157068

GAO

United States
General Accounting Office
Washington, D.C. 20548

Resources, Community, and
Economic Development Division

B-271806

June 28, 1996

Congressional Requesters

During 1995, the District's financial crisis deteriorated to a point at which the District was severely hampered in its ability to fund its transportation program, which includes the design, engineering, construction, and maintenance of streets, bridges, and highways. The District's need to use local funds to help pay past bond obligations resulted in a lack of funds for local highway projects and eventually culminated in a lack of matching funds for use in securing funds under the Federal-Aid Highway Program.[1]

With the urging of the Federal Highway Administration, the Congress passed the District of Columbia Emergency Highway Relief Act, which the President signed into law on August 4, 1995. The act provides for a temporary waiver of the District's matching share of federal funds for fiscal years 1995 and 1996 for eligible federal-aid highway projects. As a condition for this waiver, the act requires the District to establish a dedicated highway fund to repay the waived amounts and make future matching share payments and requires GAO to annually review and report (by December 31) on the financial condition and operations of the highway fund. The act also requires GAO to review and report (by July 1, 1996) on the District's implementation of requirements to (1) process and execute federal-aid highway contracts expeditiously; (2) ensure that the necessary expertise and resources are available to plan, design, and construct highway projects, and make administrative and programmatic reforms required by the Secretary of Transportation; and (3) establish an independent revolving fund account for highway projects. As agreed with your offices, this is an interim report. We will continue to monitor the District's efforts and provide a more detailed, final report at a later date. Our initial report on the financial condition and operations of the District's highway fund will be issued

[1]For most federal-aid highway projects, the federal government pays 80 percent of the project's cost, and the state (or, in this case, the District) pays a matching share of 20 percent.

separately by December 31, 1996.

In summary, we found the following:

- The length of time for processing and executing federal-aid highway contracts has declined; however, it still averages 104 days to process and execute contracts under $1 million and 168 days for contracts over this amount. These time frames are far longer than the 45 days the Federal Highway Administration recommends. The District recently agreed to implement a pilot program, which streamlines the approval process, in hopes of shortening the time frames.

- To ensure that the District of Columbia Department of Public Works–which is responsible for the District's transportation program–has the necessary expertise and resources and to bolster its pursuit of reforms, the Department's Director requested, in August 1995, the Federal Highway Administration to conduct a technical review of the Department's capabilities to carry out its responsibilities. In its April 1996 report, the review team made numerous recommendations in seven specific areas of operation, including procurement and budgeting, and on issues common to all of the subject areas, such as personnel, training, and computer systems.

- In December 1995, the District established a Highway Trust Fund. However, the cash equivalent of the motor fuel tax revenues collected, which was to be deposited in the fund, was not segregated from the District's General Fund until May 1996, when $18.3 million was transferred to the highway fund account. Additionally, that month the District transferred $5 million–part of a larger amount borrowed earlier from the U.S. Treasury–for a revolving fund to ensure timely payments to contractors on federal-aid highway projects.

BACKGROUND

The Federal Highway Administration (FHWA) was concerned about the District's inability to match federal funds and to effectively and safely maintain the existing highway system. On June 29, 1995, FHWA and the District signed a memorandum of agreement stipulating that, in exchange for FHWA's seeking legislation to waive the matching funds, the District would ensure that the District of Columbia Department of Public Works (DC DPW) had the authority to process its procurements, hire and retain staff, and establish a revolving fund. By the fall of 1995, the District had not advertised any construction contracts for the previous 20 months, nearly $180 million in federal-aid funds had been obligated but not expended because of the lack of matching funds, an

estimated $170 million in federal-aid funds had been obligated but not expended because of environmental litigation, and the maintenance of the existing roadway system had been drastically curtailed.

EFFORTS TO PROCESS AND EXECUTE CONTRACTS EXPEDITIOUSLY

A key component of the act, which is also enumerated in the June 29, 1995, memorandum of agreement between the District and FHWA, requires the District to expeditiously process and execute contracts to implement the Federal-Aid Highway Program. The memorandum highlights the District's agreement to expedite work by delegating the necessary authority for federal-aid highway projects to the Director, DC DPW. The act did not define the term expeditious; thus, its definition was left to FHWA. According to FHWA officials, the processing time for federal-aid highway contracts should normally take 45 days or less–a time frame that most states are achieving.

