

APRIL 21, 2025



**NYC COMMISSION
TO STRENGTHEN LOCAL DEMOCRACY**

PRELIMINARY STAFF REPORT TO THE COMMISSION



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A letter from the Executive Director

Dear Co-Chairs Garrido and Rice and Commissioners,

I am pleased to share this Preliminary Staff Report, which I hope will be helpful and informative in supporting the work of the Commission to Strengthen Local Democracy.

As you know, the Commission has actively engaged with New Yorkers during the initial stages of our process of reforming the New York City Charter. From receiving public input during our initial five borough-based hearings to holding meetings with advocates and community members, we have facilitated meaningful and illuminating conversations with the public about the structure and governance of our City.

We have undertaken a comprehensive review of the City Charter to identify areas where improvements may be warranted. Advocacy groups, good government organizations, elected officials, academics, and members of the public have all made valuable contributions to this effort—and we are committed to continuing these collaborations in the months ahead. The New York City Law Department and other city agencies have also provided invaluable insight and support, for which we are sincerely grateful.

This Preliminary Staff Report highlights proposals that present opportunities to enhance transparency, bolster accountability, and strengthen local democracy in New York City. These topics are especially timely given the current erosion of public trust in government at all levels. The report also signals the beginning of the next dynamic phase of our work—one that we hope will further energize public dialogue about the City Charter.

In the following sections, we outline key issues from our outreach efforts and make several recommendations for the Commission's consideration. Additionally, we identify certain topics and ideas that may warrant further exploration—whether by a future Commission or through legislative means. This report is not intended to be exhaustive. Naturally, you and your fellow Commissioners may consider additional proposals that the Commission staff is not exploring further at this time or that staff has not yet contemplated.

On behalf of the Commission staff, thank you for the opportunity to contribute to this critical work. We look forward to continuing our efforts to develop Charter revision proposals that advance democracy, equity, and civic engagement throughout New York City.

Sincerely,



Danielle Castaldi-Micca

About the Commission

Introduction to the Charter

The New York City Charter (the Charter) is the foundational legal document that defines the City government's powers, responsibilities, and structure. Often referred to as the City's constitution, the Charter sets forth the framework through which public authority is exercised, and democratic accountability is maintained. The Charter not only delineates roles and functions—it also safeguards democratic principles, ensures transparency, and affirms the public's right to participate meaningfully in the governance of their city. Though not often at the forefront of the public's mind, the Charter shapes how decisions are made about streets, housing, policing, public services, and more.

The City's first Charter was enacted in 1898 but has been heavily revised to reflect the times. The core structure of the current Charter can be traced to the 1989 Charter Revision Commission, convened in the wake of the Supreme Court's invalidation of the Board of Estimate and the resulting need to determine where and how its various powers should be distributed. Many of the integral processes and actors that make up the City's government—such as the budget and land use processes, the Public Advocate, the modern City Council (the Council), and more—date to that revision.

Although the 1989 Charter Revision Commission established the City's basic system of government that continues to operate, the Charter has been amended hundreds of times since the 1989 Commission completed its work. The Charter can be amended by local laws enacted by the Council, by state law, by Charter Revision Commission, and the less common citizen petition process. Many changes that most significantly affect the balance of power between elected officials and the core processes of government require approval in a referendum, including any proposals put forth by a Charter Revision Commission or proposed via petition.

Introduction to the Commission

Through a comprehensive review of the Charter, the NYC Commission to Strengthen Local Democracy (the Commission) will focus on improving and restoring public confidence in city government by strengthening local democracy and enhancing government accountability and transparency.

The Commission is composed of 17 commissioners and includes appointees by the City Council Speaker and every city- and borough-wide elected official. Nine of the commissioners are appointed by the Council Speaker and the remaining commissioners are appointed by the Mayor, Public Advocate, Comptroller, and five Borough Presidents. The Commission will undertake an open, inclusive process in developing proposals for improving city government that prioritizes robust public engagement and detailed analysis from policy experts. It will not consider any proposals that weaken local democracy or New Yorkers' rights, or proposals that can be enacted via local law without a referendum.

Outreach and Public Engagement

The Commission has launched a comprehensive public outreach and participation effort to engage as many New Yorkers as possible.

In its initial stage, the Commission held the first round of five public hearings—one in each borough—to gather input from members of the public, elected officials, community-based organizations, good governance groups, academics, and other interested stakeholders. To ensure broad accessibility, the Commission launched its website, www.thecommission.nyc, where the public can find information on upcoming hearings, commissioners, and forthcoming reports, as well as submit ideas. Additionally, the Commission has established a strong presence on social media platforms, including Facebook, Instagram, LinkedIn, X, and YouTube, where past public hearings are available for viewing. Outreach efforts have also focused on engaging community partners and organizations to educate them about the Charter Revision Commission process and the work currently underway. The Commission has met with over 30 organizations whose efforts focus on good governance, budget transparency, public safety, criminal justice, land use, housing development, civic engagement, and other areas.

The Commission plans to host 15 public hearings—three in each borough—conducted in three rounds. The first round occurred in March, with the second and third rounds scheduled from April to early July. To maximize accessibility, all public hearings are available via Zoom, and translation services, along with ASL interpretation, are provided upon request. During the first round of hearings, the testimony the Commission received in person at hearings, via Zoom and in writing, are reflected in this preliminary report.

Upcoming Hearings

All hearings are from 5-7 PM

Tuesday, April 29th
Budget Transparency
Flushing Library, Meeting Rooms A&B
41-17 Main Street, Flushing

Tuesday, May 6th
Government Accountability
Restoration Plaza, Multi-Purpose Room
1368 Fulton Avenue, Brooklyn

Monday, May 12th
Land Use
Bronx Museum of the Arts
1040 Grand Concourse, 2nd Floor, Bronx

Wednesday, May 14th
Budget Transparency
Staten Island Museum at Snug Harbor
1000 Richmond Terrace, Building A, Staten Island

Monday, May 19th
Government Accountability
John Jay College
524 West 59th Street, Manhattan

The Commissioners

Henry Garrido, Co-Chair
(appointed by Speaker Adrienne Adams)

Arva Rice, Co-Chair
(appointed by Speaker Adrienne Adams)

Rahul Agarwal
(appointed by Mayor Eric Adams)

Matt Gewolb
*(appointed by Manhattan Borough
President Mark Levine)*

Rachel Goodman
(appointed by Comptroller Brad Lander)

Roderick L. Jones
(appointed by Speaker Adrienne Adams)

Andrea Salwen Kopel
(appointed by Speaker Adrienne Adams)

Serena Longley
(appointed by Speaker Adrienne Adams)

Nivardo Lopez
(appointed by Speaker Adrienne Adams)

Robert P. Miraglia
*(appointed by Bronx Borough President
Vanessa Gibson)*

Manny Pastreich
(appointed by Speaker Adrienne Adams)

Mike Racioppo
*(appointed by Brooklyn Borough President
Antonio Reynoso)*

Dr. Ramanathan Raju
*(appointed by Staten Island Borough
President Vito Fosella)*

Bishop Calvin Rice
(appointed by Speaker Adrienne Adams)

Allan Swisher
*(appointed by Queens Borough President
Donovan Richards)*

Mark Winston-Griffith
*(appointed by Public Advocate
Jumaane Williams)*

Jo-Ann Yoo
(appointed by Speaker Adrienne Adams)

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Ricardo Licea, Counsel

Madison Rosensaft, Outreach Liaison

David Seitzer, Policy and Research
Director

Government Accountability

Strengthening Independent Oversight Agencies

Ensuring Democratic Integrity and the Balance of Powers

The Commission received diverse comments on strengthening the ability of independent watchdog agencies to improve and reinforce transparency, accountability, and the balance of power within city government. Many members of the public expressed a general desire to shore up the independence of agencies that conduct oversight or regulation of other government actors and bodies. Some agencies, commissions, and bodies were raised specifically by several members of the public, including the Conflicts of Interest Board (COIB), the Civilian Complaint Review Board (CCRB), and the Department of Investigation (DOI). The Corporation Counsel, while not heading an independent agency, may at times appropriately act contrary to the wishes of the Mayor, and was raised by several members of the public as well. Other members of the public proposed a broader review of all agencies that are intended to operate with some independence, to ensure or bolster their continued effective operation. While these suggestions were not necessarily in response to a specific crisis or scandal, some did point to early indicators of structural risk, such as chronic or acute resource constraints for critical agencies. In addition, many members of the public expressed interest in “future-proofing” against undue politicization or weakening of effective oversight and accountability mechanisms.

Independent regulatory and oversight agencies are sometimes known as the “fourth branch” of government—in addition to the executive, legislative, and judicial—in recognition of their role in guarding against the accretion or abuse of power in the other branches of

government.¹ By safeguarding the balance of power, the “fourth branch” ensures the integrity and continuity of democratic governance over time.²

The Charter establishes a number of institutions with mandates to protect the City’s core democratic and accountability structures.³ For example, the Campaign Finance Board (CFB) and the Districting Commission promote the integrity and fairness of local elections. Likewise, the City has established COIB and DOI to prevent, detect, and root out corruption among elected officials and public servants. Institutions dedicated to increasing the transparency and accountability of government administration and key governance processes—such as the budget process, management of the civil service, and policing—are myriad and include, for example, the Independent Budget Office (IBO), the Equal Employment Practices Commission (EEPC), CCRB, and the Board of Correction (BOC). In addition, the City has created various commissions with a watchdog function for human rights, including the Commission on Civil and Human Rights (CCHR) and the Commission on Racial Equity (CORE), which was itself added by Charter referendum in 2022.⁴

In order to serve their purpose as watchdogs against waste and abuse of power, “fourth branch” agencies benefit from varying degrees or types of independence from political interference or co-optation from the other branches of government. Indeed, the more effective an institution is in preventing governmental overreach, the more attractive it becomes as a target for political capture.⁵ A survey of anti-democratic tactics shows that the

¹ Elliot Bulmer, “Independent Regulatory and Oversight (Fourth-Branch) Institutions,” International IDEA (2019), Pages 6–8, available at <https://www.idea.int/sites/default/files/publications/independent-regulatory-and-oversight-institutions.pdf>.

² *Id.*

³ One exception is that the City does not impose any requirements regarding the process or transparency of judicial nominations to its administrative law courts. The Office of Administrative Trials and Hearings, which conducts itself as an independent agency and is charged with hearing cases to enforce the City Charter, local laws, and city agency regulations, is headed Chief Administrative Law Judge (CALJ). The CALJ is a Mayoral appointee and is charged with the appointment and removal of OATH’s administrative judges to five-year terms. Charter §§ 1048(1)–1048(2), 1049(1)–1049(3).

⁴ See Local Law 121 of 2022; Charter § 3404.

⁵ Sumit Bisarya & Madeleine Rogers, “Designing Resistance: Democratic Institutions and the Threat of Backsliding,” International IDEA (2023) available at <https://www.idea.int/sites/default/files/2023-10/designing-resistance-democratic-institutions-threat-of-backsliding.pdf>, at 144–46.

most common methods of attack against independent regulatory and oversight bodies include changes to appointment or selection criteria for leaders or the staffing of these institutions; changes to an institution’s jurisdiction or powers; and realigning chains of command and control so as to bring these institutions under political (most often executive) influence.⁶ Accordingly, protections for “fourth branch” institutions often address the selection and minimum qualifications of agency leaders, commissioners, and board members; terms and conditions of service for leaders and staff; and the ability to obtain and independently manage institutional resources.⁷

Many of the City’s “fourth branch” agencies and commissions enjoy some structural protections from undue political influence, but very few are protected along all key axes of independence—*i.e.*, with regard to composition, terms of service, mandate, and resources. The Public Advocate⁸ and the IBO,⁹ for example, arguably enjoy the most robust level of structural insulation from mayoral influence and policymaking. Almost all other “fourth branch” agencies and institutions are only partially protected, with the vast majority subjected either entirely or largely to mayoral authority in some form. Various political scandals have repeatedly prompted criticisms that some of these agencies are insufficiently independent from the executive to fulfill their duties.¹⁰

The Commission heard a wide range of suggestions for bolstering the independence of oversight agencies and other entities that may benefit from added independence. These

⁶ Bisarya & Rogers, “Designing Resistance: Democratic Institutions and the Threat of Backsliding,” at 144–46.

⁷ Bulmer, “Independent Regulatory and Oversight (Fourth-Branch) Institutions,” at 6–8.

⁸ Charter §§ 24, 1138, 440 (establishing the Public Advocate as a directly elected position with the same protections and term limits as the Mayor, and stating that the Public Advocate’s budget may only be reduced if, in concert with “a plan to decrease overall appropriations or [...] due to unforeseen financial circumstances,” “the mayor determines that such reduction is fiscally necessary” and sends a written justification for the reduction to the Council and the Public Advocate).

⁹ Charter §§ 259(a), 260 (outlining multi-layered requirements for the selection process, minimum qualifications, and terms for IBO members, as well as a basis of authority for hiring needed personnel and acquiring equipment).

¹⁰ See, e.g., Samar Khurshid, “‘So Completely Compromised’: New York Watchdog Agencies Have a Credibility Problem,” *Gotham Gazette* (May 29, 2019), *available at* https://www.gothamgazette.com/state?news_php?news=69&start=660; Jan Ransom, “This Agency Fights Corruption. New York City Leaders Have Weakened It.,” *NY Times* (Apr. 6, 2025), *available at* <https://www.nytimes.com/2025/04/06/nyregion/nyc-corruption-adams-doi.html>.

tended to fall into two categories. First, many commenters expressed concern that the appointments, removals, and operational requirements for independent bodies should not be primarily controlled by any single branch of government, or by any branch of government that the body oversees. Second, many comments focused on the necessity of independent budget and resource management, including staffing and technical support. With respect to these concerns, several commenters also highlighted challenges with certain existing approaches to independent budgeting.

Appointments, Removals, and Operational Requirements

Appointing power may be distributed among different branches of government, with a specific number of positions reserved for selection by the Mayor, the Council, the Public Advocate, or the Comptroller. Distributing appointments among appointing authorities can help to ensure a diversity of viewpoints and interests represented.¹¹ Alternatively, where specialized expertise is required for a certain position, the Charter may provide for a separate appointment process. This is the case, for example, for the IBO Director, who is chosen by a special committee of the IBO advisory board created specifically for that purpose.¹² In addition, the Charter sometimes outlines minimum substantive qualifications for appointees, such as requiring that appointees have demonstrated moral character, that they have the ability to represent particular segments of the public, or that they have specific experience or subject matter qualifications.¹³ These approaches may help to build the public's trust in the independence and political neutrality of independent agencies and bodies, as well as to ensure nominees' integrity and expertise.¹⁴

An appointing authority may also remove their appointees, unless otherwise specified by law.¹⁵ Thus, the appointing authority is likely to retain influence over appointees for the

¹¹ See *generally* Bulmer, "Independent Regulatory and Oversight (Fourth-Branch) Institutions," at 24–29.

