

DEPARTMENT OF CULTURAL AFFAIRS

FY 2013 Capital Funding Seminar



www.nyc.gov/culture

Agenda

1. Capital Eligibility
2. FY13 Request Process
3. Key Dates
4. Question & Answer



New York Botanical Garden

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 & maximize the effectiveness of public/private partnerships
- Preserve and promote the highest quality cultural facilities, programs and collections



Brooklyn Children's Museum: Construction

Capital Funding Basics

New York City allocates capital funding to cultural organizations on an annual basis.

Capital appropriations are allocated by the:

1. Mayor
2. City Council
3. Borough President

Unlike DCA Programmatic funding which is an Application Process, the Capital funding process is known as a Request. This means your request is evaluated by DCA and discussed with elected officials to whom you request funds from.

If you plan on requesting capital funds, you should meet your Borough President and Council member/s and talk with a DCA Capital representative about your capital project PRIOR to submitting a request.

Capital Funding Basics

Baseline requirements for requesting capital funding:

- Your organization is a not-for-profit with documented tax-exempt status pursuant to Section 501(c)(3) of the internal Revenue Service code or able to designate a fiscal conduit with such status.
- Your organization received institutional or programmatic support from the Department of Cultural Affairs in one of the past three fiscal years. i.e. FY2010, FY2011, FY2012.
- Your organization guarantees that any capital funding received from the City will not be used to advance or support sectarian activity, including (but not limited to) religious worship, instruction or proselytizing.

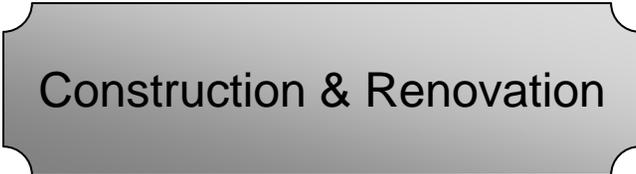
Capital Funding Basics

Capital funds are secured by Government Bonds and are restricted for use through Accounting Directive 10 (AD10).

A copy of Accounting Directive 10 is available in this Seminar and is also digitally accessible at the Comptroller's website:

http://www.comptroller.nyc.gov/bureaus/acc/directive_10_intermed.shtml

Based on AD10, the types of capital projects eligible for funding are:



Construction & Renovation



Equipment

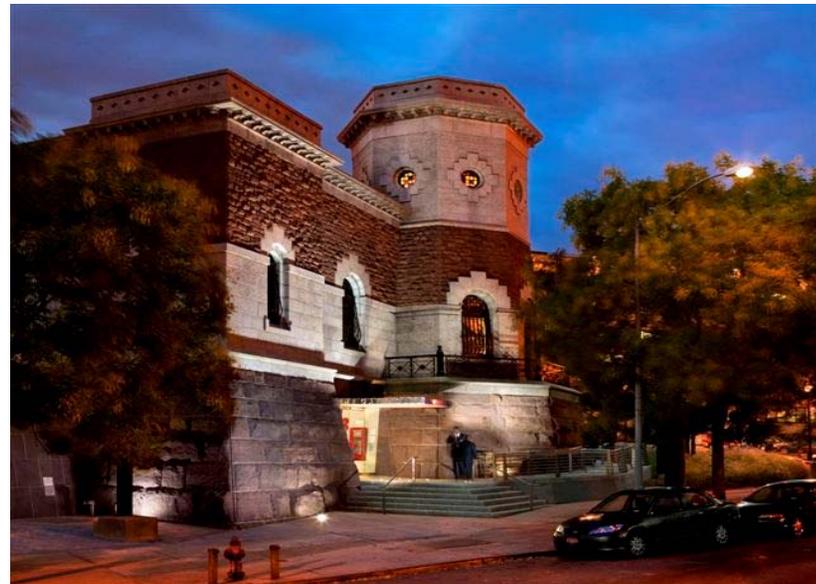
Capital Eligibility – Project Types

Construction/Renovation

- Construction of new facility
- Expansion of existing facility
- Significant upgrade or renovation of existing contiguous space
- Upgrade or replacement of building system e.g. HVAC