The DC DPW has the authority to process and execute federal-aid contracts under $1 million. However, federal-aid contracts over $1 million must be approved by the Mayor, which entails a series of reviews by the District's Procurement Review Committee, Department of Administrative Services, Office of Corporation Counsel (two legal sufficiency reviews), and the City Administrator. In addition, the Mayor is required to formally submit federal-aid contracts to the District's City Council and the Financial Responsibility and Management Assistance Authority (Financial Control Board) for approval. Enclosure I shows the District's current federal-aid contract award process.

Contract Award Process Has Been Lengthy, but the Time Has Declined for the Most Recent Contracts

The District's multilevel, multiagency contract award process for federal-aid construction contracts has been lengthy. For example, FHWA's review of contracts awarded in 1993 and 1994 found that the average time between bid opening[2] and contract execution[3] was 181 days for contracts under $1 million and 230 days for contracts over $1 million. Also, FHWA found that the average

---

[2]The contract bids that are received are opened publicly, at the time, date, and place designated in the invitation for bid.

[3]A contract is executed on the date that the contracting officer signs it.

time between bid opening and the notice to proceed[4] with construction was 210 days for contracts under $1 million and 300 days for contracts over this amount.

Since the passage of the District of Columbia Emergency Highway Relief Act, DC DPW has processed and executed 18 construction contracts totaling $43.2 million–15 contracts under $1 million totaling $8.8 million and 3 contracts over $1 million totaling $34.3 million. In addition, 14 contracts with low bids totaling $17.7 million are in the review and approval phase of the award process. Of these 14 contracts, 8 totaling about $5.3 million are under $1 million, and 6 totaling $12.4 million are over $1 million. Finally, eight contracts with engineering estimates totaling between $50 million and $64 million have been advertised, but bid opening had not occurred as of June 3, 1996.

We reviewed DC DPW's contract files to determine the time it took to process and execute the 18 contracts. We found that 9 of the 18 contracts had been advertised and were in the contract award process prior to the act's passage in August 1995. In fact, five of the nine contracts had already been executed, but the notice to proceed with construction had not been issued. DC DPW officials informed us that the processing of these nine contracts had been suspended since 1994 because the District could not meet the requirement to provide matching funds. The remaining nine contracts were advertised and executed after the act's passage. Table 1 shows the average number of days required for the District's contract award process.

---

[4]The notice to proceed is the District's formal authorization for a contractor to start construction. The date of this notice is used to monitor a contractor's performance in meeting a contract's time frames.

Table 1: Average Number of Days to Process and Execute Contracts

Contract type	Number of contracts	Contract amount (dollars in millions)	Average number of days from bid opening to contract execution
Contracts under $1 million			
In process before act	8	$4.5	434
In process after act	7	$4.3	104
Contracts over $1 million			
In process before act	1	$1.8	667
In process after act	2	$32.5	168

Overall, our analysis of the contracts processed before and after the act's passage shows that the District has significantly reduced the average time between bid opening and contract execution–from 434 to 104 days for contracts under $1 million and from 667 to 168 days for contracts over $1 million. The average times for contracts processed and executed before the act's passage are higher because they include time when processing was suspended because of a lack of matching funds. The average times for the contracts after the act's passage are probably a better indication of the District's ability to process and execute construction contracts.

Our analysis indicates that the major difference in the average times for the most recent contracts under and over $1 million occurred between the time that the bid evaluation phase was completed, including the obligation of funds, and the time that DC DPW issued the notice of intent to accept a contractor's bid. This phase of the contract award process averaged 6 days for contracts under $1 million and 58 days for contracts over $1 million. This difference occurred because of the time needed for the review and approval of contracts over $1 million by the Mayor, City Council, and Financial Control Board.

Pilot Program Would Streamline the Portion of the Process Outside DC DPW

On June 6, 1996, the District, FHWA, and the Financial Control Board entered into an memorandum of agreement to establish a federal-aid highway pilot program at DC DPW. The purpose of the agreement is to establish a process that will allow federal-aid highway contracts to be awarded more expeditiously.

