



# Pocantico Hills Central School District Management of Capital Project

## Report of Examination

Period Covered:

July 1, 2009 — June 30, 2011

2012M-40



Thomas P. DiNapoli

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# State of New York Office of the State Comptroller

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## **Division of Local Government and School Accountability**

August 2012

Dear School District Officials:

A top priority of the Office of the State Comptroller is to help school district officials manage their districts efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support district operations. The Comptroller oversees the fiscal affairs of districts statewide, as well as districts' compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving district operations and Board of Education governance. Audits also can identify strategies to reduce district costs and to strengthen controls intended to safeguard district assets.

Following is a report of our audit of the Pocantico Hills Central School District, entitled Management of Capital Project. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the General Municipal Law.

This audit's results and recommendations are resources for district officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller  
Division of Local Government  
and School Accountability*

# Introduction

## Background

The Pocantico Hills Central School District (District) is located in the Village of Sleepy Hollow, in Westchester County. The District is governed by a Board of Education (Board) which comprises five elected members. The Board is responsible for the general management and control of the District's financial and educational affairs. The Superintendent of Schools (Superintendent) is the chief executive officer of the District and is responsible, along with other administrative staff, for the day-to-day management of the District under the direction of the Board.

The District operates one school with approximately 300 students. The District's general fund budgeted expenditures for the 2011-12 fiscal year were \$26 million, which were funded primarily with real property taxes, State aid, and grants.

In November 2009, pursuant to a competitive bidding process, the Board awarded various contracts related to a capital project for the renovation of a school building. In June 2010, the District issued bonds to finance this project with an authorized limit of \$18 million. As of June 22, 2011, the District had expended approximately \$14 million on the project.

## Objective

The objective of our audit was to examine management of the District's capital projects. Our audit addressed the following related question:

- Did District officials properly use change orders on the renovation capital project?

## Scope and Methodology

We examined transactions relating to the District's renovation capital project for the period July 1, 2009 to June 30, 2011.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit is included in Appendix C of this report.

## Comments of District Officials and Corrective Action

The results of our audit and recommendations have been discussed with District officials and their comments, which appear in Appendix A, have been considered in preparing this report. District officials generally disagreed with our findings and recommendations but indicated they will take corrective action. Appendix B contains our comments on issues raised in the District's response.

The Board has the responsibility to initiate corrective action. Pursuant to Section 35 of the General Municipal Law, Section 2116-a (3)(c) of the Education Law and Section 170.12 of the Regulations of the Commissioner of Education, a written corrective action plan (CAP) that addresses the findings and recommendations in this report must be prepared and provided to our office within 90 days, with a copy forwarded to the Commissioner of Education. To the extent practicable, implementation of the CAP must begin by the end of the next fiscal year. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. The Board should make the CAP available for public review in the District Clerk's office.

## Change Orders

Capital projects are complex undertakings that require good planning to ensure they are completed within the original cost and scope. A change order is a formal modification of a construction contract, agreed upon by both the District and contractor, to authorize a change in the work, an adjustment in the project cost, or a change in the contract time. Where the change relates to details or relatively minor particulars and is incidental to the original contract, a change order may be issued without competitive bidding. However, no important general change may be made, without competitive bidding, which so varies from the original plan or so alters the essential identity or main purpose of the contract as to constitute a new undertaking. Competitive bidding gives all prospective bidders an equal opportunity in furnishing supplies, equipment, and services to the District, and helps prevent favoritism and fraud. General Municipal Law (GML) requires competitive bidding on all purchase contracts involving an expenditure of more than \$20,000 for twelve months for materials, supplies and equipment and expenditures of more than \$35,000 for public work contracts.<sup>1</sup> In the case of an accident or other unforeseen event that affects public property or the life, health, safety or property of the inhabitants of the school district, and which requires immediate action that cannot await competitive bidding, District officials may declare an emergency which allows them to waive the provisions of competitive bidding; however, they are still required to comply with the District's own procurement policies and procedures, which, as a rule, should require seeking some form of competition for the work (such as price quotes).<sup>2</sup>

