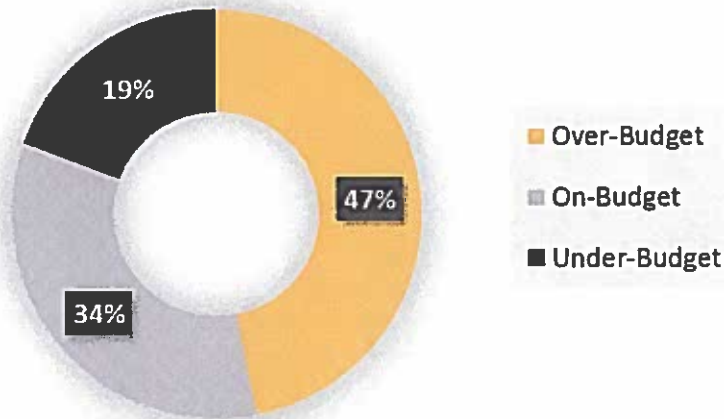


# NYC CAPITAL PROJECT REFORM

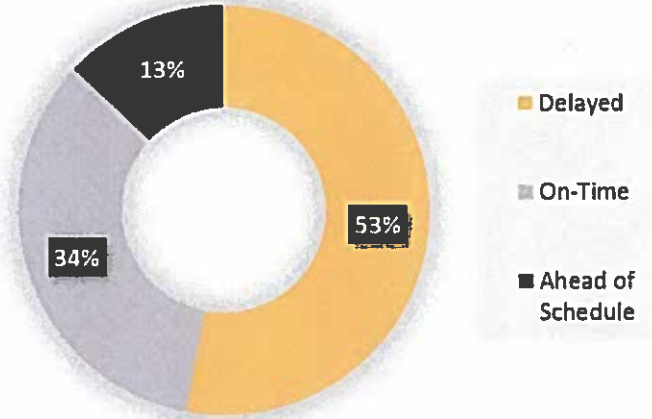
## EVEN THE PROJECT UPDATES ARE LONG OVERDUE

New York City's capital projects management system remains in need of significant reform. About half of the City's larger capital projects are over budget and behind schedule. We lack a comprehensive system for reviewing conditions of our existing infrastructure, developing a long-term plan to address capital needs, and ensuring accountability as projects are implemented.

### OVER-BUDGET



### LONG DELAYS



The City's **Capital Projects Dashboard** currently reports on **fewer than 2%** of the City's capital projects. Even despite such limited reporting, the dashboard is currently **two months late** for its quarterly update.

The NYC Department of Design and Construction recently released "A Strategic Blueprint for Construction Excellence," which outlines a good path forward. But more leadership is needed from City Hall and OMB. This Issue Brief identifies remaining issues, and offers five recommendations:



Pass Intro 113 to establish a useful Capital Projects Tracker for all NYC capital projects.



Use the 2019 NYC Charter Revision process to modernize infrastructure conditions assessments (AIMS), plan for long-term investments, and budget more accurately.



Establish a Deputy Mayor for Infrastructure.



Consider merging DDC with the capital projects management unit of EDC.



Push for changes in State law to allow design-build and best value contracting.

## Introduction

New York City's aging infrastructure is suffering from a cycle of overdue and poorly planned investments. Many of our water mains and bridges are over a century old. With each passing year, we struggle to keep pace with routine maintenance as we fall further and further behind the curve in making critical investments in our future, from broadband to renewable energy to protections from storms like Hurricane Sandy.

Meanwhile, New York City's capital projects management system remains in need of dramatic reform. Half of our larger capital projects are over budget and behind schedule. We lack a meaningful system for reviewing New York City's infrastructure needs, developing a long-term plan to address them, and insuring accountability as those projects are implemented.

Last month, under the new leadership of Lorraine Grillo, the NYC Department of Design and Construction issued a promising blueprint for streamlining procurement, technology, and project management. But much more aggressive action is needed from City Hall to achieve the reforms necessary to reduce costly overruns, deliver projects on time, and make the long-term investments in our infrastructure necessary for the future of our growing city.