As shown in enclosure II, the contract award process under the pilot program is more streamlined than the current process. However, various mayoral orders, statutes, regulations, and procedures will need to be amended to eliminate a number of the reviews and approvals, as proposed by the pilot program.

Currently, federal-aid highway contracts are being submitted individually for review and approval by the Mayor, City Council, and Financial Control Board. Under the pilot program, DC DPW would submit an annual program of federal-aid highway projects to the City Council and the Financial Control Board for their review and approval. Once the annual program was approved, each individual contract related to the projects in the program would be considered approved. However, the pilot program would reserve the right for the (1) District's Chief Financial Officer to certify the availability of funds for individual contracts and (2) Financial Control Board's review of individual contracts at its discretion. According to the agreement, these reviews and certifications should take no more than 3 business days.

The pilot program is intended to move the District closer to the 45-day contract award process that is more typical of other recipients of federal-aid highway funds. However, even by eliminating the reviews and approvals by the Mayor, City Council, and Financial Control Board, our analysis indicates that the District's federal-aid contract award process would still average over 100 days. An examination of the time to award contracts under as well as over $1 million by FHWA's review team (discussed below) suggested that procedures within DC DPW also take significant amounts of time. The review team concluded that efforts to reduce the time for the contract award process will also have to come from shortening the various processes within DC DPW.

RESOURCES AND ADMINISTRATIVE/PROGRAMMATIC REFORMS

The act requires the District to ensure that the necessary expertise and resources are available to plan, design, and construct federal-aid highway projects. Furthermore, the act stipulates that the Secretary of Transportation, in consultation with the Financial Control Board, may require administrative and programmatic reforms by the District to ensure the efficient management of the Federal-Aid Highway Program in the District.

In a letter dated August 21, 1995, the Director, DC DPW, requested that FHWA provide technical assistance to facilitate the implementation of the act's requirements. In response, FHWA established a review team, consisting of representatives of FHWA, DC DPW, and the private sector, to assess the current capabilities of DC DPW to carry out its federal-aid highway program and

present recommendations for improving its organization, systems, and resources, which is consistent with the intent of the act. Subteams were formed to focus on seven specific areas–project programming and planning, fiscal matters, procurement, project development, traffic and safety, construction contract administration and inspection, and maintenance.

Overall, the review team identified a number of issues in the seven subject areas, as well as issues common to all the subject areas, for which the team made recommendations. For example, the review team found that (1) addressing personnel, budgeting, and procurement problems would allow DC DPW to streamline its operations, as well as expedite the administration and delivery of its programs; (2) DC DPW's staffing has decreased significantly over the past 5 years, resulting in an understaffed and demoralized organization; (3) the District's budgeting process is lengthy because of required reviews by the District government, the Congress, the Financial Control Board, and others; (4) the procurement process for contracts over $1 million is arduous; (5) training of personnel is lacking in each of the seven subject areas; (6) modern computer hardware and software support are needed in each subject area; and (7) the lack of operation and maintenance funds has resulted in a deteriorating District highway system functioning at no more than a minimal level of service. The review team recommended changes to DC DPW's current organization to better align and coordinate operations and functions, streamline the existing organization and processes, more evenly distribute workload, and provide focus and emphasis within and among the subject areas. More details on the team's findings and recommendations may be found in its Summary Report of Technical Assistance Provided to The District of Columbia Department of Public Works, April 1996.

In response, FHWA and DC DPW officials met twice in April 1996 to determine if the review team's recommendations were acceptable and doable. FHWA and DC DPW then prioritized the issues covered by the recommendations as follows:

– procurement,

– budgeting,

– project programming and tracking,

– operations and maintenance,

– personnel,

– training, and

– computer systems.

Recent actions have been taken in response to some of the recommendations. For example, on June 5, 1996, the City Council passed legislation authorizing the Mayor to charge rental fees to public utility companies and others using public space and rights-of-way. This is one of several efforts the District is taking to generate additional revenue. Any amounts in excess of $11 million, which is to go toward the District's deficit reduction, will be deposited in the Highway Trust Fund and earmarked for the repair of local (non-federal-aid) streets. This action responds, in part, to recommendations made about operations and maintenance. As discussed earlier, the actions taken on June 6, 1996, to simplify the District's federal-aid highway contracting process respond, again in part, to recommendations made about certain cross-cutting issues and procurement.