Equipment

- Equipment systems or standalone equipment (e.g. sound system or piano)
- Vehicles (10+ person capacity)



Harlem Stage 135th St. Gatehouse: Construction

NOT Capital Eligible

Maintenance

- Repair/Maintenance work e.g. roof patching
- Painting & carpeting unrelated to capital project
- Extended warranties
- Maintenance agreements & service contracts

Operational

- Employees' salaries
- Administrative expenses
- Training

Studies

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

Fixtures

- Fixtures or equipment that requires attachment to the property is ineligible without a restrictive covenant or security agreement
- Organization-specific signage/donor plaques

Other

- Fundraising, financing, owners rep or legal fees
- Work performed prior to the capital appropriation
- Custom Databases

Capital Eligibility

Ref: Accounting Directive 10 / Local Finance Law

To determine if your project is eligible for City capital funding, it needs to meet the following requirements:

Comprehensive

- Creates new asset/systems
- Significant upgrade of an existing asset

City Purpose

- Provides public benefit for improvement's or equipment's useful life

Long-Term
Investment

- Equipment = 5 to 10 years
- Construction/Renovation = 10 to 30 years

Minimum City
Contribution

- Equipment = at least \$35,000
- Construction/Renovation = at least \$500,000*

*for non-City owned property

Capital Eligibility - Legal

There are also legal requirements your organization **must** agree to:



City Interest

- Property must be either City-owned or if not City-owned, a Restrictive Covenant or Security Agreement must be executed.



Restrictive Covenant

- When capital funds are being used for a renovation or new construction project*
Ensures the City has first rights on the property.



Security Agreement

- When capital funds are being used for moveable equipment systems.

*If the property is owned by a third party (e.g. landlord, bank), the Restrictive Covenant must be agreed to and signed by that third party.

Capital Eligibility - Legal



Use Restriction

- The improved property or purchased equipment must be used consistently with the mission of the organization for the duration of the useful life* of the improvement or equipment



Recorded against (real) property

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



First Priority Lien

- Other liens against property (mortgages, financing, loans, etc.) *must* be subordinated to the City's interest**

*The useful life of a project is based on its estimated physical life and the New York State Local Finance Law. Under AD10, the City may not fund any assets with a useful life that is less than five years.

**If the property is owned by a third party (e.g. landlord, bank), the lien subordination must be agreed to and signed by that third party.

Capital Eligibility - Local Laws and City Policies

City-funded projects must meet certain Local Laws and City Policies. These are three that typically affect cultural projects:

Local Law 86: Green Buildings Law

- Sustainable design intended to reduce energy and water consumption
- Applies to capital projects with City contribution over \$2M or >50% of project costs
- http://www.nyc.gov/html/oec/html/green/ll86_basics.shtml

Local Law 58: Accessibility

- Requires design features in new construction and renovation that foster access for people with disabilities
- Applies to new buildings or renovations >50% building footprint
- http://www.nyc.gov/html/mopd/downloads/pdf/local_law58.pdf

M/WBE Legislation

- Sets goals for participation of minority or women owned construction and professional service firms in City projects
- <http://www.nyc.gov/html/law/html/opportunities/opportunities.shtml>

Capital Eligibility – City contribution vs Private

The minimum City contribution to a capital project on non-city owned property is:

Equipment - \$35K

Construction/Renovation - \$500K

If your total project cost is less than the minimum, your project is not capially eligible.

In addition to this minimum, before the project starts, any gap between funds available and total project cost must be closed through secure private sources such as:

Non-City contributions

Bank financing

For construction/renovation projects, the total project cost must include:

10% Design and 10% Construction contingencies

Interfund Agreement Fee (IFA)

An administrative fee that is deducted from your capital funding allocation



St. George Theater: Equipment

Capital Eligibility - Timelines

The City typically manages your construction or renovation project, or procures the equipment for your organization.