¹² Charter § 259(a).

¹³ See, e.g., Charter §§ 3404(b), 3404(f).

¹⁴ See *generally* Bulmer, "Independent Regulatory And Oversight (Fourth-Branch) Institutions," at 21–38.

¹⁵ See, e.g., Charter § 6(b) (specifying that the Mayor may remove mayoral appointees except where otherwise provided by law).

duration of their term. This concern is somewhat lessened where appointees may only be removed “for cause,” which requires proof of misconduct, neglect, or incompetence prior to removal.¹⁶ Officers appointed to fixed terms of a certain number of years, with staggered terms, are considered to be removable only for cause.¹⁷

Finally, multi-member bodies require a minimum number of members present to hold a meeting and conduct business. This number is referred to as “quorum” and is typically defined as a simple majority of members.¹⁸ Thus, an authority that appoints or exercises removal power over a majority of members can, in some cases, unilaterally influence that body’s decisions or even stop its functioning at all by preventing it from attaining a quorum.

The Charter takes a variety of approaches to protecting commissions’ and boards’ abilities to meet quorum. The Charter may impose deadlines for making appointments or nominations, create staggered terms for board members or commissioners to ensure that vacancies do not occur all at once, or provide a back-up appointment or succession mechanism if a vacancy remains open past a certain time. For example, if a vacancy arises in the middle of a Commissioner’s term on CORE and the designated appointing authority fails to appoint a replacement after 90 days, the Commissioners may themselves appoint someone to serve the remainder of the term.¹⁹ In addition, a 90-day delay in appointing a replacement for a CORE Commissioner whose term has expired automatically extends the prior Commissioner’s term for one year (known as a “holdover”),²⁰ which helps to prevent prolonged vacancies and maintain CORE’s quorum.

¹⁶ *Friedman v. State*, 24 N.Y.2d 528, 540, 249 N.E.2d 369, 377 (1969) (“The phrase ‘for cause’ clearly means ‘legal cause’—some cause affecting or concerning the ability or fitness of the incumbent to perform the duty imposed upon him.”).

¹⁷ See *Sedacca v. Mangano*, 18 N.Y.3d. 609 (2012).

¹⁸ Charter § 1119 (except where otherwise specified by law, all boards, commissions, or other multi-member bodies may act by vote of a majority, which shall also constitute a quorum).

¹⁹ Charter § 3404(e).

²⁰ *Id.*

Budget and Resources

The City’s annual budget is, for the most part, a product of the Mayor and the Council.²¹ Although some elected officials and agencies have defined minimum budgets,²² the Mayor and Council retain budgetary control over some entities that would arguably operate most effectively with some measure of insulation from the direct control of the Mayor and Council—including COIB, DOI, the Office of the Comptroller, EEPD, and the Office of Administrative Trials and Hearings (OATH). Various proposals have been made over the years (at times by agencies themselves), to make some of these bodies’ budgets less dependent on the latest round of Mayor-Council budget negotiations.²³

The Charter primarily relies on two models for independently setting an agency’s budget: minimum budgets and agency-recommended budgets. A minimum budget is one established for the agency that is tied to some outside factor, such as setting an agency’s budget at no less than a certain percentage of another budget line, or no less than the average of certain expenditures from preceding fiscal years. Alternatively, the agency itself can recommend a budget for itself that must be included in full in the Executive Budget submitted by the Mayor, but which is subject to amendment by the Council when the Council approves the Executive Budget.²⁴

The first model is arguably best suited to agencies whose mandates include oversight or regulation of both the Mayor and the Council, as it reduces budgeting discretion from both

²¹ See *generally* Charter Chapter 10.

²² For example, the CCRB, the Borough Presidents, and the Public Advocate were each given defined minimum budget formulas pursuant to previous Charter changes recommended by the 2019 Charter Revision Commission and subsequently approved by the electorate. This means that the annual budget for each of these entities can exceed, but not be less than, an amount set by the Charter-specified formula except in narrow circumstances.

²³ For example, the Council provided testimony to the 2010 Charter Revision Commission in support of setting the budget of CCRB at a percentage of the New York City Police Department budget or the number of complaints filed. NYC Council, “Report to the New York City Charter Revision Commission” (June 10, 2010).

²⁴ See Charter §§ 249, 254.

branches.²⁵ The IBO is an example of an agency that follows the first model: the Charter sets the IBO's minimum budget at 10% of appropriations made for the Office of Management and Budget (OMB).²⁶ This model has also been used to dedicate minimum spending to a certain program or purpose: section 224 of the Charter requires that at least 1% of the first \$50 million (and 0.5% of the amount above that) appropriated for city capital projects, other than purchases of real property, be allocated for works of art (subject to limited Mayoral discretion).²⁷ This is known as the "Percent for Art."²⁸

The second model is arguably best suited to agencies where the primary risk is unilateral executive influence,²⁹ because it still allows for Council revision of the proposed budget and offers some flexibility as budget needs and priorities change. This model is used for the CFB budgeting process, whereby the CFB submits an itemized estimate of its financial needs by March 10 of each year, and the Mayor must include these estimates in the Executive Budget without revision (although recommendations are permitted).³⁰ The CFB's request may then be adopted or amended by the Council when it adopts the Executive Budget as part of the typical budget process. This process was created by the 1998 Charter Revision Commission

²⁵ This principle is best demonstrated in the breach. In Hungary, for example, where the executive and the legislature were aligned in their desire to avoid public oversight of certain budget decisions, they exploited a constitutional loophole that allowed the legislature to give full spending discretion to the executive absent a public hearing. A Charter minimum budget requirement would prevent this type of inter-branch collaboration to undermine independent oversight bodies. See Bisarya & Rogers, "Designing Resistance: Democratic Institutions and the Threat of Backsliding" at 122.

²⁶ Charter § 259(b).

²⁷ Charter § 224(c).

²⁸ NYC Dept. of Cultural Affairs, "The Department of Cultural Affairs Percent for Art," <https://www.nyc.gov/site/dclapercentforart/index.page> (accessed April 1, 2025).

²⁹ This is so because the Mayor exerts meaningful influence over agencies' policy priorities through the Preliminary and Executive Budget proposals. See Charter §§ 225, 236, 249, available at https://www.yalelawjournal.org/article/the-presidents-budget-as-a-source-of-agency-policy-control#_ftnref115. An agency that proposes its own budget can choose its own substantive policy priorities and can communicate more freely about those priorities with Council during budget negotiations. Cf. Eloise Pasachoff, "The President's Budget as a Source of Agency Policy Control," Yale Law Journal (June 2016) (describing the ways that the executive exercises substantive control over agencies' policy decisions in preparing the proposed budget) (describing the federal executive's ability to "tell agencies what to put in their budget requests [...] in the first instance," then "require that the substance of agency budget requests passes muster," and finally "direct agencies to remain silent about any policy preference that may differ from what the President's budget ultimately presents to Congress.").

³⁰ Charter § 1052(b)(3)(c).

and approved by the voters, with the stated intent of “insulat[ing] the Board’s activities from the partisan political pressures of any given moment.”³¹

While not yet a current model, it should be noted that a “hybrid” model may provide another template for independent budgeting. Similar to model (1), a minimum budget could be set for an agency, and then, similar to model (2), that agency could directly submit further budget needs within the Mayor’s Executive Budget. While (1) would be fixed, (2) would be subject to the same process of negotiation as other agencies face prior to the final adoption of the City’s budget. Such a model could help temper minimum budgets’ tendency to functionally become budget maximums and allow for budget variability from year to year.

The IBO and CFB budgeting processes are generally regarded as successful, in that they have enabled both bodies to operate as intended while insulating them from political manipulation.³² Charter reforms enacted in 2019 to guarantee a minimum budget for the Public Advocate’s Office and to create a formula for calculating budget allocations for each Borough President also appear to function as intended.³³ However, the Commission heard testimony from CCRB that their minimum budget provision, which guarantees the CCRB a minimum headcount to be calculated based on the Police Department’s headcount,³⁴ did not effectively ensure adequate staffing as intended.³⁵ This is because the CCRB staffing requests, including authorization for hiring decisions and salary determinations, remain at the discretion of OMB, a mayoral office. Effectively, OMB was able to prevent CCRB from using their Charter-allocated funding.

³¹ Final Report of the 1998 Charter Revision Commission at 13.

³² See, e.g., *Oral and Written Testimony of Council Member Gale Brewer* (Mar. 10, 2025).

³³ While the Commission received testimony from several Borough Presidents’ offices requesting changes to the weighting of the funding formula, the structure of the formula appears to function as intended. See “Final Report of the 2019 New York City Charter Revision Commission” (2019) at 68–74, *available at* https://www.nyc.gov/assets/coib/downloads/pdf2/charter_revision/2019-charter-revision-final-report.pdf; *Oral and Written Testimony of the Manhattan Borough President’s Office* (Mar. 10, 2025); *Oral and Written Testimony of the Queens Borough President’s Office* (Mar. 18, 2025).

³⁴ Charter § 440(g).

³⁵ *Oral and Written Testimony of the NYC Civilian Complaint Review Board* (Mar. 20, 2025).

Where the Mayor withholds funding that the legislature has allocated to agencies through the budgeting process, this is known as “impoundment.”³⁶ The discretion to manage the disbursement of funds in response to the City’s needs and financial outlook is an important element of the Mayor’s executive authority.³⁷ However, when used as a means of blocking or undermining the legislature’s policy priorities, impoundment is seen as a form of executive overreach.³⁸ It can also undermine transparency and accountability: when a budget is passed, the public may be confused and lose trust in government if that budget is not perceived to represent good-faith spending commitments and priorities. When applied to independent agency budgets, impoundment can be used unscrupulously as a tool to weaken oversight and accountability.

Conflicts of Interest Board (COIB)

COIB is the independent agency that serves as New York City's board of ethics. COIB is tasked with administering, enforcing, and interpreting the City's Conflicts of Interest Law, the Annual Disclosure Law, the Lobbyist Gift Law, the Affiliated Not-for-Profits Law, and the Legal Defense Trusts Law.³⁹ COIB can enforce these laws by imposing civil fines and penalties if a violation occurs.⁴⁰ COIB also conducts training and education, issues rules and advisory opinions, and reviews City employees’ financial disclosure forms.⁴¹ In sum, COIB's work not only helps prevent corruption and misuse of public resources, but also promotes

³⁶ Charter § 106(e).

³⁷ See U.S. Congressional Research Services, “The Impoundment Control Act of 1974: Background and Congressional Consideration of Rescissions” (Feb. 25, 2025), *available at* <https://www.congress.gov/crs-product/R48432>.

³⁸ See *generally, e.g.*, Norman Pine, “The Impoundment Dilemma: Crisis in Constitutional Government,” *Yale Review of Law & Social Action* (1972-1973), *available at* <https://openyls.law.yale.edu/handle/20.500.13051/17911>; U.S. Congressional Research Services, “The Impoundment Control Act of 1974: Background and Congressional Consideration of Rescissions” (Feb. 25, 2025), *available at* <https://www.congress.gov/crs-product/R48432>.

³⁹ Charter Chapter 68; Admin. Code §§ 12(110), 3(211), 3(224) – 3(228), 3(901) – 3(907), 3(1101) – 3(1107). See also NYC Rules Title 53.

⁴⁰ NYC Conflicts of Interest Board, “Enforcement,” *available at* <https://www.nyc.gov/site/coib/the-law/enforcement.page> (accessed Apr. 17, 2025).

⁴¹ Charter § 2603.

transparency and public trust in government, helps protect the integrity of government decision-making, and enhances government efficiency.⁴²

COIB receives written ethics complaints, including anonymous complaints, from the public,⁴³ which are then investigated by DOI.⁴⁴ If warranted by DOI's preliminary report, COIB will try the case before the Office of Administrative Trials and Hearings (OATH), or alternatively the case may be referred to agency disciplinary proceedings.⁴⁵ Hearings are not public unless requested by the person charged with the violation.⁴⁶ If a violation is proven, COIB's findings, conclusions, and prescribed penalties, if any, must be published.⁴⁷

COIB has weighed in on a number of high-profile ethics questions in recent years. For example, in 2023 it imposed penalties⁴⁸ on former Mayor de Blasio for misusing city funds to pay for his presidential campaign's travel expenses in 2019.⁴⁹ That was the first time in COIB's history that it levied a fine against a Mayor.⁵⁰ More recently, nonprofit watchdog organizations have noted that COIB has granted an unprecedented number of conflicts-of-interest waivers

⁴² Charter § 2600. See also Charter §§ 2604, 2607. See generally Marie Louise Victor, "Enforcement: An Indispensable [*sic*] Component in the Success of Municipal Ethics Boards," NYS Bar Association (2020) available at https://nysba.org/wp-content/uploads/2020/03/article_on_enforcement_victor.pdf, at 2–3.

⁴³ NYC Conflicts of Interest Board, "Enforcement," available at <https://www.nyc.gov/site/coib/the-law/enforcement.page> (accessed Apr. 17, 2025).

⁴⁴ Charter § 2603(f). See also NYC Conflicts of Interest Board, "Enforcement: Investigations," available at <https://www.nyc.gov/site/coib/the-law/enforcement.page> (accessed Apr. 17, 2025). DOI is empowered to conduct investigations, make arrests, and refer cases for prosecution, including on its own initiative absent a COIB request. The Charter requires that preliminary investigation reports be kept confidential. This is intended to balance the public's right to information with the desire to deter unfounded or malicious complaints against public servants. Cf. Khurshid, "So Completely Compromised': New York Watchdog Agencies Have a Credibility Problem" (criticizing the lack of transparency on preliminary investigation findings).

⁴⁵ Charter § 2603(h). This accords with general best practices. See Victor, "Enforcement: An Indispensable [*sic*] Component in the Success of Municipal Ethics Boards," (2020).

⁴⁶ Charter § 2603(h)(4).

⁴⁷ Charter § 2603(h)(4) (except that the respondent may request a hearing to be public).

⁴⁸ See NYC Conflicts of Interest Board's Case No. 2019-503, *In Matter of Bill De Blasio*, OATH Index No. 587/23 (June 15, 2023), available at <https://www.nyc.gov/assets/coib/downloads/pdf4/enf-dis/2019-503.pdf>, at 15–16.