A change order policy is essential to provide guidance in analyzing, processing, and authorizing change orders. Because change order work is often negotiated with existing contractors to minimize delays, and therefore can be more costly than work awarded through competition, it is important that District officials plan capital projects in such a way as to minimize the need for change orders. While some amount of change orders can be expected, certain conditions can lead to a higher number of change orders which usually result in additional project costs. When the following conditions exist, a higher number of change orders may follow:

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<sup>1</sup> General Municipal Law §103. Prior to June 22, 2010, the bidding threshold for purchase contracts was \$10,000. Prior to November 2, 2009, the bidding threshold for public work contracts was \$20,000.

<sup>2</sup> General Municipal Law §§103(4), 104-b

- Deficiencies in designing the scope of the project or surveying the work site
- Errors in the design consultant's cost estimates or project design
- Differences between drawings representing the "as built" conditions (such as blueprints) and actual work site conditions
- Significant variance between bid specifications and project plans
- Vague contract terms subject to interpretation.

On November 23, 2009, the Board adopted a change order policy that gave the Interim Superintendent of Schools (Interim Superintendent) authority to approve change orders of up to \$50,000. For those change orders, the policy required the Interim Superintendent to obtain recommendations and approvals from the architect and/or construction manager before approving the change orders. The policy states that the Interim Superintendent is not authorized to approve change orders totaling more than \$100,000 between regularly scheduled board meetings.

District officials needed to issue change orders that significantly increased the scope and cost of the initial contracts awarded through the bid process, and did not bid this additional work even though it exceeded the statutory dollar thresholds. At the end of our fieldwork, the total changes to the four main construction contracts represented an increase of \$1,690,794, or 18 percent, over the \$9,510,323 million in original awards.

Throughout the construction period,<sup>3</sup> District officials awarded contracts for change orders based on the recommendation of the construction manager and the architect and approved by the Interim Superintendent and the Board. The school district also received approval from the New York State Department of Education prior to awarding each of the change orders. However, based on a review of the bid documents provided by the District, the change orders varied significantly from the original plan and may have altered the essential identity or main purpose of the contract; therefore, they may have constituted new undertakings. Further, the aggregate change orders to each type of contract all exceeded GML bidding thresholds.

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<sup>3</sup> The project started in mid-2009 and was still in progress at the end of our fieldwork in November 2011, with two phases scheduled to be completed in early 2012.

<b>Table 1: Changes to Construction Contracts</b>				
	<b>Original Award</b>	<b>Change Orders</b>	<b>Amended Contracts</b>	<b>% Change</b>
General Construction	\$5,155,023	\$403,045	\$5,558,068	8%
Electrical	\$1,279,300	\$894,978	\$2,174,278	70%
Heating/ Ventilation/ Air Conditioning	\$2,616,000	\$184,851	\$2,800,851	7%
Plumbing	\$ 460,000	\$207,920	\$667,920	45%
<b>Total</b>	<b>\$9,510,323</b>	<b>\$1,690,794</b>	<b>\$11,201,117</b>	<b>18%</b>

Electrical Contract Change Orders – District officials awarded a contract for electrical work in the amount of \$1,279,300 as part of the renovation project. According to the bid documents provided, this contract required the vendor to provide a scope of services under 22 subtitles including lighting protection systems, site lighting fixtures, interior lighting, and power generation. Other than what was portrayed in architectural drawings, the bid documents provided to us were not specific regarding the scope of the project. Based on these documents, the quantities of lighting fixtures to be provided under the original contract and the extent of the service to be provided are unclear. Subsequent to this award, District officials increased the contract amount to \$2,174,278 via change orders totaling \$894,978, an increase of approximately 70 percent, without the benefit of competitive bidding.