According to FHWA and DC DPW officials, additional actions in response to the other recommendations are expected to follow. Some actions, the officials explained, can be taken care of in the short term, while others will be dealt with over a longer term.

DEDICATED HIGHWAY FUND AND INDEPENDENT REVOLVING FUND ACCOUNT

The act required the District to establish by December 31, 1995, a dedicated highway fund, separate from the District's General Fund, comprising amounts equivalent to the receipts from motor fuel taxes and, if necessary, motor vehicle taxes and fees collected by the District. On December 8, 1995, the District passed emergency legislation to establish the District's Highway Trust Fund. On May 3, 1996, District Law 11-116 was enacted to continue this fund on a temporary basis. This temporary legislation will expire on December 14, 1996, or when legislation establishing the fund permanently is enacted. The City Council is currently considering a bill to permanently establish the trust fund.

The District's motor fuel tax revenues are estimated to be $34 million for fiscal year 1996. Until May 1996, however, the cash collected was not segregated from the District's cash management pool (pooled cash).[5] In May 1996, the

[5]Unless prohibited by law, the District's cash from all funds is combined into a cash management pool. The cash management pool is used to make transfers

District established a Highway Trust Fund bank account with Signet Bank and on May 24, 1996, transferred $18.3 million–representing the fiscal year 1996 taxes collected through April 25, 1996–from the cash management pool to the trust fund account. In the future, monthly collections are to be transferred to the Highway Trust Fund.

Revenues from the Highway Trust Fund are to be allocated on a priority basis. As required by the act, the first priority will be given to paying back the District's share of federal-aid highway projects' costs waived during fiscal years 1995 and 1996. For fiscal year 1995 and fiscal year 1996 through the end of May, the District estimates that it will have to repay about $2.2 million and $3.8 million, respectively. The District's remaining priorities in allocating trust fund revenues are to pay (1) the local share of federal-aid highway projects' costs, (2) the salaries (estimated at about $6 million per year) of District personnel associated with federal-aid projects, and (3) the funding for nonfederal highway projects.

The August 1995 act also required the District to establish a revolving fund account, separate from DC DPW's capital account, for the purpose of making prompt payment to contractors completing federal-aid highway projects. In October 1995, the District borrowed $96 million from the U.S. Treasury, including $5 million to establish the revolving fund. These funds were added to the District's cash management pool. In May 1996, the District established a revolving fund bank account with Signet Bank and on May 24, 1996, transferred $5 million to the account.

In accordance with the District's normal disbursement procedures, checks are written weekly to pay federal-aid highway vendors, and amounts are transferred from the revolving fund account to the pooled cash account to cover these checks. Subsequently, amounts are transferred from the pooled cash account to a checking account from which vendors are paid. This checking account is used to pay all District vendors, not just federal-aid highway vendors.[6] Thus, payments to federal-aid highway vendors are still being made through the District's pooled cash account. Because the revolving fund was just

---

to all of the District's checking accounts as needed. Any cash not needed for immediate disbursement is invested.

[6]According to a District official, the current financial management system does not allow for separately identifying payments for federal-aid highway vendors during the disbursement process, and, therefore, a separate checking account for these vendors is not used.

established, we were unable to review any payments from it under the new process to determine their timeliness. Consequently, it is premature for us to assess whether this process will result in more timely payments to federal-aid highway vendors. As part of our financial audit of the dedicated highway fund, we will review further the operations of the revolving fund account.

AGENCY COMMENTS

We provided copies of a draft of our report to FHWA and DC DPW for their comments. We met with officials, including FHWA's Associate Administrator for Program Development and DC DPW's Administrators for the Office of Policy and Planning and the Design, Engineering, and Construction Administration. The officials agreed that the information was accurately and fairly presented. As a result of their comments, we clarified wording in the report to better distinguish between FHWA's review team's recommendations on individual subject areas and issues common to all the subject areas.