⁴⁹ *Id.*

⁵⁰ NYC Conflicts of Interest Board, 2023 Annual Report (2024), available at https://www.nyc.gov/assets/coib/downloads/pdf2/annual_reports/2023-nyc-coib-annual-report.pdf, at 7.

under the Adams Administration.⁵¹ This trend has reinvigorated some critiques that COIB has shown a “history of deference” to mayoral waiver requests.⁵² Granting waivers regarding potential conflicts of interest is an area where COIB exercises relatively wide authority: the law states that a public servant may “hold or negotiate for a position otherwise prohibited” if the head of the city agency or agencies involved give their written approval, followed by a COIB determination that “the position involves no such conflict.”⁵³ Such finding must be published in writing by COIB.⁵⁴

COIB’s function as an independent oversight agency suggests that it should be insulated from undue influence from regulated parties. To effectuate its independence, the Charter was amended in 2019 to institute certain guardrails for the selection and conduct of Board members.⁵⁵ These include instituting a mixed appointment process and limits on political donations and campaign activities.⁵⁶ However, the Commission has received proposals to further diversify member appointments (and removals) among appointing powers, and to consider whether quorum requirements could be adjusted to guarantee continuity and effectiveness over time.

⁵¹ Chris Glorioso, “Conflicted? Under Adams, city workers get record number of Conflict of Interest Waivers,” NBC New York (Nov. 15, 2024), available at <https://www.nbcnewyork.com/investigations/eric-adams-city-workers-record-number-conflict-of-interest-waivers/5987630/>. See also NYC Conflicts of Interest Board, “2023 Annual Report” (2024), at 5 (COIB reported a 20% increase in requests for formal advice in 2023 compared to 2022, including waivers related to public servants holding second jobs—the highest level in COIB’s history).

⁵² “Final Report of the 2018 New York City Charter Revision Commission,” (2018) available at <https://www.nyc.gov/assets/charter/downloads/pdf/final-report-20180904.pdf>, at 128 (citing to *Written Testimony of Susan Lerner to the 2018 Charter Revision Commission* (May 7, 2018), available at https://www1.nyc.gov/assets/charter/downloads/pdf/05_07_18_nyc_charter_commission_public_hearing.pdf, at 32).

⁵³ Charter § 2604(e).

⁵⁴ *Id.*

⁵⁵ See “Final Report of the 2019 New York City Charter Revision Commission” (Aug. 2, 2019) available at https://www.nyc.gov/assets/coib/downloads/pdf2/charter_revision/2019-charter-revision-final-report.pdf, at 57–60.

⁵⁶ *Id.*

Currently, COIB is composed of five members, three of whom are appointed by the Mayor.⁵⁷ The Public Advocate and the Comptroller appoint one member each.⁵⁸ All members are subject to advice and consent from the Council, and the Mayor designates a Chair.⁵⁹ Members are automatically confirmed if the Council fails to act within 45 days of a proposed member's nomination.⁶⁰ Members may only be removed for a statutorily authorized cause and by the same authority that appointed them.⁶¹ The current structure was implemented by Charter referendum in 2019, prior to which all COIB members were appointed and removable by the Mayor alone.⁶²

COIB members are subject to certain rules intended to prevent actual or apparent conflicts of interest, and to support their independence from political influence. Members are to be chosen for their "independence, integrity, civic commitment and high ethical standards," are barred from holding any public office or political party office for the duration of their term,⁶³ and may not seek political office, act as a lobbyist,⁶⁴ or participate in a political campaign for elected municipal office while serving on COIB.⁶⁵ They are additionally subject to contribution limits for candidates in municipal elections.⁶⁶ Members serve staggered terms of six years and receive per diem compensation that shall be "no less than the highest amount paid" to any official whose appointment is subject to Council advice and consent and who is likewise paid on a per diem basis.⁶⁷

⁵⁷ Charter § 2602(a).

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ Charter § 2602(c).

⁶¹ Charter § 2602(f) (listing acceptable causes for removal as "substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office or violation of this section, after written notice and opportunity for a reply").

⁶² "Final Report of the 2019 New York City Charter Revision Commission" at 60.

⁶³ Charter § 2602(b).

⁶⁴ See Admin. Code § 3-211(a), (c).

⁶⁵ Charter § 2602(b).

⁶⁶ Charter § 2602(b).

⁶⁷ Charter § 2602(c)-(d).

COIB's official acts are taken by majority vote, meaning a vote by at least three out of five members.⁶⁸ Three members also constitute a quorum.⁶⁹ (Prior to the 2019 Charter amendments, COIB's quorum was set by law as two out of five members.)⁷⁰ Thus, it is still the case that if the Mayor's appointees align on a course of action, they may hold official meetings and act without the support of any non-mayoral appointees. The inverse is also true: COIB may not convene or act without the participation of at least one mayoral appointee.

While the Commission did not hear testimony that COIB members have faced difficulties with appointments or quorum in recent years, there have occasionally been prolonged vacancies due to failures to appoint new members when a prior member's term expired.⁷¹ In addition, because the Board is small, if more than two Board members recuse themselves from a specific matter, the Board would lose its quorum with regard to that case.

Due to its small size, COIB's capacity has been disproportionately affected by across-the-board hiring freezes and budget cuts in recent years.⁷² From 2018 to 2022, COIB generally maintained an authorized headcount of 26 and a vacancy rate under 4%⁷³ (considered a healthy vacancy rate).⁷⁴ Since 2022, COIB saw its vacancy rate rise due to hiring freezes, even as their authorized headcount was progressively cut from 26 to 21.⁷⁵ Ultimately, COIB has

⁶⁸ Charter § 2602(h).

⁶⁹ *Id.*

⁷⁰ "Final Report of the 2019 New York City Charter Revision Commission," at 60.

⁷¹ See, e.g., NYC Conflicts of Interest Board, "Annual Report 1999" (Dec. 31, 1999) (noting that COIB lacked a chair and had only 3 out of the 5 members that the Charter required, and that no new members had been appointed in the preceding 4 years), available at https://www.nyc.gov/assets/coib/downloads/pdf2/annual_reports/1999_Annual_Report.pdf.

⁷² See, e.g., NYC Conflicts of Interest Board, "2023 Annual Report," at 7.

⁷³ NYC Comptroller, "NYC Agency Staffing Dashboard," available at <https://comptroller.nyc.gov/services/for-the-public/nyc-agency-staffing-dashboard/authorized-vs-actual-staffing-with-vacancy-rates/>, (accessed Apr. 17, 2025).

⁷⁴ Human Panel, "Vacancy rate: 5 things you should know" (Oct. 18, 2021) available at <https://humanpanel.com/vacancy-rate/>, ("The established market benchmark for vacancy rate is around 3.5%," notwithstanding variation among countries, industries, and organizations).

⁷⁵ NYC Comptroller, "NYC Agency Staffing Dashboard;" NYC Conflicts of Interest Board, "2023 Annual Report," at 7.

lost 19%, or nearly one in five, of its staff members since 2018.⁷⁶ At the same time, COIB reported a 20% year-over-year increase in requests for formal advice in 2023, the most recent year for which data is available—the highest number of requests in COIB history.⁷⁷

COIB’s annual reports provide background information on their workload and capacity over the years. For example, the 2010 Charter amendment requiring COIB to provide training to “each public servant” on the code of ethics significantly increased staffing needs.⁷⁸ In addition, COIB reported in 2023 that the Enforcement Unit “faced significant staffing challenges” due to a hiring freeze that stopped them from replacing an Enforcement Unit staff attorney, thereby reducing the four-attorney Unit’s capacity by 25%.⁷⁹ This is of particular concern because COIB has previously described the Enforcement Unit as operating at “the heart” of their Charter mandate.⁸⁰ DOI, which conducts investigations for COIB, also reports facing significant staffing and capacity challenges in recent years for the same reason.⁸¹

Repeated proposals for establishing a budget minimum for COIB in the Charter have been made over the course of decades, including by previous Charter Revision Commissions,⁸²

⁷⁶ NYC Comptroller, “NYC Agency Staffing Dashboard.”

⁷⁷ NYC Conflicts of Interest Board, “2023 Annual Report,” at 7.

⁷⁸ NYC Conflicts of Interest Board, “2018 Annual Report” (2019) *available at* https://www.nyc.gov/assets/coib/downloads/pdf2/annual_reports/2018-nyc-coib-annual-report.pdf, at 5. See also Charter § 2603(b)(2)(b).

⁷⁹ NYC Conflicts of Interest Board, “2023 Annual Report,” at 7.

⁸⁰ NYC Conflicts of Interest Board, “2018 Annual Report,” at 14.

⁸¹ *Written Testimony of Jocelyn E. Strauber, Commissioner for the NYC Dept. of Investigation, to the NYC Council Committee on Oversight & Investigations, “Concerning the Preliminary Budget for Fiscal Year 2026 & the Fiscal 2025 Preliminary Mayor’s Management Report”* (Mar. 14, 2025) *available at* <https://www.nyc.gov/assets/doi/Testimony/FinalBudgetTestimony.03.14.2025.pdf>, at 2, 4–6.

⁸² See, e.g., “Final Report of the 2018 New York City Charter Revision Comm’n,” (2018), *available at* <https://www.nyc.gov/assets/charter/downloads/pdf/final-report-20180904.pdf>, at 122–123, 127 at fn34.

Council Members,⁸³ mayoral candidates,⁸⁴ and COIB itself.⁸⁵ Despite the long-running arguments in favor of an independent budget for COIB, the public has never had an opportunity to vote on the issue. When the 2018 Charter Revision Commission considered the issue, it cited several reasons for declining to put forward such a proposal. These were arguments against the use of fixed budgets as a general practice: namely, the need to retain budgeting flexibility in case of severe budget cuts or shifting public priorities, and the relatively limited portion of the City’s budget available for discretionary spending.⁸⁶ That Commission did not assess the specific impacts of the current budgeting process on COIB’s independent oversight role.

COIB previously proposed an independent budget for itself to the Charter Revision Commissions of 2009, 2013, and 2014.⁸⁷ While noting that the Mayor and the Council have historically respected the agency’s independence, COIB testified to those Commissions that it “has no natural constituency,” that it “regulates the very people who set its budget,” and that it regularly considers matters relating to high-level officials while budget negotiations are ongoing.⁸⁸ COIB’s proposal was based on the IBO model, and on other cities’ practices.⁸⁹ Their proposed amendment would allocate to COIB a minimum budget of

⁸³ See NYC Council, Int. No. 1099-2009 (also proposing to establish a budget guarantee resembling the CFB model for the Comptroller’s Office); Int. No. 95-2010; Int. No. 1045-2009.

⁸⁴ See NY Times Editorial Board, “Maya Wiley Mayoral Endorsement Interview,” (May 10, 2021), *available at* <https://www.nytimes.com/2021/05/10/opinion/maya-wiley-endorsement-interview.html>; Samar Khurshid & Ben Max, “Mayor Pledges to Re-Examine Conflicts of Interest Board Funding,” *Gotham Gazette* (May 19, 2016) *available at* <https://www.gothamgazette.com/city/6343-mayor-pledges-to-re-examine-conflicts-of-interest-board-funding>.

⁸⁵ *E.g.*, NYC Conflicts of Interest Board, “Proposed Charter Amendment on Independent Budget,” (June 2013), *available at* <https://www1.nyc.gov/site/coib/the-law/past-charter-revisions-and-proposed-amendments.page> (accessed Apr. 17, 2025).

⁸⁶ “Final Report of the 2018 New York City Charter Revision Comm’n,” at 122–123, 127 at fn34 (citing to the consideration of independent budgeting proposals in 2002, 2003, 2010, and 2018 Charter Revision Commissions).

⁸⁷ See *generally* NYC Conflicts of Interest Board, “Past and Proposed Charter Amendments,” *available at* <https://www.nyc.gov/site/coib/the-law/past-charter-revisions-and-proposed-amendments.page> (accessed Apr. 17, 2025).

⁸⁸ NYC Conflicts of Interest Board, “Proposed Charter Amendments,” (March 2014), *available at* https://www.nyc.gov/assets/coib/downloads/pdf2/charter_revision/charter_amendments_3_2014.pdf, at 4; NYC Conflicts of Interest Board, “Proposed Charter Amendment on Independent Budget,” (June 2013), at 1.

⁸⁹ *Id.*

four-thousandths of one percent (.004%) of the City’s total expense budget, which would fluctuate with any mid-year adjustments to the City’s total budget but otherwise be exempt from cuts related to Programs to Eliminate the Gap (PEGs).⁹⁰ Pursuant to the amendment, COIB would maintain discretion over how to allocate those funds between “personal services” (e.g., salaries) and “other than personal services” (e.g., supplies and services).⁹¹ In addition, COIB proposed imposing additional budget transparency requirements as a means of heightened accountability.⁹² Although COIB did not make this proposal during this Commission’s first round of hearings, Citizens Union raised the issue.⁹³

Several safeguards currently exist to ensure that agency spending remains subject to rigorous controls to prevent waste or fraud. As is the case with all city agencies, the Comptroller periodically audits COIB’s budget (which it most recently did in 2017 and 2022).⁹⁴ In addition, DOI is empowered to oversee and investigate any complaints it receives about COIB.⁹⁵ And last but not least, COIB is required to, and regularly does, submit an annual report summarizing its proceedings and activities, including a statistical summary and evaluation of complaints and referrals received and their disposition, its legislative and administrative recommendations, if any, its rules, and an index of its opinions and orders of the year.⁹⁶

Staff Recommendation

Although COIB’s current appointment process and quorum requirements have functioned well, some potential structural weaknesses remain. Most salient is the small margin by which a quorum may fail. This could occur through negligence—for example, if successive

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Oral and Written Testimony of Citizens Union* (Mar. 5, 2025).

⁹⁴ See generally NYC Comptroller, “Follow-Up Audit Report on the Conflicts of Interest Board’s Oversight over the Collection and Reporting of Enforcement Fines,” Audit No. FM22-091F (Oct. 27, 2022), available at https://g-city.sass.org.cn/_upload/article/files/9b/26/8655c3614d66b66a753b32cfb23d/8e165727-ce83-4aae-ab2b-5992d6bc80fa.pdf.

⁹⁵ See NYC Dept. of Investigations, “Squad 6,” available at <https://www.nyc.gov/site/doi/offices/squad-six.page> (accessed Apr. 17, 2025).

⁹⁶ Charter § 2603(i).

mayors or other appointing authorities fail to fill one or more vacancies—or as a result of Board members’ incidental connection to a party or matter that would require them to recuse themselves. Staff therefore recommend that the Commission further consider and solicit feedback concerning whether and how COIB’s quorum requirements might be adjusted to minimize the risk that the Board loses quorum and is thus incapable of action.