On February 12, 2019, the New York City Council's Finance Committee will hold a hearing on [Intro 113](#), which would require the City to establish and maintain a **Capital Projects Tracker** on its website, in order to significantly improve transparency, information, oversight, and accountability for all NYC capital projects citywide.

This Issue Brief highlights some of what's wrong with our current system, and identifies next steps New York City should take.

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### **Over budget, long-delayed.**

New York City maintains a [Capital Projects Dashboard](#) for capital projects over \$25 million. While the dashboard has not been updated in nearly six months, has been altered recently in ways that render it less useful than previously, and does not cover the vast majority of New York City capital projects, it does provide a starting-point for analysis:

Of the 264 projects listed in the database as of February 1, 2019:

- **47% of projects were over-budget.** 34% are on-budget and 19% are under budget.
- **53% are delayed.** 34% are on-schedule and 13% are ahead of schedule.

- On average projects are \$14 million over-budget (\$14,070,690) and 515 days late.
- In total, the projects are over \$3 billion (\$3,025,198,252) over-budget (that includes savings where projects are under budget).
- DDC is the managing agency on 40% of the projects that were **both** over-budget and late (35 of 88 projects), followed by DOT (24%), DEP (17%), and EDC (9%).
- For these projects managed by DDC, projects were a median of over \$15 million over budget and 650 days late (1.7 years).

**Even the updates are long-delayed.**

The Capital Projects Dashboard indicates that it was updated “08/2018,” so it appears to be providing information that is approximately six months old. The NYC Open Data website says the metadata was last updated on September 10, 2018 and that it is supposed to be updated on a quarterly basis; so the data there is approximately 2 months (67%) behind schedule.

When even the quarterly updates are long-delayed, it is difficult to have any confidence in the system.

**And it is less useful than it was previously.**

In addition, the Dashboard's interface has changed significantly over the course of the last year, in ways that render it less useful. Previously, the Dashboard aggregated and summarized the data to provide clear information about how many projects were on-budget and on-time by agency and project type, making it easy to assess performance, identify trends and (at least theoretically) hold the poorest performing agencies accountable.

While the Dashboard does provide detailed, quarterly data on cost overruns and delays at the individual project level, that information is now buried on the site. Summaries by agency and project type now require additional independent analysis through the City's open data portal, rendering this interface useless unless you're only interested in the status of one very specific project. That means the Dashboard can help a New Yorker who is aware of it find information on an individual project (although, as noted above, not in real-time); but it does not serve the broader transparency and accountability goals normally associated with a Dashboard.

Finally, the Dashboard only covers projects over \$25 million. As a result, it currently contains data on only 287 of the City's approximately 15,000 capital projects (less than 2%).

**Without transparency, little hope of management reform.**

The lack of a useful, comprehensive tracking system is, of course, not the only (or even the primary) problem with New York City's capital projects management system. However, without basic transparency to the public -- or even to the City itself -- there is little hope of achieving broader reform. In this case, the adage is surely true: "What you don't measure, you can't manage."

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### **Other Problems With NYC's Capital & Infrastructure Projects System**

Many analyses have been conducted of the problems in New York City's capital projects and infrastructure system, including Center for an Urban Future's [Caution Ahead](#) and [Slow Build](#) reports, and extensive work by the [Citizens Budget Commission](#). A broad summary of the major problems includes:

- **Lack of long-term planning:** The Ten Year Capital Strategy is supposed to provide a long-term plan for the City's infrastructure needs and capital priorities. Under Mayor de Blasio and First Deputy Mayor Dean Fuleihan, strides have been made to incorporate principles for the City's capital investments. However, the document still serves too much as simply a bi-annual update on currently-anticipated projects, disconnected from other planning documents. For example, the February 2019 10-year capital plan does not include funding to build the new borough-based jails needed as part of the plan to close Rikers Island. It contains only \$4.9 billion over 10 years for resiliency and energy efficiency, far less than we'll need for the next decade in the face of climate change expectations.
- **Little meaningful "state-of-good-repair" analysis:** The Ten Year Capital Strategy does not incorporate a meaningful "state-of-good-repair" analysis. Such an analysis is supposed to be provided by the Charter-mandated Asset Information Management System (AIMS) report, which is released annually by the Office of Management and Budget (OMB), and was intended to centralize and prioritize the City's capital infrastructure needs. Unfortunately, the AIMS report does not include the city's water and sewer systems, public housing, East River bridges, or much other critical infrastructure. Nor does it include disability accessibility, asbestos abatement, and modernization measure. Those assets that are reviewed are generally given on visual inspections, and the underlying assessment data is not open to the public. As a result, the AIMS report does not report meaningfully, on a reasonable timeline, on the full breadth of the City's infrastructure.
- **Lack of coordinated management oversight to provide accountability for capital projects management across agencies and drive change.** Capital projects are managed across a dizzying range of agencies, with little coordinated oversight. The NYC Department of Design & Construction was created in 1996 to bring together capital projects from 20 agencies. However, several of the City agencies that do extensive capital work -- NYC Economic Development Corporation, School Construction Authority, NYCHA, and Health +

Hospitals -- fall outside of DDC. As a result, there is little real-time ability to evaluate contractors (e.g. to prevent a contractor who is failing on one agency's contract from bidding for another agency), or to implement reform across the system. In addition, because both the SCA and EDC are State-enabled authorities, they have the ability to streamline some bidding and procurement processes. Ironically, the agency created to manage capital projects (DDC) lacks these abilities.

- **New York State Law prohibits New York City from using both “design-build” and “best value contracting.”** NYC is locked by State law into processes that lengthen the capital procurement process, and prevent it from using best practices that work around the world. State law requires the design and construction work be bid out, awarded, and completed separately, which adds many months (and sometimes years) to the process. In addition, the City is required by NYS Municipal Law 103 to utilize “lowest responsible bidder” contracting. That sounds good in theory, but in practice it often means that inexperienced, under-capitalized contractors underbid a project -- and then cannot deliver on their projects, leading to multiple change orders or default.
- **Bundling of projects renders the Capital Budget process insufficient:** The City's Capital Budget does not provide adequate information on capital projects. Instead of individual projects, the Capital Budget is aggregated into groups with generic descriptions. In the FY 2019 Preliminary Budget, there were 1,952 budget lines, which contained funding for approximately 14,750 projects. As a result, the Capital Budget is not useful for tracking spending on individual capital projects. Bundling projects in this fashion also gives the Mayor far too much flexibility to modify capital spending without City Council approval, as envisioned by the Charter. In the FY 2019 preliminary budget, the total available appropriations for Fiscal 2018 was \$42.2 billion, yet planned commitments for that year totaled only \$21.7 billion. The excess balance -- half the Capital Budget -- could be reallocated by the Mayor without any public input. Modest progress has also been made “right-sizing” the capital budget, following long-term attention from the City Council and the Citizens Budget Commission, but the overall problem remains.

### **DDC's Strategic Blueprint for Construction Excellence**

On January 24, 2019, the NYC Department of Design and Construction, which oversees construction management for over 20 city agencies, and is newly under the leadership of Commissioner Lorraine Grillo (also the President of the NYC School Construction Authority) and First Deputy Commissioner Jamie Springer, released a [Strategic Blueprint for Construction Excellence](#), which aims to address many of the issues that plague New York City's capital projects management system.

Strategies outlined in the report include modernizing procurement, streamlining change orders, expanding DDC's “front end planning” units, improving the depth and frequency of facility inspections for the AIMS report, better coordinating work with utilities, empowering DDC project

managers, limiting change orders, and upgrading DDC's technology. It is a strong blueprint for change, with specific goals and timelines for implementation. The Strategic Blueprint reflects positively on Commissioner Grillo's leadership, and offers real hope for reform at DDC.

To achieve more comprehensive reform however, leadership is needed not only at DDC, which manages only a portion of the City's capital projects, and is not responsible for capital planning and budgeting. Leadership is needed from City Hall and the NYC Office of Management and Budget as well.