- - - - -

We obtained information for this report from documents from the District and FHWA and interviews held with various District and FHWA officials. To determine the time required to process and execute contracts, we focused our work on the construction contracts funded since the enactment of the August 1995 act. We did not review individual design and engineering agreements. We reviewed FHWA's report assessing DC DPW's expertise and resources to plan, design, and construct federal-aid highway projects. We also discussed implementation of the highway fund and revolving fund accounts with the Director, DC DPW, and other District officials. We conducted our review from April 1996 through June 1996 in accordance with generally accepted government auditing standards.

We are sending copies of this report to the Subcommittee on Oversight of Government Management and the District of Columbia, Senate Committee on Governmental Affairs; the Subcommittee on the District of Columbia, House Committee on Government Reform and Oversight; the Honorable Eleanor Holmes Norton; the Secretary of Transportation; the Administrator, FHWA; the Mayor, District of Columbia; and the Director, DC DPW. Copies are available to other on request. Major contributors to this report included Phyllis Anderson,

Tom Collis, Hodge Herry, Ralph Lamoreaux, Wilma Matthias, and Phyllis Scheinberg. Please call me at (202) 512-2834 if you or your staff have any questions.

John H. Anderson, Jr.
Director, Transportation and
Telecommunications Issues

Enclosures - 2

List of Requesters

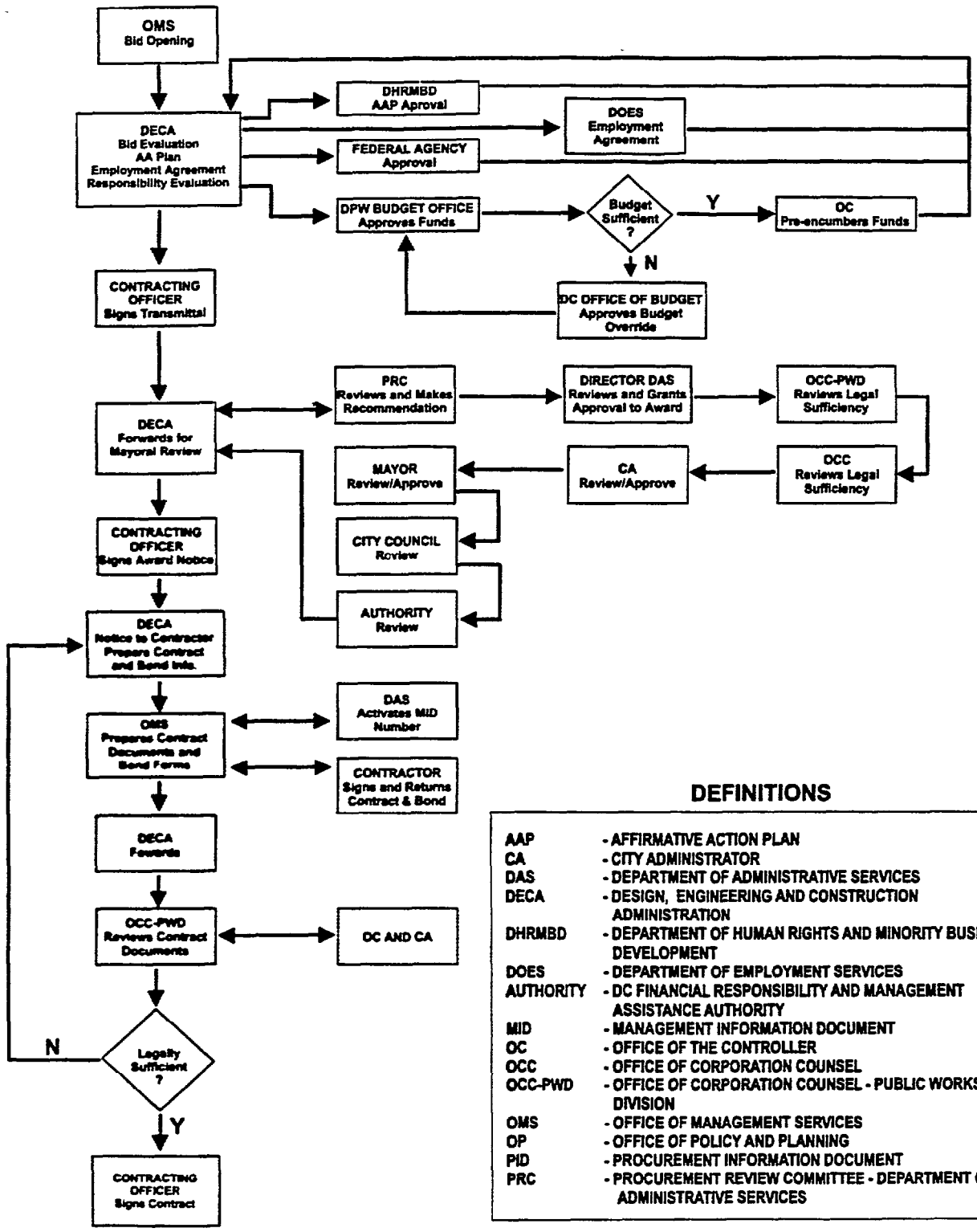
The Honorable John H. Chafee
Chairman
The Honorable Max S. Baucus
Ranking Minority Member
Committee on Environment and Public Works
United States Senate

