orders play an important role in the construction industry. In FY '07 alone, my office registered over \$750 million dollars in change order increases to contracts. Often those increases were associated with contract decreases as contract work was modified to adapt to changed conditions. So, while the net effect to the contracts was not as great, the sheer number of change orders needed to be processed increased.

As contracts are not written by a higher power, change orders are a necessity. However, of equal necessity is the reasonable expectation that contractors will be paid in a timely manner.

While my office typically takes about two weeks to review contracts and associated change orders, in FY '07, the average payment lag for the performance of change order work was roughly five months. In some cases, City agencies have taken over a year to approve a change order so it can be registered. Why? Because before a change order can even get to my office, a number of approvals are required within each agency, and sometimes approvals require signoffs by different agencies on the same order.

Such delays cause a ripple effect from prime contractor to subcontractor as an increasing number of change orders are backed up in the queue awaiting approvals from agencies. These delays make keeping projects on schedule and within budget very difficult. And long wait times for payments are not the way to foster good relationships with quality contractors. Furthermore, the City can lose money because slow processing times are often factored into bids for work.

In many cases, subcontractors do not have the resources to endure the costs associated

with delayed payments. I also know that this slow process prevents many of you from bidding on new projects.

My office has heard your concerns and we are committed to improving the efficiency of building in New York City. We are not only working to ensure that projects will be completed on schedule, but also that you get paid on time.

In FY '07, the New York City Department of Environmental Protection (DEP) processed approximately \$423 million dollars worth of change order increases to contracts. In terms of dollar value, this was the highest among all City agencies. According to the Mayor's Office, the DEP took 227 days on average to process these change orders -- the second longest of all City agencies.

Accordingly, we are partnering with the DEP to streamline its approval process for change orders. DEP can now include a 2.5% line item in each contract that allows for contingency change orders, thereby giving the agency the ability to process payments without going through the lengthy and unwieldy approvals process. The 2.5% line item can be renewed, if necessary, so that the total contingency amount can total 5% of the contract. Accountability and transparency are not sacrificed: reporting of DEP's use of the contingency amount will occur and my office will monitor this pilot program closely. In addition, contingency change orders of \$250,000 or more will require that DEP speak with my office and obtain its approval before moving forward. We believe that this new initiative will vastly improve the implementation of change orders and the efficiency of payments.

Establishing our pilot program with the DEP was an appropriate starting point, not only because of the sheer volume of their change orders but because its work impacts areas critical to the health of New York City. When it comes to our environment, we cannot afford delays.

Presently, over \$3.2 billion in DEP contracts contain contingency change order allowances. These include contracts for the Croton Water Treatment Plant, the Catskill/Delaware Ultra-Violet Light Disinfection Facility as well as existing and upcoming contracts at the Newtown Creek Water Pollution Control Plant.

There are other ways in which the Comptroller's office is working to streamline the City contracting process. Through the Financial Information Services Agency, we have launched an online information portal that allows contractors to view present and past payment histories, and to manage data such as address changes, contact information and much more.

Before the year is out, you will also be able to track whether a contract or change order has been submitted to my office for registration, and, if so, whether it has been registered.

We are pleased by the progress of these initiatives and hope to expand on our efforts in the near future. I urge you to let us know about your experiences with our new procedures and programs, what you like and what you think we can improve. Together will we make construction in New York City the efficient and progressive partnership that it should be.

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