



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK

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NYSED OFFICE OF FACILITIES PLANNING THIRD-PARTY REVIEW THROUGH Citi BOCES

FREQUENTLY ASKED QUESTIONS - UPDATED 01/2019

- 1. Q: Will this be a permanent change to the capital project review process?**
A: Yes. However, it is anticipated that BOCES assistance is a temporary measure until NYSED FacPlan has adequate staff and/or NYSED issues a State Contract for third-party reviews.
- 2. Q: How is the outsourcing going to change the present FacPlan review process and make things move quicker?**
A: The Third-Party Vendors will be required to start project review within a predetermined time from receipt of project for review. Due to differences in available resources between the Office of Facilities Planning and Third-Party Vendors, it is anticipated that review for outsourced projects will continue to start more quickly than projects submitted directly to NYSED.
- 3. Q: Are all projects subject to the third-party review process?**
A: No. The following types of projects are not eligible for third-party review and will still be submitted directly to NYSED for review: Face-to-Face Reviews, Preliminary Submissions, Discovered Buildings, Temporary Quarters, Leases for Building Aid, Charter Schools, K-Solar PPA's or other specific PPA's, and certain types of Energy Performance Contract (EPC) Projects.
- 4. Q: Are Energy Performance Projects (EPC) subject to Third-Party Review?**
A: Energy Performance Contract (EPC) Projects that meet the following criteria will be eligible for outsourced, technical, design review, should the district opt for it:

 - *EPC packages must contain fully signed copies of contracts, including all contract amendments;*
 - *EPC packages must have been reviewed, and contain the certification required for the "INDEPENDENT 3RD PARTY CERTIFICATION FOR EPC PROJECTS" (SED Form FP-EPC-IC); and*
 - *EPC packages must contain a breakout of all costs for non-capital work, and the costs of measurement and verification, for each building included in the EPC projects.*
- 5. Q: Is this option mandated? What if I don't want to undergo a Third-Party Review?**
A: School Districts which elect not to participate in the Third-Party Review process, will continue to submit their projects to SED per the same process that has operated in the past. The project will be reviewed for completeness and once deemed complete and ready for review, the project will be issued a review number and placed into NYSED FacPlan review queue.
- 6. Q: How do I request a Third-Party Vendor Review?**
A: If you have a project in the FacPlan review queue, and the project qualifies to be out-sourced for third-party vendor review per Q3 and Q4 above, it will be incumbent upon the school district to request the third-party review. The district/BOCES or its Architect/Engineer (A/E) should email a request for third-party project review to: thirdpartyreview@nysed.gov. The request should include the following information: School district/BOCES name; SED Review Number(s) for the project submission requested to be outsourced for review; and A/E contact name, phone number and email.

7. **Q: What happens to my project already in the queue if I don't elect to have a third-party review?**
A: *There will be no change in the review process. The project will remain in the FacPlan review queue and be reviewed in the order of receipt.*
8. **Q: Will 'Level 1 Reviews' still be possible?**
A: *The 'Level 1' review process has been suspended. If an 'expedited' review is needed for some urgent reason, please contact your SED Project Manager.*
9. **Q: How is this going to affect 'Smart Bond' projects?**
A: *There is no change anticipated for processing and review of Smart Bond projects. Projects using Smart Bond funds are eligible for third-party vendor review.*
10. **Q: What is the fee structure for the outsourced project reviews?**
A: *Projects NOT opting for Third-Party Review will not be subject to any fees. For all others, please refer to the following information and chart below for the anticipated fee structure. A flat fee of \$950 per aggregate project will be assessed in addition to the values indicated in the table. All fees noted are subject to change based on identification of actual costs for coordination and review, and reconciliation of those against actual frequency of elected project review work. (Note: fees are applicable to each separate design package submitted to NYSED for review. A design package can consist of work at one building or multiple buildings. If referendum or project scope is phased, and results in multiple design packages submitted to NYSED, there is a separate fee applicable to each design package submission.)*

Aggregate Project Size <i>Total amount for the design package being reviewed</i>	New Construction/ Additions/Alterations/ Reconstruction
\$0 - \$2,999,999	\$6,750
\$3,000,000 – \$4,999,999	\$13,050
\$5,000,000 - \$9,999,999	\$19,350
\$10,000,000 – \$29,999,999	\$25,650
\$30,000,000 - \$49,999,999	\$31,950
\$50,000,000 - \$69,999,999	\$38,250
\$70,000,000 - \$90,000,000+	\$45,000