The Honorable John W. Warner
Chairman, Subcommittee on Transportation
and Infrastructure
Committee on Environment and Public Works
United States Senate

The Honorable Bud Shuster
Chairman
The Honorable James L. Oberstar
Ranking Minority Member
Committee on Transportation and Infrastructure
House of Representatives

The Honorable Thomas E. Petri
Chairman
The Honorable Nick J. Rahall, II
Ranking Minority Member
Subcommittee on Surface Transportation
Committee on Transportation and Infrastructure
House of Representatives

DISTRICT'S CURRENT FEDERAL-AID CONTRACT AWARD PROCESS FOR CONTRACTS OVER $1 MILLION

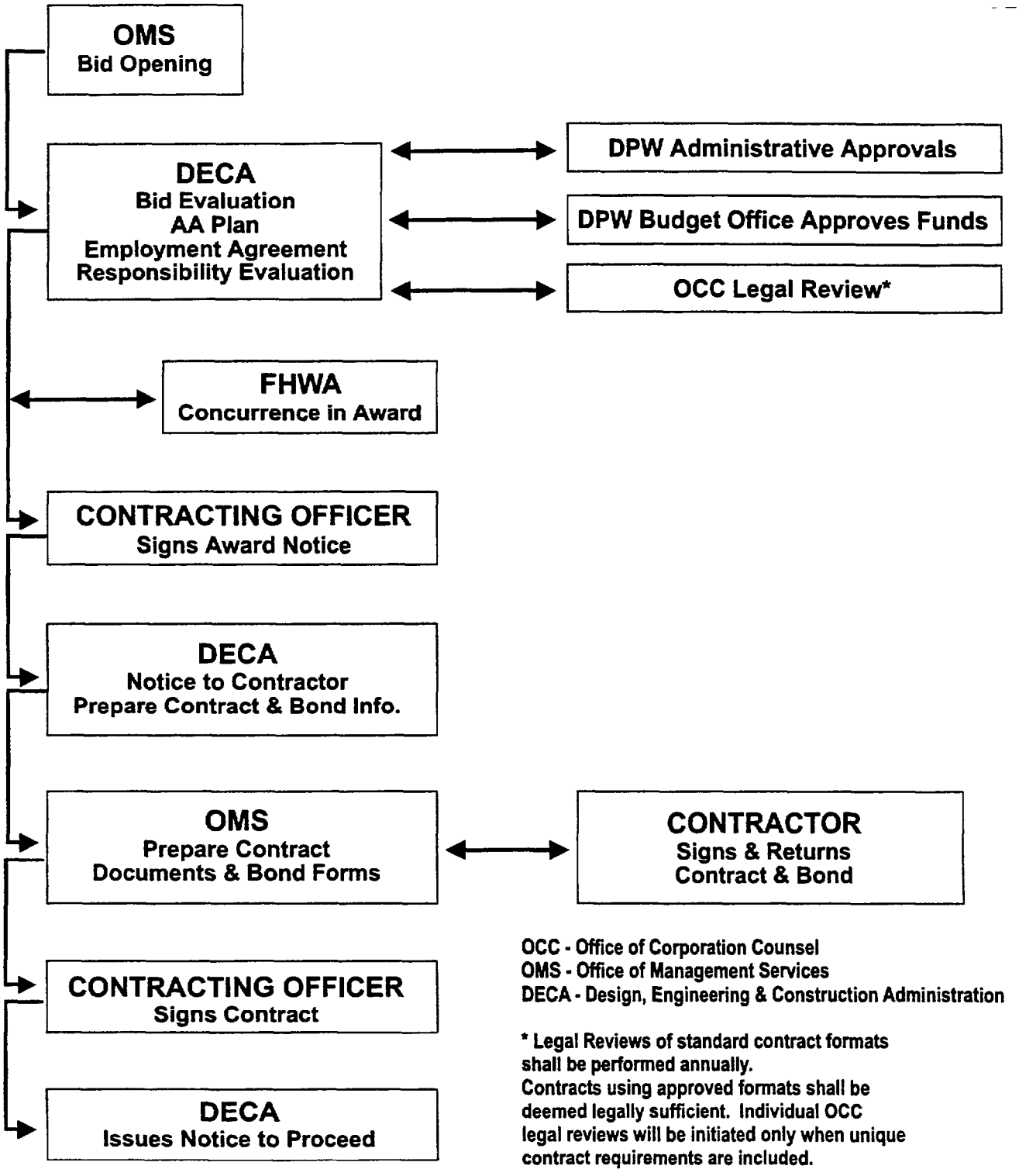


DEFINITIONS

AAP	- AFFIRMATIVE ACTION PLAN
CA	- CITY ADMINISTRATOR
DAS	- DEPARTMENT OF ADMINISTRATIVE SERVICES
DECA	- DESIGN, ENGINEERING AND CONSTRUCTION ADMINISTRATION
DHRMBD	- DEPARTMENT OF HUMAN RIGHTS AND MINORITY BUSINESS DEVELOPMENT
DOES	- DEPARTMENT OF EMPLOYMENT SERVICES
AUTHORITY	- DC FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY
MID	- MANAGEMENT INFORMATION DOCUMENT
OC	- OFFICE OF THE CONTROLLER
OCC	- OFFICE OF CORPORATION COUNSEL
OCC-PWD	- OFFICE OF CORPORATION COUNSEL - PUBLIC WORKS DIVISION
OMS	- OFFICE OF MANAGEMENT SERVICES
OP	- OFFICE OF POLICY AND PLANNING
PID	- PROCUREMENT INFORMATION DOCUMENT
PRC	- PROCUREMENT REVIEW COMMITTEE - DEPARTMENT OF ADMINISTRATIVE SERVICES

Source: District of Columbia Department of Public Works.

