

SUMMARY

Misclassification of Design Errors and Omissions at NYC Transit MTA/OIG Report #11-15

Once a contract for a capital construction project has been agreed to by NYC Transit and a contractor, any change in the scope of the contract must be processed as an Additional Work Order (AWO, also called "change order"). AWOs can add significantly to the cost of construction primarily because the price of the work is obtained through negotiation with the existing contractor only, rather than through a competitive procurement process. Typically, NYC Transit will have little leverage in these negotiations because it needs the work to be done, and alternatives to working with the existing contractor will likely be even more costly. NYC Transit's Department of Capital Program Management (CPM) spent \$344 million on AWOs for projects closed between years 2001-2010.

Some AWOs are unavoidable, as when work is needed to address unforeseeable conditions or changes in technical standards that arise after the contract was awarded. On the other hand, AWOs caused by design errors and omissions are clearly avoidable and should not be repeated in future contracts. In order to prevent the repetition of mistakes CPM construction managers must accurately classify additional work caused by design errors and omissions so that other managers can initiate a "lessons-learned" procedure as to what went wrong.

While only 59 of the total 1,422 AWOs (4 percent) issued by NYC Transit in 2009 and 2010 were classified by managers as resulting from a design error or omission, our analysis of 46 other AWOs found that 11 (24 percent) were misclassified as caused by a field condition or user request when they were actually caused by an error or omission during design. Furthermore, we learned that some CPM construction managers were reluctant to properly classify error and omission AWOs because they were hesitant to confront CPM designers, with whom they may work on future projects, or because of the increase in paperwork that error and omission entail. Thus, our findings indicated that a significant number of design error and omission AWOs were misclassified, and that NYC Transit was at risk of repeating design mistakes. In this report, the OIG made recommendations to improve the ability of NYC Transit to correctly identify and therefore learn from design errors and omissions.

NYC Transit accepted all of our recommendations and is in the process of modifying its procedures to comply with them. Once the procedures are finalized, the agency plans to train its employees and then implement the procedural changes. Most important, NYC Transit agrees that it must correctly categorize design errors and omissions. As such, we will continue to monitor its progress toward fulfilling this commitment.