The staff has also identified two principal reasons for the Commission to consider providing COIB with a guaranteed budget. The first is because creating a minimum budget removes the possibility or even the appearance of being at the mercy of mayoral favor in order to continue functioning. Even when COIB is fully funded, the possibility that COIB’s budget could be cut for political reasons may feed public mistrust in government. This is in tension with COIB’s mission to uphold not just the actual integrity of city government, but also its *perceived* integrity. Secondly, as a small agency, despite its vital function, COIB’s specific circumstances are arguably easily overlooked during normal budget processes, including during general budget cuts and PEGs. Indeed, COIB has not received a Council hearing regarding its annual budget since 2016.⁹⁷ As seen in 2023, even small budget cuts and hiring freezes can have outsized impacts on its capacity due to its small size. Therefore, staff recommend that the Commission consider and solicit feedback on this issue.

Department of Investigation (DOI)

DOI is the agency charged with combatting corruption in city government. DOI investigates allegations of corruption, fraud, incompetence, mismanagement, and other abuses and crimes committed by agencies, commissions, elected officials, employees, contractors, and those who receive benefits from the City.⁹⁸ DOI is headed by a Commissioner of Investigation, and its work is conducted by 12 “squads,” divided according to subject-matter

⁹⁷ See, e.g., NYC Council, “Fiscal Year 2025 Budget,” available at <https://council.nyc.gov/budget/fy2016/> and “Fiscal Year 2016 Budget,” available at <https://council.nyc.gov/budget/fy2025/>, (accessed Apr. 17, 2025).

⁹⁸ NYC Dept. of Investigation, “DOI’s Mission and History,” available at <https://www.nyc.gov/site/doi/about/mission.page>, (accessed April 17, 2025).

specialties, and 59 Offices of Inspectors General—one for each city agency overseen by DOI.⁹⁹ DOI's current structure is the result of an effort in the 1970's and 1980's to centralize all City Inspectors General under one agency.¹⁰⁰

Chapter 34 of the Charter sets out the mandate, duties, and responsibilities of the Commissioner and DOI. However, much of DOI's internal structure and the powers and duties of its Inspectors General are outlined exclusively in Executive Order No. 16 of 1978 (EO 16).¹⁰¹ EO 16 also directs agency heads as to how to cooperate with DOI investigations.¹⁰² A number of provisions undergirding DOI's independence and structure are found exclusively in EO 16, which may be revoked or altered by a sitting Mayor at any time.

DOI often conducts high-profile, high-stakes investigations of waste, corruption, and wrongdoing, including a number of recent investigations and arrests of top-ranking city officials.¹⁰³ DOI reports that the number of complaints received, arrests made, and cases referred for prosecution have all increased precipitously in recent years, even as their budget and staffing have been cut.¹⁰⁴ To protect DOI's critical work, the Commission has received proposals to protect the Commissioner of Investigation against undue mayoral influence, including against arbitrary removal, and to consider options for giving DOI more budgetary independence.

⁹⁹ Charter § 801; NYC Dept. of Investigation, "Inspectors General," *available at* <https://www.nyc.gov/site/doi/contact/contact-inspectors-general.page>, (accessed April 7, 2025).

¹⁰⁰ *Id.*

¹⁰¹ NYC Executive Order (Koch) No. 16, *available at* https://www.nyc.gov/assets/jointheboldest/downloads/pdf/new-hire/Mayor_Executive_Order_16_L.pdf.

¹⁰² *Id.*

¹⁰³ Annie McDonough, "Who in Eric Adams' orbit has been searched and subpoenaed by the feds?," City & State New York, (Oct. 9, 2024), *available at* <https://www.cityandstateny.com/politics/2024/10/who-adams-administration-has-been-searched-and-subpoenaed-feds/399390/>; Manhattan District Attorney, "D.A. Bragg, D.O.I. Commissioner Announce Sweeping Bribery, Conspiracy Indictments Against Former DOB Commissioner Eric Ulrich, Multiple Associates" (Sept. 13, 2023), *available at* <https://manhattanda.org/d-a-bragg-d-o-i-commiss-announce-sweeping-bribery-conspiracy-indictments-against-former-dob-commissioner-eric-ulrich-multiple-associates/>; Jan Ransom, "This Agency Fights Corruption. New York City Leaders Have Weakened It.," NY Times (Apr. 6, 2025), *available at* <https://www.nytimes.com/2025/04/06/nyregion/nyc-corruption-adams-doi.html>.

¹⁰⁴ *Written Testimony of Jocelyn E. Strauber, Commissioner for the NYC Dept. of Investigation*, NYC Council 2025 Preliminary Budget hearing (Mar. 14, 2025), at 2–6.

The Commissioner of Investigation is appointed by the Mayor and confirmed by the Council, and is required at a minimum to have had five years of “law enforcement experience” and to be licensed to practice law in New York State.¹⁰⁵ The Commissioner may also appoint two deputies, who may conduct or preside over any DOI investigations.¹⁰⁶ The Charter does not set the Commissioner’s or Deputy Commissioners’ terms or length of service. The Mayor may remove the Commissioner “upon filing in the office of the commissioner of citywide administrative services and serving upon the commissioner of investigation the reasons therefor and allowing such officer an opportunity of making a public explanation.”¹⁰⁷

The Charter further provides that the Commissioner of Investigation has exclusive appointing and supervisory authority over Inspectors General.¹⁰⁸ Beyond that, the system and roles of the Inspectors General are established almost exclusively pursuant to EO 16. EO 16 requires that an Inspector General be assigned to each city agency and provides that all Inspectors General serve at the will of the Commissioner, in consultation with the relevant agency head.¹⁰⁹ EO 16 also directs that Inspectors General for each agency be notified of all complaints involving corrupt or other criminal activity received by an agency, as well as those involving agency conflicts of interest, unethical conduct, misconduct, and incompetence.¹¹⁰

EO 16 further requires that the Commissioner work with each agency head to evaluate the performance of Inspectors General and Deputy Inspectors General.¹¹¹ Inspectors General and Deputy Inspectors General are prohibited from holding managerial or executive positions within the agency they oversee for three years after leaving their roles as Inspector General or Deputy Inspector General.¹¹² This three-year buffer safeguards against actual and perceived conflicts of interest and self-dealing.

¹⁰⁵ Charter §§ 31, 801.

¹⁰⁶ Charter § 802.

¹⁰⁷ Charter § 801.

¹⁰⁸ Charter § 807.

¹⁰⁹ NYC Executive Order (Koch) No. 16, § 3(f).

¹¹⁰ *Id.* at § 3(d).

¹¹¹ *Id.* at § 3(f).

¹¹² *Id.*

Although the Commission did not receive testimony from DOI in the first round of public hearings, DOI testified before the Council’s Committee on Oversight and Investigation in March 2025 in favor of several measures that would increase its independence.¹¹³ These included two proposals relevant to the appointment and removal of the Commissioner of Investigation. First, DOI proposed that Commissioners of Investigation be appointed to a fixed term of five or seven years.¹¹⁴ With either option, the Commissioner’s term would span two mayoral terms, thereby helping to limit the influence of any one mayoral administration over DOI’s operations.¹¹⁵ Second, DOI proposed strengthening removal protections for the Commissioner.¹¹⁶ DOI proposed that removal of a Commissioner should be only for cause, and only with approval of the Council, perhaps with a public hearing.¹¹⁷ This would reduce the risk that a Commissioner would be removed for an improper purpose, provide a check on the Mayor’s removal power, and increase public transparency about the basis for the proposed removal.¹¹⁸ This process would also mirror the Commissioner’s appointment process, which requires approval by the Council.¹¹⁹ Other jurisdictions that employ various joint appointing methods and removal protections for comparable roles include San Francisco,¹²⁰ Los Angeles,¹²¹ Chicago¹²² and the District of Columbia.¹²³

Pursuant to EO 16, the Commissioner of Investigation is responsible “for the preparation and allocation of a system-wide budget” for DOI, as well as for allocating personnel and resources to the Inspector General offices within agencies “as needed.”¹²⁴ The Charter does not provide any budget-related structural protections or minimum funding for the agency.

¹¹³ *Written Testimony of Jocelyn E. Strauber, Commissioner for the NYC Dept. of Investigation*, NYC Council 2025 Preliminary Budget hearing (Mar. 14, 2025).

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.* See also Charter § 31.

¹²⁰ San Francisco Charter § 15(105).

¹²¹ Los Angeles Charter § 502.

¹²² Municipal Code of Chicago § 2(156)(310 et seq).

¹²³ Municipal Code of the District of Columbia § 1(301)(115)(a).

¹²⁴ NYC Executive Order (Koch) No. 16 at §§ 3(a)(i) – 3(a)(ii).

DOI has suffered meaningful cuts and hiring delays in recent years, translating to severe staffing shortages.¹²⁵ In the years leading up to the pandemic, the agency’s actual headcount hovered around 370, with an authorized headcount of 408.¹²⁶ In recent years, the authorized headcount has been reduced to 310, a nearly 25% cut, but the actual headcount of 263 reflects an even larger drop of nearly 30% in real terms.¹²⁷ At the same time, DOI reports that the number of complaints received, arrests made, and cases referred for prosecution have all risen precipitously: from 2022 to 2024, for example, the number of arrests made by DOI increased by 59%.¹²⁸ Staffing and budget reductions have prompted concerns that DOI’s full capacity to carry out its mandate has been meaningfully weakened.¹²⁹

OMB's role in imposing hiring freezes and restricting appropriations is extensive,¹³⁰ and has demonstrably impacted DOI. The agency has testified that OMB’s imposition of a two-for-one hiring process “significantly reduces [the agency’s] ability to hire qualified staff to fill critical vacancies,” and that “almost eighteen months had passed since the initial offer” to one candidate due to OMB’s prolonged approval process.¹³¹ In addition, “the current OMB hiring policies require [the agency] to offer a salary that is materially lower than [comparable title] salaries offered by similarly-sized city agencies.”¹³² The result is “burnout and ultimately greater attrition” at the agency, hamstringing its ability to accomplish its mission.¹³³

Even limited appeals from DOI to OMB for capital funding for a digital case management system faced delays, with “well over a year of back-and-forth” that required the agency “to

¹²⁵ *Written Testimony of Jocelyn E. Strauber, Commissioner for the NYC Dept. of Investigation*, NYC Council 2025 Preliminary Budget hearing (Mar. 14, 2025), at 4–6.

¹²⁶ NYC Comptroller, “NYC Agency Staffing Dashboard,” *available at* <https://comptroller.nyc.gov/services/for-the-public/nyc-agency-staffing-dashboard/authorized-vs-actual-staffing-with-vacancy-rates/>, (accessed Apr. 15, 2025).

¹²⁷ *Id.*

¹²⁸ *Written Testimony of Jocelyn E. Strauber, Commissioner for the NYC Dept. of Investigation*, NYC Council 2025 Preliminary Budget hearing (Mar. 14, 2025), at 3.

¹²⁹ Jan Ransom, “This Agency Fights Corruption. New York City Leaders Have Weakened It.,” *NY Times*, (Apr. 6, 2025), *available at* <https://www.nytimes.com/2025/04/06/nyregion/nyc-corruption-adams-doi.html>.

¹³⁰ See Charter § 106(b).

¹³¹ *Written Testimony of Jocelyn E. Strauber, Commissioner for the NYC Dept. of Investigation*, NYC Council 2025 Preliminary Budget hearing (Mar. 2025), at 4–5.

¹³² *Id.*

¹³³ *Id.*

use forfeiture funds for critical agency needs” rather than wait for OMB to release the necessary capital funds.¹³⁴

Staff Recommendation

Among “fourth branch” agencies, DOI commands some of the most robust enforcement power: they have the organizational capacity, expertise, and mandate to see cases through the full spectrum of legal accountability, from receipt of an initial complaint through investigation, arrest, and finally referral for prosecution.¹³⁵ DOI’s anti-corruption work holds the rest of government accountable, including at the Office of the Mayor and other “fourth branch” agencies such as the Campaign Finance Board (CFB), the Board of Elections (BOE), COIB, and OATH.¹³⁶ DOI is also charged with enforcing whistleblower protections and investigating complaints related to conflicts of interest,¹³⁷ meaning that DOI’s investigatory capabilities underpin COIB’s ability to carry out its mandate.

Despite these weighty responsibilities, DOI faces significant structural risks. Because DOI’s organizational structure is not fully outlined in the Charter, and because the Commissioner of Investigation is currently removable by the Mayor with limited process, a determined Mayor who was unhappy with an investigation, or who wished to direct DOI’s investigatory power against political opponents, could dramatically and quickly reassign key staff, realign chains of command and control within DOI, and change its leadership. This has the potential to do lasting damage to DOI’s ability to carry out its mandate. Moreover, any attempt to instrumentalize or weaken DOI’s powers for political ends could be highly damaging to democratic checks and balances as well as corrosive to public trust in government. Staff therefore recommend that the Commission consider and solicit feedback on whether and how to ensure a stable and independent structure for DOI, including the Commissioner’s

¹³⁴ *Id.* at 5.

¹³⁵ Charter §§ 803, 805.

¹³⁶ See, e.g., NYC Dept. of Investigations, “Squad 5,” available at <https://www.nyc.gov/site/doi/offices/squad-five.page>, (accessed Apr. 17, 2025); NYC Dept. of Investigations, “Squad 6,” available at <https://www.nyc.gov/site/doi/offices/squad-six.page>, (accessed Feb. 7, 2025).

¹³⁷ Admin. Code § 12-113 (known as “the Whistleblower Law”).

term of service, removal protections, and the Inspectors General system. Likewise, staff recommend that the Commission continue to consider and gather feedback on ways to insulate DOI's budget from Mayor-Council negotiations, as well as from PEGs, hiring freezes, and either implicit (*i.e.*, delays) or explicit impoundment of budgeted funds.

Corporation Counsel

The Corporation Counsel is the head of New York City's Law Department, an executive agency of over 1,500 lawyers and support staff.¹³⁸ The Corporation Counsel acts as the attorney and counsel for the City as a whole, including for the Mayor, Council, other elected officials, and every city agency.¹³⁹ The Law Department represents these entities in all affirmative and defensive litigation and supervises the legal affairs of all city agencies.¹⁴⁰ Law Department attorneys draft and review City and New York State legislation, real estate leases, and procurement contracts for the sale of municipal bonds, and they provide legal counsel to city officials on a wide variety of legal issues.¹⁴¹

The Corporation Counsel has the difficult task of determining the best legal interests of the City, even if that may at times conflict with the political interests of one or more elected officials, including the Mayor. In addition, the Corporation Counsel receives referrals from and enforces the subpoena power of a number of independent watchdog agencies in the City, including CCHR¹⁴² and the CCRB.¹⁴³ The Corporation Counsel also receives whistleblower complaints against the Commissioner of Investigation¹⁴⁴ and serves on the Committee on Mayoral Inability, which has the authority in defined instances to determine

¹³⁸ Charter § 391; NYC Comptroller, "NYC Agency Staffing Dashboard," <https://comptroller.nyc.gov/services/for-the-public/nyc-agency-staffing-dashboard/authorized-vs-actual-staffing-with-vacancy-rates/> (accessed April 17, 2025).