Construction / Renovation Projects*

- Design (6 - 18 months depending on complexity)
- Construction (9 months – 4 years depending on scale)

Equipment Systems or Standalone Equipment Projects

- 12-18 months from Funding Award to Project Close

Vehicle Projects

- 12-24 months from Funding Award to Project Close

*Managed by the City (DDC), it does not include procurement which adds approx. 3-6 months

**Do not expect to be reimbursed.
Do not expect the project to follow your preconceived timeline.
The City cannot pay for work completed prior to the appropriation.**

Request Form

The Capital Request Form is a comprehensive form asking for detailed information including project scope, budget, private contributions, operating projections, etc., as relevant to your project. It consists of:

1) Introduction / Guidelines

2) Organization Section

- Provides background information on your organization.

3) Project Section

- Construction or Renovation (**Appendix A**)
- Intentionally left blank (**Appendix B**)
- Moveable Property – Equipment System(s) (**Appendix C**)
- Vehicle(s) (**Appendix D**)

4) Attachments

- Cultural Data Project (CDP) Capital Report via Pew Charitable Trusts
- Organization and Appendix Attachments, as required

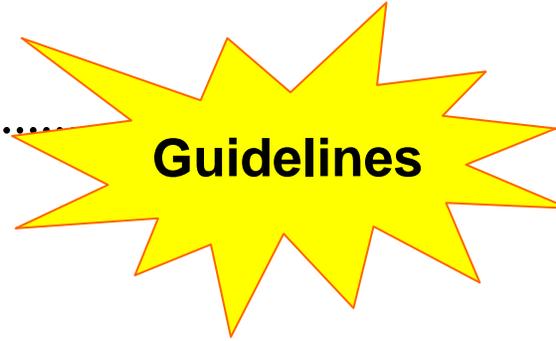
Submitting an accurate and comprehensive request is extremely important to ensure your project receives every consideration.

Request Form – Guidelines

THE CITY OF NEW YORK
DEPARTMENT OF CULTURAL AFFAIRS

GUIDELINES FOR CAPITAL FUNDING FOR CULTURAL ORGANIZATIONS¹

FISCAL YEAR 2013



INTRODUCTION

Although the City of New York (the “City”) has compelling needs for capital projects that improve upon its own property, the City may, on occasion under certain circumstances, appropriate capital dollars to a not-for-profit organization for a particular capital project serving a defined City purpose, in spite of the fact that the property may not be owned nor leased by the City (a “Project”). In such cases, as required by the New York State Constitution, the Project must be operated such that it will continue to serve a City purpose for its entire useful life (which corresponds to the period that the bonds issued by the City to finance the Project remain outstanding). Projects may involve real property (such as construction or reconstruction or land/buildings and fixtures) or Moveable Property (such as equipment that is not attached or minimally attached to real property). Please note that these Guidelines apply, and the Request Form (as defined below) would need to be submitted, for projects that (i) are on property that is not owned or leased by the City or (ii) are owned by the City but are leased or licensed to a not-for-profit seeking to enter into a funding agreement or other contract with the City to receive funds to improve the property (in which case, approval from the City agency that acts as landlord is required and all improvements must comply with the terms of the City lease or license agreement).

Appropriations and distributions of funding for Projects are made only after an applicant organization demonstrates the capacity to comply fully with all legal requirements in connection with such funding including, but not limited to: the restriction on the use of the Project to a City purpose for its entire useful life, and the requirements of the City Charter, the New York State Local Finance Law, the directives of the City Comptroller, and other applicable laws and regulations and reporting requirements. In addition, before an appropriation is made, recipient organizations must demonstrate the financial and administrative ability to complete the Project and support and operate the completed Project for its useful life.

These Guidelines describe the process used by the City when considering the appropriation of capital funds to not-for-profit organizations for Projects. Further, these Guidelines describe the process for implementing and administering a Project. They are intended to ensure that all Projects serve legitimate City purposes and greatly increase the likelihood that Projects for which City funds are appropriated can be implemented.