District officials told us that three change orders totaling \$368,904 were awarded because of an emergency situation that required the immediate replacement of lighting fixtures. These three change orders required the installation of 41 lighting fixtures. We received documentation showing that a wind storm occurred and damaged District property on March 13, 2010. However, no documentation that officials presented to us as justification for the emergency showed how many lighting fixtures were damaged or how many were included in the original contract. Officials presented us with photographs of three damaged light poles, a Board resolution declaring an emergency, a letter from the architect stating that light poles were damaged and required immediate replacement, and an insurance recovery payment of only \$16,556 for the same damage. Further, the three change orders were signed by the Interim Superintendent on June 10, 2010, almost three months after the storm. They were signed by the contractor on June 28, 2010, the architect on June 30, 2010, and the construction manager in July 2010, and installation of the fixtures was not completed until a year later. This time span may suggest

that there may have been adequate time for District officials to solicit competitive bidding for the fixtures, but they did not do so.

District officials provided documentation to show that, in May 2010, they did solicit price quotes from two vendors who had participated in the original bid for electrical services prior to the change orders.<sup>4</sup> However, as noted, the time span between the wind storm and the installation work suggests that this was not a situation requiring immediate action that could not await competitive bidding.

We examined approximately \$358,000 of the remaining \$526,074 in change orders, which District officials also did not competitively bid but added to the original electrical contract. These change orders required the installation of more than 100 interior and exterior lighting fixtures and circuitry throughout the District. However, documentation provided by the District did not clearly state how many lighting fixtures were being installed under the original contracts. The need for numerous additional lighting fixtures could indicate that the planning process was not thorough and clearly documented. The failure to properly gauge the scope of the project and use competition for work that was in fact completed by one vendor may have deprived other vendors the opportunity to bid on the complete defined project, and could have avoided or reduced the need for the extensive change orders.

Plumbing Contract Change Orders – District officials awarded \$207,920 in change orders to the original plumbing contractor for various plumbing services. These change orders increased the original plumbing contract by approximately 45 percent, from \$460,000 to a revised amount of \$667,920. Although the change orders individually were not significant, the total increase was, and the nature of the items indicates they were probably all deliverable by any qualified plumbing contractor. For example, one change order for \$18,000 required insulation of hot water piping while another, for \$23,000, required relocation of a water line supply. District officials said they did not seek competition because the contractor was familiar with the project.

The extent of the change orders suggests that District officials may not have implemented a carefully thought-out plan to initially establish the scope of this capital project.

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<sup>4</sup> These two quotes were for \$382,200 and \$387,368.

## **Recommendations**

1. The Board should ensure that capital project requirements and costs are properly planned before awarding project contracts, so as to minimize the need for change orders.
2. District officials should competitively bid any change orders in excess of the competitive bidding threshold that so vary from the original plan or so alter the essential identity or main purpose of the contract as to constitute a new undertaking.
3. District officials should ensure that contracts with project vendors clearly itemize and quantify the required services.

## **APPENDIX A**

### **RESPONSE FROM DISTRICT OFFICIALS**

The District officials' response to this audit can be found on the following pages.

Page 14 of the District's letter references page 8 in the report which has since been renumbered. The referenced text is on page 7.

# POCANTICO HILLS CENTRAL SCHOOL

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Mr. Stanley T. Steele  
PRINCIPAL

May 24, 2012

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Chief Examiner  
State of New York  
Office of the State Comptroller  
110 State Street  
Albany, NY 12236

## RE: POCANTICO HILLS AUDIT REPORT

Dear Mr. Ellis,

We respectfully submit the following information in response to the Draft Audit Report issued by the Comptroller's Office to the District, Audit 2012M-40, for the period covering July 1, 2009 through June 30, 2011.