¹³⁹ Charter §§ 394–398.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² Charter § 902(d); Admin. Code § 8(401) et seq.

¹⁴³ Charter § 440(c)(3).

¹⁴⁴ Admin. Code § 12-113.

whether the Mayor is permanently unable to discharge the powers and duties of their office.¹⁴⁵

The Mayor appoints the Corporation Counsel with the advice and consent of the Council.¹⁴⁶ In recognition of the importance of the role, the Charter requires the Mayor to submit the name of a nominee for Corporation Counsel within 60 days of any vacancy or within 60 days of the Council’s rejection of a nominee.¹⁴⁷ The Mayor must make “all reasonable efforts” to fill the vacancy within 120 days.¹⁴⁸ In addition, the Charter provides that the Corporation Counsel is authorized, but not required, to appoint a First Assistant Corporation Counsel who could take on all of the duties and powers of the Corporation Counsel in case of absence, temporary disability, or vacancy.¹⁴⁹

The Corporation Counsel is arguably required to impartially determine the best legal interests of the City, at times even if the Mayor disagrees. For example, the Corporation Counsel recently exercised this discretion in declining to represent the Mayor in pending litigation against the City Council, on the grounds that the Law Department had previously advised both sides on the disputed matter.¹⁵⁰ Nevertheless, the Mayor may remove the Corporation Counsel at will. Several members of the public proposed that the Commission consider creating additional protections for the Corporation Counsel in light of the importance and unique duties of the role.

Staff Recommendation

The detailed appointment process currently in place reflects the Corporation Counsel’s significant power over the City’s legal positions and decision-making. While many decisions

¹⁴⁵ Charter § 10(d)(2).

¹⁴⁶ Charter § 391(b).

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ Charter § 392.

¹⁵⁰ Elizabeth Kim, “NYC Law Department will not defend Mayor Adams in lawsuit to block ICE on Rikers,” *Gothamist* (Apr. 16, 2025), available at <https://gothamist.com/news/nyc-law-department-will-not-defend-mayor-adams-in-lawsuit-to-block-ice-on-rikers>.

of legal strategy and policy fall within the scope of the Mayor’s power to set policies and priorities, it is possible that conflicts of interest may arise with regard to legal decisions directly affecting the Mayor or their staff, or where an independent “fourth branch” agency seeks legal advice or brings an enforcement action against another agency that also relies on the Corporation Counsel. With this in mind, the staff recommend that the Commission solicit additional information and feedback on whether and how to institute removal protections for the Corporation Counsel.

Civilian Complaint Review Board (CCRB)

The CCRB is responsible for receiving, investigating, hearing, making findings, and recommending actions concerning “complaints by members of the public against members of the police department that allege misconduct.”¹⁵¹ Such complaints may concern an officer’s excessive use of force, abuse of authority, discourtesy, or use of offensive and discriminatory language.¹⁵² In the course of an investigation, the CCRB may compel the attendance of witnesses and require the production of relevant records and other materials, which may be enforced in court, if necessary, by the Corporation Counsel.¹⁵³ After investigating a complaint, the CCRB provides its findings and disciplinary recommendations to the Police Commissioner.¹⁵⁴

Because the Charter and the Administrative Code give the Police Commissioner “cognizance and control” over police discipline, the Police Commissioner is free to implement the CCRB’s recommendation, with or without modification, or to disregard it.¹⁵⁵ In any event, the Police Commissioner must report to the CCRB on any action taken with respect to the CCRB’s recommendations.¹⁵⁶

¹⁵¹ Charter § 440(c)(1).

¹⁵² *Id.*

¹⁵³ Charter § 440(c)(3).

¹⁵⁴ Charter § 440(c)(1).

¹⁵⁵ Charter § 434(a); NYC Rules § 15(17).

¹⁵⁶ Charter § 440(d)(3); NYC Rules §§ 15(17)–15(18).

The CCRB is comprised of 15 members serving three-year, renewable terms.¹⁵⁷ Eight appointees are mayoral: five are selected directly by the Mayor, while three must be law enforcement professionals designated by the Police Commissioner before being appointed by the Mayor.¹⁵⁸ The remaining seven include six non-mayoral appointees (five by the Council and one by the Public Advocate) as well as the Chair, who is jointly appointed by the Mayor and Speaker of the Council.¹⁵⁹ The five Council appointees must represent each of the five boroughs.¹⁶⁰ No member of the Board may have a law enforcement background other than those designated by the Police Commissioner, and none may be public employees or serve in public office.¹⁶¹ Board members are compensated on a per-session basis, though some choose to serve pro bono.¹⁶²

To reduce the number of vacancies that may affect the Board at any one time, CCRB members serve until their successors have been appointed.¹⁶³ In the event of a mid-term vacancy, a successor must be chosen within 60 days.¹⁶⁴ If the Chair position is vacant, the Mayor selects an Interim Chair from among sitting Board members until the vacancy is filled.¹⁶⁵ Currently, the CCRB has an Interim Chair and there are three vacancies: one direct Mayoral appointee, one Council appointee, and one Mayoral appointee to be designated by the Police Commissioner.¹⁶⁶

The diversity of appointing powers plays a central role in the CCRB's operations. Complaints submitted to the Board are reviewed by three-member panels, one of whom must be a Mayoral appointee, one a Council appointee, and one a Police Commissioner-designated

¹⁵⁷ Charter § 440(b).

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ Charter § 440(b)(2).

¹⁶² NYC Civilian Complaint Review Board, "The Board," *available at* <https://www.nyc.gov/site/ccrb/about/the-board.page> (accessed April 17, 2025).

¹⁶³ Charter §§ 440(b)(3)–440(b)(4).

¹⁶⁴ Charter § 440(b)(4).

¹⁶⁵ *Id.*

¹⁶⁶ NYC Civilian Complaint Review Board, "Meet the Board: Members," *available at* <https://www.nyc.gov/site/ccrb/about/the-board.page>, (accessed April 17, 2025).

mayoral appointee.¹⁶⁷ The Public Advocate’s appointee may stand in for either the Mayor or the Council’s appointees.¹⁶⁸ Due to their relatively small number and the fact that one must serve on every panel, Police Commissioner–designated appointees typically serve on more panels in the course of a year than other Board members.¹⁶⁹

Each panel reviews hundreds of cases each year.¹⁷⁰ As a result, vacancies from any appointing authority can have serious negative impacts on the Board’s capacity to review all complaints received.¹⁷¹ For example, the CCRB received 5,663 complaints in 2024.¹⁷² Due to staffing shortages and Board-level vacancies, the CCRB’s capacity was restricted to the point that 22.5% of complaints received—nearly one in four—were closed without any investigation.¹⁷³ If the three vacancies had been filled, that would have enabled the formation of an additional panel that could have closed approximately 950 additional cases over the course of the year.¹⁷⁴ While this would not have addressed the full backlog, it demonstrates the critical effect not only of vacancies, but also of the Board’s Charter-mandated size on its capacity.

In light of the above operational restrictions, the Commission heard several suggestions from the public, including from the CCRB, to consider expanding the number of Board members. The Commission did not receive any specific suggestions about how large the Board could or should be, or who should appoint the additional members.¹⁷⁵

¹⁶⁷ Charter § 440(c)(2); *Oral Testimony of Dr. Mohammad Khalid, Interim Chair to the Civilian Complaint Review Board* (Mar. 20, 2025).

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*; Internal meeting of CCRB with the Commission (Mar. 21, 2025), notes on file.

¹⁷⁰ Internal meeting of CCRB with the Commission (Mar. 21, 2025), notes on file.

¹⁷¹ *Id.*

¹⁷² *Testimony of the NYC Civilian Complaint Review Board to the NYC Council Committee on Public Safety* (Mar. 11, 2025), available at <https://citymeetings.nyc/city-council/2025-03-11-0930-am-committee-on-public-safety/chapter/budget-constraints-forcing-closure-of-nypd-misconduct-complaints-without-investigation>.

¹⁷³ *Id.*

¹⁷⁴ Internal meeting of CCRB with the Commission (Mar. 21, 2025), notes on file.

¹⁷⁵ *Oral Testimony of Dr. Mohammad Khalid, Interim Chair to the Civilian Complaint Review Board* (Mar. 20, 2025); *Written Testimony of NYC Council Member Gale Brewer* (Mar. 10, 2025).

The CCRB has also faced chronic staffing shortages, and CCRB reports that previous efforts to address this challenge have not had the intended effect.¹⁷⁶ A 2019 Charter amendment now requires that the CCRB’s annual personnel budget be sufficient to fund a CCRB employee headcount equal to 0.65% of the Police Department’s (NYPD) uniformed officer headcount, unless the Mayor makes a written determination that fiscal necessity requires a lower budget amount.¹⁷⁷ Besides the “fiscal necessity” proviso, which grants the Mayor authority to lower the CCRB’s budget, the Mayor has other mechanisms to restrict funding, similar to other agencies and entities over which OMB has administrative control. This includes issuing monthly allotment numbers for hiring and rejecting job offers beyond the minimum salary.¹⁷⁸

In addition, the CCRB’s mandate has grown since that threshold was set. In 2021, the Council passed legislation giving the CCRB jurisdiction over bias-based policing and racial profiling and empowered it to investigate NYPD officers’ past professional misconduct related to bias or racial profiling.¹⁷⁹ Since 2022, the CCRB also has the power to self-initiate complaints from members of the public.¹⁸⁰ Additional Freedom of Information Law (FOIL) requests following the State Legislature’s repeal of Civil Rights Law section 50-a in 2020 have also added to the Board’s workload.¹⁸¹

Dr. Mohammad Khalid, Interim Chair of the CCRB, testified to the Commission that “CCRB should receive at least 1% of the NYPD’s budget. This significant increase in funding would enable the CCRB to operate at the level that New Yorkers deserve. Allocating at least 1% of the NYPD’s budget to the CCRB is an investment in both oversight and public trust.”¹⁸² A

¹⁷⁶ *Oral Testimony of Dr. Mohammad Khalid, Interim Chair to the Civilian Complaint Review Board* (Mar. 20, 2025).

¹⁷⁷ Charter § 440(g); 2019 Charter Revision Ballot Questions, Question #2: Civilian Complaint Review Board, available at <https://www.nyc.gov/assets/charter/downloads/pdf/reports-ballot-issues/ballot-questions.pdf>.

¹⁷⁸ Charter § 106(b).

¹⁷⁹ Local Law 47 of 2021.

¹⁸⁰ Local Law 24 of 2022.

¹⁸¹ Supplemental Information Submission from CCRB to the Commission, Apr. 7, 2025, on file.

¹⁸² *Oral Testimony of Dr. Mohammad Khalid, Interim Chair to the Civilian Complaint Review Board* (Mar. 20, 2025).

budget of 1%, Dr. Khalid continued, would “hopefully” enable CCRB to hire “one investigator for 128 NYPD members.”¹⁸³ Chicago,¹⁸⁴ Cleveland,¹⁸⁵ and Miami¹⁸⁶ all have similar civilian oversight bodies that receive funding at the level of 1% of their respective police departments’ budgets.

Staff Recommendation

Staff recommend that the Commission solicit further testimony on the nature of the CCRB’s capacity challenges and ways to address them.

In general, expanding boards to be too large can lead to difficulties in coordination, obtaining a quorum, and reaching an agreement on board actions. Since the CCRB is already a relatively large board, these downsides warrant consideration. However, the CCRB’s unique working methods and capacity restraints could potentially outweigh these concerns. Therefore, staff recommend that the Commission consider the CCRB’s general proposal to expand the Board, alongside other ideas for modifying quorum, safeguarding against vacancies, and otherwise expanding the Board’s capacity.

Staff further recommend that the Commission solicit additional testimony regarding the appropriateness of a minimum budget for the CCRB that is equal to 1% of the NYPD’s total budget. In addition, experts and the public could consider the possibility of a “hybrid” independent budget that could grant the CCRB the authority to submit additional budget requests into the Executive Budget, subject to the typical negotiation between the Council and Mayor prior to budget adoption (during which time the additional budget could be increased or decreased).

¹⁸³ *Id.*

¹⁸⁴ Chicago Municipal Code § 2(78)(105).

¹⁸⁵ See Cleveland Code of Ordinances § 115-5 (setting the Community Police Commission’s minimum budget at \$1 million, to be increased with inflation or in proportion to the Cleveland Police Department’s budget); Ballotpedia, “Cleveland, Ohio, Issue 24, Community Police Commission and Police Oversight Initiative (November 2021)” (explaining that the ballot proposal, which was approved by voters, would effectively set the Community Police Commission’s budget at 1% of the Police Department’s budget), *available at* [https://ballotpedia.org/Cleveland,_Ohio,_Issue_24,_Community_Police_Commission_and_Police_Oversight_Initiative_\(November_2021\)](https://ballotpedia.org/Cleveland,_Ohio,_Issue_24,_Community_Police_Commission_and_Police_Oversight_Initiative_(November_2021)).

¹⁸⁶ Miami Code of Ordinances § 11.5-35.

Board of Correction (BOC)

BOC was first established in 1957 with the purpose of improving the City’s jails to be smaller, safer, fairer, and more humane.¹⁸⁷ It has evolved over time through Charter revisions to enhance its role in establishing and ensuring compliance with minimum standards for confinement and health care in all City correctional facilities.¹⁸⁸

To enforce these minimum standards, BOC may hear complaints and requests for assistance by or on behalf of any person held by the Department of Correction (DOC), or by any DOC employee.¹⁸⁹ BOC also issues regular reports on systemic patterns of abuse and dysfunction in corrections facilities and within DOC.¹⁹⁰ In carrying out these duties, BOC exercises subpoena power and has the right to inspect and visit all city correctional facilities, to inspect all relevant documents, and to evaluate and report departmental compliance with the minimum standards to the Mayor and the Council.¹⁹¹ The power of the Board to hear cases, conduct investigations, and to issue reports, findings, and recommendations on any matter within its jurisdiction may be delegated by the Board to any member or members.¹⁹²

BOC has nine members, appointed to six-year terms: six are appointed by the Mayor (three directly, and three upon nomination by the presiding Justices of the First and Second Appellate Divisions), with the remaining three appointed by the Council.¹⁹³ The Mayor designates the BOC Chair, and any BOC member may be removed by the Mayor for cause (even those appointed by the Council).¹⁹⁴ There are no Charter or statutory requirements regarding particular qualifications for service as a BOC member.