DISTRICT'S PROPOSED FEDERAL-AID CONTRACT AWARD PROCESS UNDER PILOT PROGRAM



Source: District of Columbia Department of Pubic Works.

(342917)

Ordering Information

The first copy of each GAO report and testimony is free. Additional copies are $2 each. Orders should be sent to the following address, accompanied by a check or money order made out to the Superintendent of Documents, when necessary. Orders for 100 or more copies to be mailed to a single address are discounted 25 percent.

Orders by mail:

U.S. General Accounting Office
P.O. Box 6015
Gaithersburg, MD 20884-6015

or visit:

Room 1100
700 4th St. NW (corner of 4th and G Sts. NW)
U.S. General Accounting Office
Washington, DC

Orders may also be placed by calling (202) 512-6000
or by using fax number (301) 258-4066, or TDD (301) 413-0006.

Each day, GAO issues a list of newly available reports and testimony. To receive facsimile copies of the daily list or any list from the past 30 days, please call (202) 512-6000 using a touchtone phone. A recorded menu will provide information on how to obtain these lists.

For information on how to access GAO reports on the INTERNET, send an e-mail message with "info" in the body to:

info@www.gao.gov

United States
General Accounting Office
Washington, D.C. 20548-0001

Bulk Rate
Postage & Fees Paid
GAO
Permit No. G100

Official Business
Penalty for Private Use $300

Address Correction Requested