To begin, it is noted that in April 2011 the Comptroller's Office conducted a Risk Assessment regarding all of the operational aspects of the District's financial and other programs. Upon the conclusion of that Risk Assessment, there were no reports of negative findings. Auditors from the Comptroller's Office returned to the District to conduct an audit of internal accounting controls, as stated in a letter dated September 21, 2011.

See  
Note 1  
Page 16

Upon entry into the District, the scope of the audit was modified to be a "performance audit". Finally, the scope of the audit was *de facto* changed near the end of the audit period to match the objectives set forth in the Draft Audit Report. The District now responds to the Draft Audit Report that states as its objective the following:

"Did District officials properly used change orders on the renovation capital project?"

First, we comment that District personnel cooperated fully with the auditors and, in fact, furnished the same information several times when the originals issued seemed to be misplaced. While we expected the scope of audit to match that which

See  
Note 2  
Page 16

was stated upon entry, we have no objection to the propriety of the audit objective that was ultimately selected.

By way of background, we find it necessary and appropriate to inform the Comptroller of the full facts and circumstances underlying the change orders at issue, due to an apparent failure on the part of the audit team to be complete and accurate in relating all of the background information furnished to them during the audit period. There are several inaccuracies and significant omissions of fact in the Draft Audit Report. Finally the legal assumptions in the Draft Audit Report seem to be lacking basis in the Comptroller's precedent opinions, that we now seek to have taken into account and that should inform the conclusions and recommendations of the Report.

See  
Note 3  
Page 16

### *The Electrical Change Order*

As noted in the Comptroller's Draft Audit Report, the original contract award for electrical services was in the amount of \$1,279,300.00 and change orders were issued in the amount of \$894,978.00, of which \$368,904 were critically reviewed. The total amount of the electrical work performed was \$2,174,278.00. The background facts that led to this change order and not adequately described in the Comptroller's Draft Audit Report involved an emergency weather event that knocked down approximately 10 light stanchions on the external part of the school premises. This event led to District's Architect, SEI Design Group, on March 16, 2010 to recommend the replacement of 41 external light stanchions due to structural concrete and pole base instability that became apparent only through the after-effects of the storm. The District had, at the time of this weather event, entered into a contract with Foremost Electric to install light stanchions around the swimming pool and, also, to conduct electrical work, including light installation inside the instructional part of the building that is integrated in electrical circuitry with the external light stanchions.

See  
Note 4  
Page 16

The contract with Foremost Electric included a performance bond whereby the Surety on the Bond assured the District that all work would be completed in a workmanlike fashion and that the District would not be obligated to undergo additional expenses in the event of a default in performance on the part of the contractor. Since the nature of the work that became the expanded scope of the electrical contract was of like kind to the work done around the pool area, where external light stanchions were installed, and because of the integration of the electrical systems within and outside of the instructional building, the District decided to use a change order as the means of completing the emergency. Consequently, the electrical contractor and its surety were made be accountable for not only the interior work, but also the exterior light stanchions and electrical work on the instructional side of the project.

See  
Note 5  
Page 17

See  
Note 6  
Page 17

While the Draft Audit Report criticizes the District for not letting bids on the external lighting stanchion work as a separate contract, finding that the emergency circumstances that generally allow the forgoing of the bid law process of Section 103 of the General Municipal Law to be absent, reliance upon that law was misplaced

See  
Note 3  
Page 16

because the nature of the emergency here was not one as to which Section 103 of the General Municipal Law would apply but, rather, the utilization of the same contractor was based not upon the emergency need to dispense with bid law requirements but, rather, change order theory as supported by the Comptroller's precedent opinions.

What is missing from the Draft Audit Report is the fact that the change order work was committed to only after securing approval from the New York State Education Department, the Board of Education and with the imprimatur of both the District's Architect and then Legal Counsel. It was only following SED approval of the proposed change orders that the contractual commitment was made to utilize Foremost Electric for the additional work that fell within the scope of the change order. The wait for SED approval enabled 10% State Aid for the additional project costs. In fact, the State Aid on the external lights was only available on the change order and not on the new outside project.