¹⁸⁷ NYC Board of Correction, “History,” available at <https://www.nyc.gov/site/boc/about/history.page> (accessed April 17, 2025).

¹⁸⁸ *Id.*

¹⁸⁹ Charter § 626(f).

¹⁹⁰ Charter §§ 626(d), 626(f).

¹⁹¹ Charter §§ 626(c), (g).

¹⁹² Charter § 626(h).

¹⁹³ Charter § 626(a).

¹⁹⁴ *Id.*

The Commission has received proposals to provide for an independent budget for BOC, with the suggestion to set it at 1% of the total budget of DOC, which it oversees. If this standard had been in place for Fiscal Year 2024, this would have resulted in a nearly fourfold increase to BOC’s budget, from \$3.3 million to \$12.6 million, based on DOC’s modified Fiscal Year 2024 budget of \$1.26 billion.¹⁹⁵ The proposed increase for BOC (\$9.3 million) is approximately the amount by which DOC overspent their modified budget (\$8.3 million).¹⁹⁶

Staff Recommendation

Allocating a minimum budget to the BOC, set at 1% of DOC’s budget, would align with the approach of setting CCRB’s budget minimum at 1% of the agency it oversees (the NYPD), as discussed above. The staff therefore recommends that the Commission continue to solicit and consider feedback on how BOC can be structurally empowered to perform its independent oversight role, and how a budget increase might be used to increase its capacity.

Equal Employment Practices Commission (EEOC)

EEOC was created by the 1989 Charter amendment as an independent, non-mayoral oversight entity tasked with auditing, reviewing, and monitoring New York City agencies’ compliance with federal, state, and city equal employment laws.¹⁹⁷ EEOC can compel the production of evidence or the appearance of witnesses in order to determine whether a city entity’s plan, program, policies, and procedures provide equal employment opportunities,¹⁹⁸ require appropriate corrective action where necessary, and monitor the implementation of any such corrective action.¹⁹⁹ EEOC is empowered to recommend policy, legislative, and

¹⁹⁵ Brad Lander, Francesco Brindisi, & Jacqueline Thompson, “Annual Comprehensive Financial Report,” Office of the NYC Comptroller (Oct. 30, 2024), available at <https://comptroller.nyc.gov/wp-content/uploads/documents/ACFR-2024.pdf>.

¹⁹⁶ *Id.*

¹⁹⁷ Charter § 830.

¹⁹⁸ Charter §§ 831(b), 832(b).

¹⁹⁹ Charter §§ 831(d)(2), 832(c)

budgetary recommendations to the Mayor, the Council, and any city agency.²⁰⁰ Where EEPCC uncovers an individual instance of suspected or alleged discrimination, it must refer the case to the City Commission on Human Rights (CCHR) for investigation.²⁰¹

EEPC consists of five members who are appointed to staggered four-year terms: two by the Mayor and two by the Council, with one jointly appointed Chair.²⁰² Quorum is set by law as three Commissioners.²⁰³ As of January 2025, EEPCC has a headcount of only 10 staff, in addition to the five Commissioners.²⁰⁴ Despite an approved budget increase for Fiscal Year 2025, OMB has not authorized EEPCC to hire up to its approved headcount of 15 staff, or to fill two existing staff vacancies.²⁰⁵ EEPCC audited 32 agencies in 2024, on schedule for its four-year audit cycle of approximately 145 city entities.²⁰⁶ However, EEPCC reports that due to budget cuts in recent years, it has faced “unprecedented difficulties filling vacancies” that have undermined its capacity to conduct effective follow-up on audit findings or to fulfill its obligations under Local Law 13 of 2019, which requires EEPCC to conduct a citywide racial equity analysis in the recruitment, selection, retention, and promotion of City employees.²⁰⁷

Staff Recommendation

The Commission heard testimony from the public that EEPCC, as an independent oversight agency, should have a minimum budget set by the Charter. This would ensure that EEPCC can

²⁰⁰ Charter § 832. City entities that meet the following criteria are subject to the EEPCC's audit, evaluation, and monitoring: the majority of the board members are appointed by the Mayor; the majority of the board members serve by virtue of being City officers; or the entity is funded, in whole or in part, by the City treasury.

²⁰¹ Charter § 831(c).

²⁰² *Id.*

²⁰³ Charter § 830(c).

²⁰⁴ *Oral Testimony of the Equal Employment Practices Commission (EEPC) to the NYC Council Committee on Civil and Human Rights* (Mar. 7, 2025), available at <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=7102148&GUID=BC487C21-B1C2-4354-83F7-745FA858FEC4&Options=&Search=>.

²⁰⁵ *Id.*

²⁰⁶ *Id.*; NYC Equal Employment Commission, “Agencies Scheduled to be Audited in 2024,” available at <https://www.nyc.gov/assets/eepc/downloads/pdf/Agencies-being-Audited-in-2024.pdf>; NYC Equal Employment Commission, “Agencies Scheduled to be Audited in 2025,” available at <https://www.nyc.gov/assets/eepc/downloads/pdf/Agencies-Scheduled-to-be-Audited-in-2025.pdf>.

²⁰⁷ See, e.g., *Testimony of the Equal Employment Practices Commission (EEPC) to the NYC Council Committee on Civil and Human Rights* (Mar. 7, 2025); *Testimony of the Equal Employment Practices Commission (EEPC) to the NYC Council Committee on Civil and Human Rights* (Mar. 15, 2024).

hold the City accountable for following equitable employment practices without fear of retaliation against its budget and staffing needs. As a small agency, EEPC consistently points out that its \$1.1 million budget is less than the amount that the City pays (\$1.8 million) to remove one inch of snow from the streets, which would likely melt anyways.²⁰⁸ Thus, the staff recommend that the Commission continue to solicit input on this issue and on other ways that EEPC's independent functioning may be preserved, such as by adding guardrails against prolonged commissioner vacancies.

Commission on Human Rights (CCHR)

CCHR is charged with enforcing the Human Rights Law (HRL),²⁰⁹ educating the public, and encouraging positive community relations.²¹⁰ The HRL is one of the nation's most comprehensive civil rights laws.²¹¹ It prohibits discrimination in employment, housing, and public accommodations based on race, color, religion/creed, age, national origin, immigration or citizenship status, gender (including sexual harassment), gender identity, sexual orientation, disability, pregnancy, marital status, and partnership status.²¹² The HRL also prohibits retaliation, discriminatory harassment, and bias-based profiling by law enforcement.²¹³

CCHR may receive and investigate complaints regarding potential HRL violations, may initiate their own investigations, and may hold administrative hearings, subpoena evidence, and impose civil or criminal penalties where a violation is found.²¹⁴ CCHR may investigate individual instances of potential discrimination as well as patterns or practices that may

²⁰⁸ *Id.*

²⁰⁹ Admin. Code Title 8.

²¹⁰ Charter §§ 902, 904.

²¹¹ NYC Commission on Civil & Human Rights, "Inside the NYC Commission on Human Rights," *available at* <https://www.nyc.gov/site/cchr/about/inside-cchr.page>, (accessed April 17, 2025).

²¹² Admin. Code Title 8.

²¹³ *Id.*

²¹⁴ Charter §§ 902(d)–902(e); Admin. Code §§ 8(109)–8(129).

result in systemic, widespread violations of the HRL.²¹⁵ Where such pattern or practice is suspected, CCHR may additionally refer the case to the Corporation Counsel to commence a civil action.²¹⁶ CCHR must pursue all complaints received, meaning CCHR provides representation for individuals who believe they have experienced illegal discrimination but cannot otherwise afford to pay for legal representation.²¹⁷

CCHR is a commission of 15 members, all appointed by the Mayor to three-year terms.²¹⁸ The Chair of the Commission serves full-time and is salaried; other Commissioners serve on a volunteer basis.²¹⁹ The Charter prohibits CCHR from pursuing complaints or initiating its own investigations with respect to alleged discrimination by city officials or city agencies except “after consultation” with the Mayor.²²⁰

Staff Recommendation

The Commission received several proposals intended to strengthen CCHR’s independence and capacity to uphold its mandate. In particular, while CCHR’s current work is primarily public-facing, the Charter’s requirement that CCHR consult with the Mayor prior to investigating any city official or agency accused of discrimination appears to undermine the agency’s ability to hold the City accountable under the HRL. This may particularly impact complainants who cannot afford private legal representation. Therefore, the staff recommend that the Commission continue to solicit and consider testimony on this issue.

²¹⁵ Charter § 902(d); Admin. Code §§ 8(401) et seq.

²¹⁶ *Id.*

²¹⁷ *Testimony of Annabel Palma Before to the NYC Council Committee on Civil and Human Rights* (Mar. 15, 2024) (noting that CCHR is a “right to file” agency), <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=6548596&GUID=8393D840-9FF6-4699-B1E0-7753E8ADF043&Options=&Search=>.

²¹⁸ Charter § 903.

²¹⁹ *Id.*

²²⁰ Charter § 905(d)(1).

Commission on Racial Equity (CORE)

CORE is the City’s youngest independent watchdog agency, established through the Charter revision of 2022.²²¹ CORE was established as part of a suite of racial equity–related Charter reforms designed to create a transparent and accountable commitment to working toward racial equity in the City.²²² To that end, CORE is charged with developing racial equity priorities and outcome indicators through outreach and collaboration with communities throughout the City.²²³ CORE tracks and evaluates city agencies’ commitments to, and progress toward, their racial equity goals.²²⁴ They may also receive confidential, individual complaints about specific agencies’ conduct and make recommendations to those agencies to address such complaints.²²⁵ CORE’s mandate also includes, as part of the City’s annual budget negotiations, publishing data analyses and recommendations on agency budget commitments in relation to the City’s Racial Equity Plan and the community equity priorities.²²⁶

CORE’s appointments, removal, and quorum protections are fairly robust. CORE is comprised of 15 Commissioners who serve staggered three-year terms: seven appointed by the Mayor, five by the Council (one from each borough), one by the Public Advocate, one by the Comptroller, and a Chair jointly appointed by the Mayor and the Speaker of the Council.²²⁷ The Chair is a full-time, salaried agency head, with the remaining Commissioners paid on a per diem basis.²²⁸ Commissioners must, at a minimum, have demonstrated expertise in racial equity, be representative of or have experience advocating for the equity

²²¹ NYC Commission on Racial Equity, “The Commission,” <https://www.nyc.gov/content/core/pages/the-commission> (accessed April 17, 2025).

²²² *Id.*

²²³ Charter § 3404(i).

²²⁴ See *generally* Charter § 3404.

²²⁵ Charter § 3404(i).

²²⁶ Charter § 3404(i)(2).

²²⁷ Charter § 3404(b).

²²⁸ Charter § 3404(c).

and rights of marginalized groups, and have never served on a New York City public body.²²⁹ None may serve more than three terms.²³⁰

Commissioners may only be removed by their appointing authorities, and only for cause.²³¹ Mid-term vacancies must be filled within 90 days: upon the expiration of that term, the Commissioners in office may appoint a member, including the Chair, to fill the vacancy.²³² Quorum is set by law as the majority of the Commissioners currently in office.²³³

Staff Recommendation

The Commission has received proposals to set a mandatory minimum budget for CORE, as a reflection of their independent watchdog role and the agency's role in building public trust in the government's commitment to and accountability for its equity goals. Currently, the Charter states that CORE's appropriations shall not be less than sufficient to fund CORE's Charter-mandated requirements.²³⁴ Staff recommend that the Commission continue to solicit public input on the importance of and need for a guaranteed or minimum budget, and what metrics might be relevant to determining such an amount.

²²⁹ Charter § 3404(d).

²³⁰ *Id.*

²³¹ Charter § 3404(e).

²³² *Id.* Provision is also made for holdovers.

²³³ Charter § 3404(g).

²³⁴ Charter § 3404(h).

Advice and Consent

A Guardrail and an Opportunity for Public Input

In New York City, the Mayor appoints dozens of commissioners and other top officials who oversee city government work.²³⁵ The Charter requires the Council to provide its advice and consent for only two such appointees: the Commissioner of Investigation and the Corporation Counsel.²³⁶ This means that for many city agencies, the Mayor can select whomever they want—regardless of qualifications and outside the public eye—to lead them.

The practice of advice and consent has been a feature of American governance since the Founding era. In support of Senate confirmation of presidential appointments, Alexander Hamilton argued that advice and consent promote qualified appointees by enabling the legislative branch to check the executive branch and allowing the public to hold each branch accountable for imprudent appointments.²³⁷ Today, advice and consent also will enable the public to provide input on nominees.

In New York City, the Charter first applied advice and consent in 1971 to members of the Taxi and Limousine Commission (TLC).²³⁸ Between 1972 and 1988, the Charter extended advice and consent to various board and commission members whose terms—like those of the TLC members—could extend beyond the term of the appointing Mayor.²³⁹ Today, advice and consent apply to a broader range of city appointees. A turning point came in 1989, when a

²³⁵ *Written Testimony of Jeffrey Baker* (Apr. 4, 2025).

²³⁶ Charter § 31.

²³⁷ Federalist Papers Nos. 76 and 77.

²³⁸ Howard N. Mantel, “The City Council of New York and the President of the City Council,” Urban Analysis Center (Dec. 1973), at 30.

²³⁹ Final Report to the Legislature, State Charter Revision Commission for NYC, (Mar. 31, 1977) at 12.

In 1972, the Charter required the Council to provide advice and consent for the four civilian members of the Environmental Control Board. Mantel, “The City Council of New York and the President of the City Council” at 30.

In 1975, the Charter added advice and consent for seven additional boards and commissions: Art Commission, Board of Health (except the chair), Board of Standards and Appeals, City Planning Commission (except the chair), Civil Service Commission, Landmarks Preservation Commission, and Tax Commission. Charter § 46 (1975).

In 1988, the Charter added advice and consent for the members of the Conflicts of Interest Board. NYC Charter Revision Commission, “The Report,” (Jan. 1989) at 29.