### **Next Steps in Capital Projects Management Reform**

- 1. Pass Intro 113 to require the City to provide a comprehensive, uniform Capital Projects Tracker for all NYC capital projects.** On February 12, 2019, the City Council will hold a hearing on Intro 113. This bill would require the City to establish and maintain an interactive and searchable public database containing information about all citywide capital projects. The database would include information for each project including the name, location and current phase, as well as information related to the project schedule and cost. It would also contain citywide capital project information including the total number of projects above/below cost and behind/ahead of schedule. Additionally, the website would contain an interactive map indicating the location of all projects listed in the database.

Both the NYC School Construction Authority and the NYC Parks Department provide datasets with updates on their capital projects. We can and must do the same for the other City capital agencies, and bring the reporting together into one coordinated system. This will require new software and technology, to allow the tracking system to be used not only for public transparency, but also for the City's own management accountability. It is well worth the investment.

- 2. Utilize the 2019 NYC Charter Revision process to reform and improve capital projects management, as recommended in the City Council's recommendations to the Commission:**
  - Modernize and expand the scope of the Asset Inventory Management System (AIMS) report to cover a broader range of the City's infrastructure, including condition assessments, maintenance schedules, recommendations, and necessary capital and expense budget funding. The NYC School Construction Authority's annual Building Condition Assessment Survey (BCAS) is a model for what the AIMS process should become. An annual survey of all public schools is conducted to assess conditions and ensure that buildings meet city- and state requirements. Inspection teams use hand-held tablets with SCA-tailored software to record observations and rate building components. This uniform evaluation system with objective rating criteria has become an invaluable capital planning tool for New York City's school system. New York City needs the same

for the rest of our infrastructure.

- Require the City to produce a Comprehensive Plan for the city once every ten years to serve as the basis for land use, infrastructure, and capital planning decisions. Integrate the development of the Ten Year Capital Strategy into this comprehensive planning process. Require the Ten Year Capital Strategy and Capital Commitment Plan to cross-reference the AIMS report (for state-of-good-repair) and Citywide Statement of Needs (for new and expanded facilities), including details for when and how the City will make investments necessary to fund new and expanded facilities and maintain infrastructure in a state of good repair. Coordinate infrastructure investments and the capital budget with the City's long-term land-use and rezoning efforts.
  - Amend the City Charter to clarify that capital budget lines must be narrow and specific, rather than an aggregation of related capital projects. This will allow for meaningful capital budget information on individual projects, and limit the Mayor's ability to transfer funds between projects without public input or transparency.
3. **Establish a Deputy Mayor for Infrastructure to coordinate management of New York City's capital projects across agencies, and insure that we meet our short- and long-term infrastructure goals.** This new position could establish a vision for the future of NYC's infrastructure; coordinate investments across all levels of government to eliminate redundancies; establish better practices and standardize processes for streamlined results on projects; advocate for necessary state and federal policy to provide funding and improve efficiency on projects; and share skills and tools across City agencies that manage our infrastructure. This position could also pilot new models for transparent and accountable public private partnerships and strategies for more efficient project delivery. Lorraine Grillo's appointment as both SCA President and DDC Commissioner is already showing the value of such high-level coordinated leadership. New York City should take it to the next step.
  4. **Consider merging DDC with the capital projects management unit of EDC.** It does not make sense to centralize New York City's capital projects management in an agency (DDC) that has less ability to move quickly and flexibly than others (e.g. EDC and SCA). The City should consider a broader structural reorganization -- perhaps a merger of DDC with the capital projects management arm of EDC -- that would allow for both tools and a culture of efficiency to be broadly shared across the City's capital projects.
  5. **Push for changes in New York State law to allow New York City to utilize design-build and best-value contracting.** Current State laws prohibit the City from adopting methods of procurement that are demonstrated in jurisdictions all across the world to deliver projects on time and on budget. The state has authorized design-build on a handful of pet projects like the Mario M. Cuomo bridge, but has refused to allow the City to pursue these methods on other projects. Governor Cuomo and the State Legislature should provide New York City with authority to utilize design-build and best-value contracting.