See  
Note 7  
Page 17

Several Comptroller's Opinions cite the legal basis for change orders that may be issued without requiring additional bidding under Section 103 of the General Municipal Law where, upon factual analysis, modification to the contract does not alter the essential identity or the main purpose of the contract, provided that no important general change may be made which so varies from the original plan or is of such importance as to constitute a new undertaking or project. The test to be applied is whether the supplemental work ordered so varies from the original plan, is of such importance, or so alters the essential identity or main purpose of the contract as to constitute a new undertaking. (See Op. St. Compt. 80-130 where the scope of work was extended by \$705,000.00 through a change order based upon the application of these legal principles; see also Op. St. Compt. 83-52, Op. St. Compt. 81-224 and Op. St. Compt. 83-52.)

See  
Note 8  
Page 17

In the present matter, the nature of the expansive work was identical to the nature of work already being performed by the contractor; namely, a renovation of electrical work regarding exterior pool lighting systems and stanchions as well as internal electrical work and controls, all of which were integrated within the same electrical system being worked upon by Foremost Electrical.

See  
Note 9  
Page 18

While the amount of the change order is clearly significant, that does not change the application of the legal principles that would allow for a change order rather than a bidding process. Further, as noted above, in the present matter, the electrical contractor's agreement included the requirement of a performance bond, whereby the surety would assure the work at issue, including the work under the change order. The surety's global commitment would have been lost had the District tried to solicit another electrical contractor to do the exterior lighting work around the instructional part of the premises.

See  
Note 5  
Page 17

In terms of efficiency and economy, it is noteworthy that the cost of the goods and services provided by Foremost with respect to the criticized change order work in the amount of \$368,904.00, was less in cost than two other quotes for the

See  
Note 10  
Page 18

same scope of work that was secured by the Business Office before approval of the change orders by the Board of Education. Those quotes were in the amounts of \$382,200.00 and \$387,368.00, respectively. Thus, there is no reason to believe that the utilization of change orders as opposed to a rebidding process worked in any way to the economic disadvantage of the District or its taxpayers.

Finally, the Draft Audit Report tends to point a finger of blame at the District's administrators, without taking into account the involvement of the professionals who informed the Board, and the State Education Department who, without hesitancy, approved the change orders.<sup>1</sup>

See  
Note 7  
Page 17

#### ***Plumbing Contract Change Orders***

The Plumbing Contract change orders awarded by the District were noted in the Comptroller's Draft Audit Report as being several and not significant on an individual event basis. With that stated, we refer to the analysis set forth above for electrical change orders, noting particularly, that the contractor to whom the change orders were awarded also provided the District with a performance bond and a surety to assure that all of the work to be performed would be secure. These change orders were vetted through the process described above, including receipt of SED approval for the change order work.

#### ***General Contractor Change Orders***

The change orders awarded to the General Construction Contractor have been characterized, in part, in the Draft Audit Report as being matters that should have been known at the inception of the design phase of the work at issue. However, as pointed out to the Comptroller's Audit Team during the audit period, one of the significant change orders, in the amount of \$129,030.00 (the "curtain-wall in the Library"), was discovered only after the deconstruction of the case work surrounding the existing window. Consequently, this part of the draft report is not only factually inaccurate, but also unfounded and unfair.

See  
Note 11  
Page 18

As a general premise, the Draft Audit Report failed to acknowledge that each and every change order was separately discussed and voted upon by the Board at Open Meetings of the Board of Education. All actions were completely transparent to the public and the public record of the same is described in detail in the official minutes of the Board of Education.