Charter Revision Commission proposed, and the public approved, adding a commissioner-level position—the Commissioner of Investigation—to the appointments requiring advice and consent.²⁴⁰ In doing so, that Charter Revision Commission signaled that advice and consent would promote institutional independence, at least for an agency charged with overseeing all of city government.²⁴¹ A second such department head—the Corporation Counsel—was added by referendum in 2019.²⁴² The 2019 Charter Revision Commission emphasized that advice and consent was appropriate for that appointee given their unique role in city government: “[T]he Corporation Counsel should be permitted to operate with appropriate independence from the interests of any particular elected official, such as the Mayor, so that he or she can effectively defend the interests of the City overall.”²⁴³ Under the current Charter, all appointments subject to advice and consent are automatically confirmed if the Council does not act upon them within 30 days, save those to COIB for which the Council has 45 days to confirm appointees.²⁴⁴

In 2024, and with nearly unanimous support, the Council passed Int. No. 908-2024, which would have extended advice and consent to 20 additional department heads and the Board of Health and City Planning Commission chairs.²⁴⁵ For these positions and others for which the Charter already requires advice and consent, the bill required the Mayor to submit nominees to the Council within 60 days of a vacancy and make “all reasonable efforts” to fill vacancies within 120 days of their occurrence.²⁴⁶ Under state law and the Charter, the voters had to approve the legislation for it to take effect.²⁴⁷ But the Mayor created a Charter Revision

²⁴⁰ NYC Charter Revision Commission (Aug. 1989) at 10.

²⁴¹ See Jeannette D. Kahlenberg, “June 27, 1989 Meeting,” in *Charting the charter—notes on the meetings of the 1989 Charter Revision Commission*, Citizens Union Foundation of the City of New York (1989).

²⁴² 2019 NYC Charter Revision Commission, “Post-Election Report” (Dec. 31, 2019), at 4.

²⁴³ 2019 NYC Charter Revision Commission, “Final Report” (Aug. 2, 2019), at 65.

²⁴⁴ Charter §§ 31, 2602(c).

²⁴⁵ Int. No. 908-2024.

²⁴⁶ *Id.*

²⁴⁷ NY Municipal Home Rule Law § 23; Charter § 38.

Commission that placed questions on the 2024 General Election ballot, which under state law prohibited the Council's legislation from appearing on the ballot.²⁴⁸

Unlike in New York City, advice and consent is commonly utilized at the state level to confirm executive appointments,²⁴⁹ and other large American cities subject mayoral appointments to a confirmation process. For example, in Chicago, all city officers whose appointments are not otherwise governed by state law or the municipal code must receive the City Council's advice and consent.²⁵⁰ In Los Angeles, the Mayor's appointments to specific boards and standing commissions that manage city departments are subject to the approval of the City Council.²⁵¹ Los Angeles city officers are also subject to confirmation by the City Council (unless otherwise specified).²⁵² In Houston, all department heads appointed by the Mayor must be confirmed by the City Council, along with the Mayor's appointments to advisory boards and the Civil Service Commission.²⁵³ St. Paul, which, like New York City, has a strong mayor-council system, requires the Mayor to seek the advice and consent of the City Council when appointing the city attorney and all department heads.²⁵⁴ And in Seattle, the Mayor appoints all city officers subject to confirmation by the City Council (unless otherwise specified).²⁵⁵

The Commission has received testimony from multiple interested parties recommending expanding the number of positions subject to advice and consent. While the testimony includes a variety of viewpoints on the appropriate scope of the expansion, it also reflects significant agreement that advice and consent have been effective where already in use.

²⁴⁸ NY Municipal Home Rule Law § 36.

²⁴⁹ See NY Constitution Article V, § 4.

²⁵⁰ Chicago Municipal Code § 2(4)(010).

²⁵¹ Los Angeles Charter § 502.

²⁵² *Id.*, § 203.

²⁵³ Houston Charter Article VI, §§ 7, 7(a)(2).

²⁵⁴ St. Paul Charter § 3(01)(3).

²⁵⁵ Seattle Charter Article V, § 3.

The Commission heard from Council Member Gale Brewer that the advice and consent process both ensures high-quality candidates²⁵⁶ and also creates space for public education and input on the appointees.²⁵⁷

The Commission also heard from current and former Council staff who spoke to the success of the current advice and consent process. While the Commission heard robust debate about the possibility of a politicized process, the currently implemented timelines ensure that the process cannot continue indefinitely. James Caras, former General Counsel for the New York City Council, testified that the Council “has demonstrated that it has handled the limited advice and consent it currently has in a responsible manner that has improved the appointment process for those officeholders.”²⁵⁸ Additionally, Jeff Baker, Deputy Chief of Staff for Legislation and Policy at the Council, testified that, “[t]o the extent that any appointment becomes political, it would be because the City Council is taking seriously its responsibility to vet a potentially unqualified candidate[.]”²⁵⁹ He added that “once approved, agency heads will be expected to testify before the City Council on matters related to their responsibilities, so the appointment process should not present an additional bar to public service.”²⁶⁰

Finally, the Commission heard testimony from multiple sources that recommended subjecting the Police Commissioner to advice and consent.²⁶¹

Staff Recommendation

Staff recommend that the Commission solicit further testimony on the current list of appointees subject to advice and consent and on whether the Charter should extend confirmation requirements to more appointees.

²⁵⁶ *Written Testimony of Council Member Gale Brewer* (Mar. 10, 2025).

²⁵⁷ *Oral Testimony of Council Member Gale Brewer* (Mar. 10, 2025).

²⁵⁸ *Written Testimony of James Caras* (Mar. 24, 2025).

²⁵⁹ *Written Testimony of Jeffrey Baker* (Apr. 4, 2025).

²⁶⁰ *Id.*

²⁶¹ *Oral Testimony of Council Member Gale Brewer* (Mar. 10, 2025); *Oral Testimony of James Caras* (Mar. 24, 2025); *Oral Testimony of Ben Weinberg* (Mar. 5, 2025). See also Citizens Union, “Charter Reforms for Better New York City Government” (Feb. 24, 2025).

Impeaching or Recalling the Mayor

Local Options for Addressing Mayoral Misconduct

State law and the Charter provide different means by which a Mayor may be removed. The Public Officers Law permits the Governor to remove the “chief executive officer of every city” provided that the Governor gives that officer a “copy of the charges against him and an opportunity to be heard in his defense.”²⁶² The Public Officers Law also provides for the automatic removal of a public officer, such as a Mayor, upon a conviction or upon entering a guilty plea for a felony or a crime involving a violation of an oath of office.²⁶³

The Charter contains language paralleling the Public Officers Law that authorizes the Governor to remove a Mayor “upon charges...and an opportunity to be heard in his defense.”²⁶⁴ Another section of the Charter provides that “officers” who “willfully violate or evade any provision of law relating to such officer's office or employment, or commit any fraud upon the city, or convert any of the public property to such officer's own use, or knowingly permit any other person so to convert it or by gross or culpable neglect of duty allow the same to be lost to the city,” or “make a false or deceptive report or statement in the course of duty,” shall be guilty of a misdemeanor and upon conviction forfeit such office.²⁶⁵ Additionally, the Charter provides that “no person shall be eligible to be elected to, or hold, the office of mayor” upon conviction for certain enumerated felonies.²⁶⁶

Lastly, the Charter also permits an Inability Committee and Panel on Mayoral Inability to remove a Mayor. The Inability Committee is composed of the Corporation Counsel, the Comptroller, the Speaker of the Council, a Deputy Mayor who shall be designated by the Mayor, and the Borough President with the longest consecutive service as Borough

²⁶² NY Public Officers Law § 33(2).

²⁶³ NY Public Officers Law § 30(e).

²⁶⁴ Charter § 9.

²⁶⁵ Charter § 1116.

²⁶⁶ Charter § 1139 (The listed felonies are: grand larceny in the first, second, third, or fourth degree (if property stolen included public funds); theft or bribery concerning programs receiving federal funds; making false statements (in connection with office); frauds or swindles, fraud by wire, radio, or television, and scheme or artifice to defraud; and interference with commerce by threats or violence).

President.²⁶⁷ The Inability Committee may remove the Mayor due to temporary and permanent inability.²⁶⁸ The Inability Committee may by a vote of at least four of its five members make a determination of permanent inability.²⁶⁹ Determinations of permanent inability are referred to the Panel on Mayoral Inability for adjudication.²⁷⁰ The Panel on Mayoral Inability is composed of the members of the Council.²⁷¹ Upon the Inability Committee's determination of permanent inability, the Panel on Mayoral Inability may with a two-thirds vote permanently remove a Mayor.²⁷²

Regarding what constitutes an “inability,” the 1989 amendments to the Charter, which created the Inability Committee and the Panel on Mayoral Inability, drew inspiration from the 25th Amendment to the U.S. Constitution in which the term inability is also used.²⁷³ The legislative history of that amendment shows that the term “inability” was not meant to include “unpopularity, incompetence, impeachable conduct, poor judgment, and laziness,” but instead concerned physical or mental impairments that cause the president to no longer be “able to make or communicate rational decisions.”²⁷⁴ Likewise here, permanent mayoral inability can be read as no longer being able to make or communicate rational decisions. This reading is also consistent with the meaning derived from the text of the Charter using canons of statutory interpretation.²⁷⁵

²⁶⁷ Charter § 10(d)(2)(a).

²⁶⁸ Charter § 10(d)(4), (5). Only permanent inability is relevant here as that was the type of removal suggested in testimony.

²⁶⁹ Charter § 10(d)(2)(b).

²⁷⁰ Charter § 10(d)(5)(a).

²⁷¹ Charter § 10(d)(3).

²⁷² Charter § 10(d)(5)(b).

²⁷³ NYC Charter Revision Commission, “Report of the New York City Charter Revision Commission” (Jan. 1989) available at https://www.nyc.gov/assets/charter/downloads/pdf/1986-1988_final_report.pdf, at 38.

²⁷⁴ Adam R.F. Gustafson, Presidential Inability and Subjective Meaning,” 27 Yale Law & Policy Review 459, 484,496 (2009), available at https://openyls.law.yale.edu/bitstream/handle/20.500.13051/17105/18_27YaleL_PolyRev459_2008_2009_.pdf?sequence=2&isAllowed=y.

²⁷⁵ Under the noscitur a sociis canon the meaning of “inability” would be derived from the words surrounding it in the statute. The Charter describes “temporary inability” as being caused by “sickness or otherwise” while “permanent inability” is mentioned immediately after “death.” Charter § 10(d)(1),(2).

Finally, a Mayor is limited to serving two consecutive term limits and is up for reelection after serving a term of four years, providing a means by which the voters may remove a Mayor.²⁷⁶

None of these mechanisms outlined in state law and the Charter permit the removal of a Mayor for potentially criminal misconduct prior to a conviction or guilty plea or for unethical behavior that falls short of criminality. While the Governor may remove the Mayor under such circumstances, a local process that allows for the removal of the Mayor in a broader set of circumstances might be warranted.

The Commission received testimony urging it to study and propose other mechanisms for removing a Mayor. First, testimony urges the Commission to consider impeachment or recall elections as possible removal mechanisms.²⁷⁷

As for recall, 11 of the 15 largest U.S. cities provide that their mayors are subject to such elections.²⁷⁸ However, while New York State law permits judges to remove town or village officers under certain circumstances,²⁷⁹ there is an open question about whether state law also permits local governments to adopt recall elections.²⁸⁰ Even if the issues were resolved in favor of local authority, the resulting uncertainty while litigation is underway could be detrimental to the City. Recall elections also raise some risk of creating a scenario in which the Mayor feels the need to be constantly in “reelection mode” or acting in the interests of individuals or entities that could credibly threaten a recall signature-gathering campaign. Recall elections could also impose significant costs upon the City and would require

²⁷⁶ Charter §§ 4, 1138.

²⁷⁷ *Written testimony of Citizens Union* (Mar. 5, 2025). *Written testimony of Reinvent Albany* (Mar. 5, 2025).

²⁷⁸ Dylan Sharkey, “Chicago Among 4 of 15 Largest Cities Unable to Recall Mayor,” *Illinois Policy* (Apr. 23, 2024), available at <https://www.illinoispolicy.org/chicago-among-4-of-15-largest-cities-unable-to-recall-mayor/>.

²⁷⁹ NY Public Officers Law § 36.

²⁸⁰ See, e.g., *Mills v. Sweeney*, 219 N.Y. 213, 217–18 (1916), *McCabe v. Voorhis*, 243 N.Y. 401, 413 (1926), *Astwood v. Cohen*, 291 N.Y. 484, 491 (1944), *Sinawski v. Cuevas*, 506 N.Y.S.2d 396, 398–99 (Sup. Ct.), *aff’d*, 506 N.Y.S.2d 711 (1986). At least two cities in New York permit recall elections. See Utica Charter § 2.072 (permits a recall election for the mayor if a petition gathers signatures equal in number to at least 20 percent of the total number of votes cast for Governor) and Tonawanda Charter § 4.002 (permits a recall election for the mayor if a petition gathers signatures equal in number to at least 20 percent of the total number of registered voters).

integration into the City’s election expenditure regulations and potentially its campaign financing program. Recall elections are also typically a slower process than impeachment.

Regarding impeachment, there is usually a two-step process for removing an elected official under this method.²⁸¹ The first stage is the “development of a formal accusation or statement of charges,” with this responsibility most often given to the lower legislative chamber.²⁸² The second stage is the “formal consideration of the charges laid out in the articles of impeachment” with this responsibility usually assigned to the upper legislative body.²⁸³

The City’s legislature is unicameral and so is not subject to the checks and balances present in a bicameral system. However, the convening of the Inability Committee, discussed above, creates a sort of bicameralism specific to the issue of mayoral inability. This Committee could be adopted or modified for impeachment proceedings, or a new committee tasked solely with considering impeachment could be created.

Impeachment processes also differ as to the grounds on which an impeachment may be carried out. For instance, the New York Constitution does not list specific grounds for impeaching state officials,²⁸⁴ and the Houston Charter provides that the City Council can only impeach the mayor for “misconduct, inability or willful neglect in the performance of the duties of [their] office.”²⁸⁵ New York state law permits courts to remove town or village officers for “any misconduct, maladministration, malfeasance or malversation in office.”²⁸⁶

Additionally, the Commission has received testimony suggesting an amendment permitting the Council, as an adjunct to the Governor’s existing power to remove a Mayor, to petition the Governor to remove a Mayor after conducting a hearing.²⁸⁷ However, amending the

²⁸¹ National Council of State Legislatures, “Separation of Powers: Impeachment” (Nov. 16, 2022), *available at* <https://www.ncsl.org/about-state-legislatures/separation-of-powers-impeachment>.

²⁸² *Id.*

²⁸³ *Id.*

²⁸⁴ See NY Constitution Article VI, § 24, See *People ex rel. Robin v. Hayes*, 143 N.Y.S. 325, 328 (Sup. Ct. 1913), *aff’d*, N.Y.S. 250 (App. Div. 1914) (Impeachment power is political).

²⁸⁵ Houston Charter art. VI, §5. As an example in New York, the city of Rochester provides that impeachment of an elected city officer is “for cause.” Rochester Charter §2-19.

²⁸⁶ NY Public Officers Law § 36.

²⁸⁷ *Testimony of James Caras* (Mar. 24, 2025).