You MUST read the Guidelines as it contains valuable information which will help you determine if your organization’s project is capially eligible.

It also contains instructions on how to complete the forms as well as example legal documents such as a Restrictive Covenant and License Agreement.



Request Form – Organization Section Notes

Only one Organization Section is required.

Mayor’s Office of Contract Services (MOCS)

The Mayor’s Office of Contract Services (MOCS) is the City’s compliance and oversight agency for procurement and requires the following be submitted as Attachments:

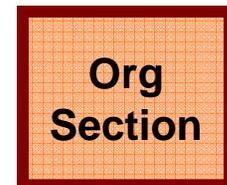
- Doing Business Accountability Project form

Enables the City to collect accurate, up-to-date identification information about organizations that have business dealings with the City. Local Law 34 limits municipal campaign contributions from principal officers, owners and senior managers of these organizations. The form must be completed, regardless of whether the people associated with it make or intend to make campaign contributions.

- Certificate of No Conflict of Interest

The organization affirms, to the best of its knowledge, that no City Elected Official, nor any person associated with any City Elected Official, is an employee, Director or Trustee, Officer or consultant to/of, or has any financial interest, direct or indirect, in the organization, or has received or will receive any financial benefit, directly or indirectly, from the organization or from this funding.

If you have any questions or concerns about these two forms, please **call MOCS on 212 788 0010.**

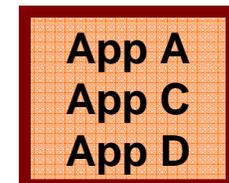


Request Form – Project Section (Appendix) Notes

Requesting for more than one capital project

If you are requesting capital funds for multiple construction/renovation projects or multiple equipment systems, you are required to prepare separate appendices.

- We **strongly suggest** prioritizing your requests as any new funding will be extremely limited.
- Each project should be a **separate appendix**. E.g. Two equipment systems (audiovisual and lighting systems) should be two Appendix C documents.
- The online submission database allows for organizations to submit multiple appendices.



Request Form Download

The FY13 Capital Request form/s are available for download via the DCA website.

http://www.nyc.gov/html/dcla/html/funding/capital_funding_request.shtml

The downloaded forms are WORD 2007 files, and we require these documents to remain WORD files.

Attachments have no file restrictions and may include WORD, EXCEL, PDF, Powerpoint or any other type.

Once you are ready to submit, there is a link provided on DCA's website to the Office of Management and Budget's 'CapGrants' secure site.

Request Form Upload

The submission process has been streamlined and involves using the Office of Management and Budget (OMB) CapGrants site.

- You must register and use the organization-specific NYC ID Username for your submission.
- The website allows for multiple users to work on the same submission.
- Users may intermittently attach various documents to their submission as they finish each document.
- Once all required and completed documents are attached to your submission, you may submit or 'upload' your request to the City's secure server.
- **Successful** submissions will receive a **Submission Code**

Step-by-step videos on navigating and using the website are available. There is also an OMB help line should you have any technical difficulties.

**Please ensure all your documents are complete before uploading your submission.
You WILL NOT get the opportunity to resubmit your request.**

Key Dates

Request Form

Available to download

January 5, 2012

Borough President (BP)

Submission deadline for requesting BP funds only or BP and DCA funds.

February 28, 2012

Note: if your request is to all three sources, i.e. BP, CC and DCA, the deadline is February 28, 2012.

City Council (CC) & DCA

Submission deadline

April 9, 2012

We recommend allowing extra time to submit your request due to the expected high volume of submissions on the deadline dates.

Questions?

Questions: Contact your **DCA Capital Project Manager**.

If you do not have one, contact the following:

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Director of Special Projects
Construction / Renovation
Tel: (212) 513-9330
achin@culture.nyc.gov

Jose Jimenez
Deputy Agency Chief Contracting Officer
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Weeksville Heritage Center: Renovation