11. **Q: This seems unfair to districts that cannot afford to pay for third-party review vs. districts that can afford to pay for third-party review. Is this a 'pay to play' to get my project reviewed faster?**
A: *The outsourcing effort is not a 'pay-to-play' situation. As limited resources at the Office of Facilities Planning have resulted in chronic backlogs over the past decade, outsourcing was conceived as an alternative mechanism to save districts time and reduce the possibility of delays in construction that ultimately cost districts more money. It is anticipated project approvals will flow more quickly, thus saving districts more money than would be spent on Third-Party Review, by minimizing escalation of construction costs due to a lengthy backlog.*
12. **Q: By going through CiTi BOCES for project review, do any charges become aidable?**
A: *Fees paid to CiTi BOCES for an outsourced project review should be included as an incidental cost to the project and building aid will be paid the same as any other eligible incidental cost charged to the project.*
13. **Q: How does an architectural firm become a third-party reviewer?**
A: *Citi BOCES advertised for Requests for Proposals (RFP) from qualified architectural and engineering firms in October 2017 and again in December 2018.*

- 14. Q: What is meant by ‘complete submission and plans’?**
A: *The projects received at NYSED will be “pre-screened” to determine that all SED paperwork required for project review is complete, and the drawings and specifications will be “pre-screened” to determine they are complete, coordinated, Code compliant and ‘bid-ready’. If documents are deemed incomplete and not ready for review, they may be subject to return and will need to be re-submitted when complete.*
- 15. Q: Some Architectural and Engineering firms may not feel comfortable sharing ‘trade secrets’ with any other third-party review firms. What is suggested?**
A: *School Districts and their design professionals will need to determine what is best for their project. If they do not feel comfortable with a third-party review, the project does not have to be outsourced and will remain at NYSED FacPlan for review.*
- 16. Q: How will the process assure that there is no opportunity for reviewing firms to affect an unfair positive or negative advantage in their role as Third-Party Reviewer?**
A: *The process will actively monitor and evaluate for conflict of interest situations in determining review assignments, including scenarios such as: firms reviewing their own work; firms reviewing work of another firm for clients with whom the reviewing firm also works; firms reviewing work of a direct competitor firm; firms reviewing work for which they submitted a proposal to a school district or have been included as a partner or subcontractor in a response to a request for proposal issued by a school district or BOCES within the past three years; and firms reviewing work that they themselves submitted a proposal for, but were not awarded the project.*
- 17. Q: How will third-party review work be assigned?**
A: *CiTi BOCES staff will monitor project submissions and Third-Party Review vendor capacity to accept projects for review and will assign projects to vendors based on their capacity to complete the review in a timely manner. Conflict of interest scenarios will also be considered in making final determinations.*
- 18. Q: How are we assured that third-party reviews will meet SED standards?**
A: *The Office of Facilities Planning has created a technical review checklist that Third-Party Reviewers will use to conduct their reviews. Third-Party Review firms will also be required to participate in mandatory training provided by NYSED FacPlan. Furthermore, NYSED FacPlan will monitor the reviews being performed. If review work is deemed insufficient, the Third-Party review firm will be required to participate in mandatory refresher training. If the work of the firm is found to continue to be insufficient by FacPlan, the contract will be terminated.*
- 19. Q: What happens after third-party review? How will I know it was successful and how do I get building permits?**
A: *The project approval notification will be similar as is currently happening at NYSED FacPlan. The School District/BOCES and A&E firm will be contacted by CiTi BOCES staff to let them know the project has been approved and the date of approval. The project approval letter and building permit will be issued by NYSED FacPlan and sent to the School District/BOCES shortly after approval. Note: Projects outsourced to third-party vendors for review will not be approved until payment has been received by CiTi BOCES.*
- 20. Q: How can CiTi BOCES avoid having firms assigned to review projects for a district where a previous engagement with the firm may have ended on negative terms?**
A: *Third-Party vendors will be required to submit a list of current and past districts they have done work for and CiTi BOCES will make assignment determination by questioning firms to see if they have had work or history with a District, and the status of their relationship.*

- 21. Q: What allows CiTi BOCES to serve as the conduit for outsourcing project reviews on behalf of NYSED?**
A: *Because the Office of Facilities planning has faced chronic backlogs over the past decade, the Commissioner of Education requested that a BOCES undertake this effort to provide the Office of Facilities Planning an opportunity to redesign its workflow and technical systems to improve efficiency and reduce wait times. CiTi BOCES offered to fill this role, and a non-BOCES-aidable Co-SER has been approved by the Department for this purpose.*
- 22. Q: Will training for selected third-party review vendors be made available to others that are not participating reviewers?**
A: *NYSED has published the checklists used for pre-screening and third-party review, and the recorded webinar of vendor training on the Office of Facilities Planning website at: <http://www.p12.nysed.gov/facplan/ThirdPartyVendorReview.html>.*