See  
Note 2  
Page 16

#### ***Other Points of Response***

During the audit period it was made known to the audit team that all change orders were implemented in compliance with the Board's Change Order Policy of

<sup>1</sup> For example, at page 8 of the Audit Report reference is made to the signing of change orders by the Interim Superintendent on June 10, 2010 without reference to the fact that the same had been vetted with the Board of Education and approved by them on June 7, 2010 (Facts known to the Auditors during the audit period).

November 23 2009, each was publicly discussed and approvals were obtained from the Board, as well as from the State Education Department. This process held true for all change orders initiated by the then Interim Superintendent of Schools, who did so in consultation with the District's Architect and School Attorney.

The emergency declaration resolution to address the health and safety issue that presented in the aftermath of the storm, led to a process of additional professional design work and submissions for approvals by SED that took several months to complete (ending on May 6, 2010). The District respectfully submits that there were emergency circumstances to correct the exposed electric wires at lighting stanchions that were in areas remote from those described in the original project specifications. That the plans and approvals were not designed or State approved for several months did not change the circumstances from dealing with an emergency to one that should be otherwise characterized. This type of emergency that is dealt with through a legitimate change order process does not require a re-bidding process for the additional work by reason of Section 103 of the General Municipal Law.

See  
Note 12  
Page 18

***Conclusion***

We recognize that, at times, there may be a gray area between when a public entity may proceed by change order as opposed to when additional work falls beyond the scope of that which should be addressed by change order. To that end, in appreciation of the recommendations of the Audit Report, the District will, in terms of corrective action, review and revise its Change Order Policy to add definitions consistent with the Comptroller's Decisions cited above.

Very Truly Yours,

Valencia Douglas, Ed.D.  
Superintendent

VFD/gld

cc: Pocantico Hills Board of Education  
Jay Scotto-Friedman, Assistant Superintendent  
David Shaw, School Attorney

## APPENDIX B

### OSC'S COMMENTS ON THE DISTRICT'S RESPONSE

#### Note 1

We generally conduct an onsite risk assessment to help us determine whether a local government should be audited and, if so, to identify the areas of potential risk. A risk assessment is not an audit; therefore, it does not result in a report. We did not change the audit scope, which refers to the time period and audit objective. We completed a performance audit.

Performance audits, as defined by the U.S. Government Accountability Office's Auditing Standards (2011 revision), are "audits that provide findings or conclusions based on an evaluation of sufficient, appropriate evidence against criteria. Performance audits provide objective analyses to assist management, and those charged with governance and oversight, in using the information to improve performance and operations, reduce costs, facilitate decision-making by parties with responsibility to oversee or initiate corrective action, and contribute to public accountability."

#### Note 2

District officials did not cooperate fully with OSC examiners. We had to ask numerous times for documents before they were furnished, and we never obtained the same documents twice. In addition, as part of our audit process, we scheduled an exit conference with the Superintendent and the Assistant Superintendent, who was the official in charge of the project. The exit conference is an opportunity for the District to provide input relative to the draft report and helps us clarify any potential ambiguities and/or obtain additional information, if needed. However, the District officials declined to meet with us and stated that they would respond to our draft report and related questions in writing.

#### Note 3

The facts here are different from those in each of the Comptroller's opinions cited in the District's response. Legal opinions cited by the District concerned circumstances when additional work was performed in order to efficiently complete the original project or as a direct outgrowth of the original project. The additional work referred to in our audit was unrelated to the original project.

#### Note 4

The District's response appears to indicate that, while the District believes the storm was an emergency weather event, the District is not relying on the statutory emergency exception to bidding in GML as a rationale for not bidding the additional work. Instead, the District is asserting that the additional electrical work could be provided without bidding in accordance with legal principles relating to when additional work may be performed without competitive bidding pursuant to change orders.<sup>5</sup>

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<sup>5</sup> We were informed by SED that the electrical change orders costs were ultimately approved by SED because the District indicated the changes were the result of emergency conditions.

To fall within the statutory emergency exception, the situation must arise out of an accident or unforeseen occurrence affecting, among other things, public property, and must require immediate action that cannot await competitive bidding. The change order certifications for the three emergency change orders merely stated the number of exterior light fixtures, cost, and the following statement: “Field condition discovered after project began: existing light poles in dangerous condition/need for wiring replacement.” The three change orders concerned a total of 41 light poles while District officials stated in their response that approximately 10 light stanchions were damaged due to the emergency. It is not clear that all 41 stanchions needed replacement as a direct result of the storm. Moreover, even if they did, the time span between the storm and the completion of the work, taking into account the time needed to obtain SED approval, indicates it is unlikely that the situation required immediate action that could not await competitive bidding as required under GML.

#### Note 5

A performance bond to assure quality of work is a standard requirement for construction contracts and would have been required from any other successful vendor if the change orders were competitively bid. Moreover, the courts have concluded that giving responsibility for the additional work to the contractor already on the job site is not a sufficient rationale to support a change order without bidding.

#### Note 6

Even if the nature of the work is similar to the work already being performed by the contractor, that alone is not sufficient rationale to support a change order without bidding. It is both the nature and scope of the work that is determinative. Based on the documents provided by the District, the additional electrical work here appears to be unrelated to the original plan and involves areas not within the project scope. The response itself states that the work was performed on lighting stanchions “that were in areas remote from those described in the original project specifications.” Moreover, while the dollar amount or percentage increase is not the sole factor in determining whether a change is merely incidental or constitutes a new undertaking, the electrical changes here represented a 70 percent increase, suggesting a new undertaking that requires competitive bidding.

#### Note 7

According to the New York State Education Department (SED), the approval of the change orders was based on code and the District’s representation of emergency, not on the procurement of service. We amended our report to show that the Board and SED also approved the change orders.

#### Note 8

The Comptroller’s opinions cited in the District’s response concerned circumstances when additional work was performed in order to efficiently complete the original project or as a direct outgrowth of the original project. The additional work addressed in this report, however, was unrelated to the original project. Moreover, none of the three opinions that the District cites reached a definitive conclusion on whether performing the additional work under the change orders without bidding was proper under the circumstances.

Note 9

The fact that the additional work ultimately was integrated into the same electrical system as the original project work, by itself, does not make it merely incidental to the original project. Similarly, the fact that District property outside the original plan was damaged in a storm, by itself, does not necessarily justify a change order to repair that damage without bidding, even though the nature of work may be similar to that of the original project.

Note 10

We acknowledge that the cost of the change orders was less than the cost of the two quotes. However, it is possible that the total cost could have been less if the vendors were allowed to bid on the complete package of electrical items instead of the partial package plus change orders.

Note 11

We amended the report to remove the example of the curtain wall.

Note 12

This paragraph is inconsistent with the District's previous statement in its response indicating that the District is not relying on the statutory emergency exception to bidding contained in the GML. In any case, for reasons stated in our report and in Note 4, it is not clear that the circumstances qualify for the statutory exception for an emergency.

## **APPENDIX C**

### **AUDIT METHODOLOGY AND STANDARDS**

We conducted an on-site risk assessment which identified potential planning weaknesses associated with change orders that resulted in significant additions to District contracts. We therefore decided to conduct an audit of the management of capital projects. Because the District had only one project near completion during the audit period, a renovation project financed through issuance of \$18 million in bonds, we concentrated on that project.

We interviewed appropriate District officials, performed detailed analyses and tests of transactions with the various contractors, and reviewed pertinent documents such as District policies and procedures manuals, Board minutes, contracts, change orders, Contractor Requests for Payment for each type of contract, bond issuance documentation, and competitive bidding procedures and awarding of contracts.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

## APPENDIX D

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**APPENDIX E**  
**OFFICE OF THE STATE COMPTROLLER**  
**DIVISION OF LOCAL GOVERNMENT**  
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Andrew A. SanFilippo, Executive Deputy Comptroller  
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