Charter to create a process to petition the Governor to remove a Mayor would arguably have no real effect—this petition would not be binding, nor could it be given that state law also grants the governor removal power.²⁸⁸ It would act instead as a sort of political permission slip by signaling consensus among the Council or whatever local body is involved in such a process. Nothing in current law prevents Council Members and the Governor from discussing the merits of removing a Mayor or prevents the Council from formally calling for mayoral removal by, for example, adopting a resolution calling on the Governor to exercise their removal authority.

Additional removal mechanisms could present their own issues. For example, permitting removal for potentially criminal misconduct prior to a trial would deprive a Mayor of the full scope of process accorded at trial. Moreover, permitting removal for unethical conduct that does not rise to the level of criminality could open the removal process to politically based removals targeting a Mayor over policy disagreements or minor errors in judgment. Despite these potential challenges, staff's view is that winning an election should not mean a Mayor is free to engage in misconduct for the duration of their term with the City's voters or their other elected officials powerless to remedy the situation.

Staff Recommendation

Staff recommend that the Commission further consider and solicit public feedback on amending the Charter to establish an additional means of removing a Mayor.

²⁸⁸ NY Public Officers Law § 33(2).

Mayoral Vetoes

Increasing Public Engagement in the Legislative Process

The process for adopting local laws in New York City involves both the Council and the Mayor. While the responsibility for most of the legislative process rests with the Council, the Mayor has a role in determining whether a bill will ultimately become law. When presented with a bill passed by the Council, the Mayor can either sign it into law, veto it, or take no action, in which case the bill will become law.

Hearings are available at several stages of this process, allowing for public engagement and transparency. The Council holds committee hearings prior to voting, and the vote is held at a Council Stated Meeting that is open to the public.²⁸⁹ State and local laws governing mayoral vetoes require the Mayor to hold a hearing before signing a bill, but they do not require the Mayor to hold a hearing before vetoing a bill.²⁹⁰

The New York State Municipal Home Rule Law sets forth the procedures for local governments to adopt local laws and for the Mayor to approve or veto bills passed by the Council.²⁹¹ Under that statute, the Mayor can only approve a bill by signing it and returning it to the City Clerk.²⁹² The Mayor cannot approve a local law “until a public hearing thereon has been had before him.”²⁹³ The Mayor must abide by certain notice requirements for these public hearings.²⁹⁴ If the Mayor takes no action within 30 days after being presented with a bill by the Council, the bill will be deemed to be adopted as if the Mayor had signed it.²⁹⁵ To veto a bill, the Mayor must return the bill to the City Clerk with their objections stated in writing.²⁹⁶ The City Clerk will then present the bill with the objections to the Council at its next

²⁸⁹ NY Municipal Home Rule Law § 20; NYC Council, “City Legislative Process,” *available at* <https://www.nyc.gov/site/intergovernmental/city/city-legislative-process.page>.

²⁹⁰ NY Municipal Home Rule Law § 21; Charter § 37(b).

²⁹¹ NY Municipal Home Rule Law § 20.

²⁹² NY Municipal Home Rule Law § 21.

²⁹³ NY Municipal Home Rule Law § 20(5).

²⁹⁴ *Id.*

²⁹⁵ NY Municipal Home Rule Law § 21.

²⁹⁶ *Id.*

regular meeting.²⁹⁷ The Council can override the Mayor’s veto by a vote of two-thirds of the Council Members.²⁹⁸ The Charter includes a provision that mirrors the State’s procedure for the Mayor to approve or veto bills.²⁹⁹

While state and local laws require the Mayor to disapprove a bill by providing the Council with any written objections, there is no requirement as to the substance or length of such objections and no requirement for public engagement. Additionally, state and local laws do not provide an opportunity for the public to comment on the Mayor’s objections.

Staff Recommendation

Staff recommend that the Commission further consider and solicit feedback concerning amending the Charter to increase transparency surrounding mayoral vetoes and allow the public to provide input and engage in the veto process. One such mechanism could be to require the Mayor to hold a public hearing when vetoing a bill, but there may be other mechanisms that would increase transparency regarding the Mayor's decision to veto a bill.

²⁹⁷ *Id.*

²⁹⁸ *Id.*

²⁹⁹ Charter § 37.

Mayoral Emergency Powers

Transparency Around the Unilateral Suspension of Laws

As the City's chief executive, the Mayor has the authority to declare a local state of emergency to respond to various types of crises that can occur in the City. During a declared emergency, the Mayor is entrusted with certain emergency powers to address the crisis.

State law governing emergencies provide the Mayor with broad powers to declare and extend a local state of emergency, and to take certain actions that go beyond the Mayor's usual scope of authority.³⁰⁰ These special emergency powers allow the Mayor to take actions to respond rapidly and decisively during an emergency by authorizing actions such as establishing curfews, closing of places of assembly, controlling the use of public streets, designating emergency shelters, and suspending local laws that would prevent the City from effectively managing an emergency.³⁰¹

The limited suspension of local laws may be necessary for the City to deal with an emergency. While certain criteria must be met under state and local law for the Mayor to declare a state of emergency and to suspend local laws, there is no mandated transparency around the Mayor's decision-making process, no requirement for the Mayor to justify a determination that an emergency exists or a local law requires suspension, and no limit to the number of times the Mayor may continue to extend a state of emergency or suspension of local laws. Indeed, litigation is currently the only formal check at the local level on the Mayor's misuse of their emergency powers to simply further their policy agenda.

Both New York State and New York City laws set out the procedures required for the Mayor to declare a local state of emergency and to take emergency actions. However, the Mayor's emergency powers are primarily governed by state law.³⁰²

³⁰⁰ NY Executive Law § 24.

³⁰¹ *Id.*

³⁰² While most emergency executive orders declaring a local state of emergency have historically been issued pursuant to the state authority discussed above, the Mayor may declare a state of emergency pursuant to local law in more limited instances pursuant to a law that predates the state authorization.

State law vests the Mayor with emergency powers in the event of a disaster or other similar public emergency. Specifically, the Mayor can declare a local state of emergency in the event of “a disaster, rioting, catastrophe, or similar public emergency” that would pose a danger to public safety, or the “reasonable apprehension of immediate danger thereof.”³⁰³ Once declared by the Mayor, a state of emergency remains in effect for up to 30 days or until rescinded by the Mayor, whichever comes first.³⁰⁴ The Mayor can indefinitely extend the state of emergency for periods of 30 days each.³⁰⁵

During a state of emergency, the Mayor may issue emergency executive orders to “protect life and property or to bring the emergency situation under control.”³⁰⁶ Unlike typical executive orders, emergency executive orders can suspend certain local laws.³⁰⁷ If the Mayor finds that a local law or regulation “prevent[s], hinder[s], or delay[s] necessary action” by the City in coping with an emergency or recovering from an emergency, the Mayor may issue an emergency executive order suspending the local law or regulation.³⁰⁸ One of two conditions must be present for the Mayor to suspend a local law or regulation: 1) the Mayor determines that the emergency “is beyond the capacity of local government to meet adequately and state assistance is necessary to supplement local efforts to save lives and to protect property, public health and safety, or to avert or lessen the threat of a disaster,” and requests that the Governor provide assistance, or 2) the Governor has declared a state disaster emergency.³⁰⁹

Unlike general declarations of emergency, suspensions of a local law or regulation are limited to a period of five days.³¹⁰ However, upon the Mayor’s reconsideration of all the relevant facts and circumstances, the Mayor can continue to extend the suspension for

³⁰³ NY Executive Law § 24(1).

³⁰⁴ *Id.*

³⁰⁵ *Id.*

³⁰⁶ *Id.*

³⁰⁷ NY Executive Law § 24(1)(g).

³⁰⁸ *Id.*

³⁰⁹ *Id.*

³¹⁰ NY Executive Law § 24(1)(g)(i).

periods of five days each while the state of emergency continues.³¹¹ Any emergency order that suspends a local law or regulation is subject to federal and state constitutional, statutory, and regulatory limitations. Any suspension must be “reasonably necessary to the disaster effort,” must be designed to “safeguard the health and welfare of the public,” and must deviate from the local law to the minimum extent possible that is necessary to respond to the disaster.³¹²

The New York State Legislature can terminate any local emergency executive order by a concurrent resolution.³¹³ No similar legislative mechanism exists for local legislatures to regulate an executive declaration of a local emergency. By contrast, the National Emergencies Act permits Congress to terminate a President’s emergency declarations at any time through a concurrent resolution.³¹⁴ It requires Congress to meet at least once every six months to consider a vote on a concurrent resolution to determine whether the emergency should be terminated.³¹⁵

State law explicitly allows local governments to impose “additional duties or responsibilities” on the Mayor when dealing with emergency situations, but New York City has not done so to date.³¹⁶ Compared to many other large U.S. cities, New York City stands out for giving the Mayor broad emergency powers, with limited locally-required transparency or accountability.

In California, a local emergency may be proclaimed by the governing body of a city, a county, or an official designated by an ordinance adopted by the governing body.³¹⁷ Whenever an official designated by ordinance has proclaimed a local emergency, it cannot remain in effect for more than seven days unless the governing body has ratified it.³¹⁸ The governing

³¹¹ *Id.*

³¹² NY Executive Law § 24(1)(g)(ii), (v).

³¹³ NY Executive Law § 24(8).

³¹⁴ 50 U.S.C. § 1622.

³¹⁵ *Id.*

³¹⁶ NY Executive Law § 24(4).

³¹⁷ California Emergency Services Act § 8630(a).

³¹⁸ California Emergency Services Act § 8630(b).

body must review the need to continue the local emergency at least once every 60 days until the governing body terminates the local emergency.³¹⁹ During a local emergency, the governing body of a political subdivision, or officials designated by the governing body, may promulgate orders and regulations necessary to protect life and property.³²⁰ If the Mayor of Los Angeles declares a local emergency, the city’s law also requires that a resolution ratifying the existence of the emergency and the need to continue the state of local emergency must be presented to the City Council for approval or disapproval.³²¹ The City Council must continue to approve or disapprove the resolution at least every 10 regular City Council meeting days, but no longer than every 30 calendar days, unless the state of local emergency is terminated sooner.³²² The Mayor is also required to keep the City Council “fully advised as to the status of the emergency.”³²³

The Mayor of Chicago is also vested with the authority to declare a local disaster.³²⁴ However, the local disaster cannot be continued or renewed for more than seven days without the consent of the City Council.³²⁵ Illinois state law gives local governments additional power during disasters by providing them with the authority to develop an emergency operations plan, which is activated during a local disaster and details how the locality will respond and recover from the disaster.³²⁶

The Commission has received testimony from members of the public about enhancing transparency and accountability in New York City government during emergencies. For instance, members of the public commented that New York State law gives too much power to one local actor in emergency situations—the Mayor.³²⁷ Testimony emphasized the need to ensure that the Mayor’s emergency powers cannot be improperly applied, given the breadth

³¹⁹ California Emergency Services Act § 8630(c).

³²⁰ California Emergency Services Act § 8634.

³²¹ Los Angeles Administrative Code § 8.27.

³²² *Id.*

³²³ Los Angeles Administrative Code § 8.31.

³²⁴ Illinois Emergency Management Agency Act § 11(a).

³²⁵ *Id.*

³²⁶ Illinois Emergency Management Agency Act §§ 4, 10.

³²⁷ *Oral and Written Testimony of James Caras* (Mar. 24, 2025).

of authority vested in the Mayor during emergencies. Testimony also noted that while the Mayor should be able to act quickly to respond to emergencies, there is no reason why a response or recovery to an emergency that is anticipated to last for months or years cannot go through the normal legislative or regulatory process.³²⁸

Staff Recommendation

Staff recommend that the Commission further consider and solicit feedback concerning amending the Charter to include additional duties, responsibilities, and procedural safeguards during emergencies, such as requiring the Mayor and/or the Council to hold hearings for ongoing emergencies that the Mayor has continuously extended to provide the public information and an opportunity to comment on the emergency, requiring the Corporation Counsel or the Mayor to publicly report on ongoing emergencies continuously extended by the Mayor, or requiring the Mayor to provide the Council with periodic updates on the status of emergencies. Staff also recommend that the Commission further consider and solicit feedback concerning whether the Department of Investigation should play a role in auditing or investigating the City's response to a local state of emergency.

³²⁸ *Oral and Written Testimony of Jeff Baker* (Mar. 18, 2025).

Special Elections for Local Law Referendums

Ensuring Voters' Voices Can Be Heard

State law provides that local laws making certain changes must be approved in a referendum to take effect.³²⁹ These mandatory referendums may be held in a general election “not less than sixty days after the adoption thereof” or in a special election.³³⁰

The Charter also provides that local laws making certain changes are subject to a mandatory referendum.³³¹ The Charter covers all the applicable changes covered by state law as well as some additional changes.³³² The Charter, however, imposes an additional limitation by requiring that local laws be submitted “at the next general election held not less than sixty days after the adoption thereof.”³³³ This provision of the Charter therefore prohibits submitting a local law referendum question in a special election.

State law provides that no local law may be submitted for voters' consideration in an election if a Charter Revision Commission created by the Mayor submits any question in the same

³²⁹ NY Municipal Home Rule Law § (23)(2). Local laws making the following changes are covered: (1) provides a new charter; (2) changes composition of legislative body or the number of votes cast by members; (3) changes the veto power of the elective chief executive officer; (4) changes the law of succession for the chief executive officer; (5) abolishes, changes the method of nominating, electing, or removing an elective officer or changes the term of or reduces the salary of an elective office; (6) abolishes, transfers or curtails any power of an elective officer; (7) creates a new elective office; (8) changes the boundary of wards/districts for county board of supervisors [not applicable to the City]; (9) changes a provision of law relating to public utility franchises; (10) reduces the salary or compensation of city officers/employees or changes their working conditions if these had been fixed by state statute and approved by voters; and (11) changes relating to membership or terms of office of the civil service commission.

³³⁰ *Id.* at (1).

³³¹ Charter § 38.

³³² *Id.* at (11-18). These additional changes are: (1) transfers power from the head of an agency appointed by the Mayor to the head of an agency not appointed by the Mayor or vice versa; (2) dispenses with a provision of the Charter requiring public notice and hearing prior to official action; (3) dispenses with a provision of the Charter requiring public bidding/letting; (4) changes a provision of the Charter governing bonds or other obligations; (5) removes restrictions in the Charter relating to the disposition of city property; (6) curtails the power of the city planning commission; (7) repeals or amends sections of the charter pertaining to local laws requiring a mandatory referendum, the amendment of the charter, certain sections relating to city planning and zoning, restrictions on capital projects, and certain sections relating to City officers/employees; and (8) repeals or amends certain sections relating to conflicts of interest.

³³³ *Id.*

election.³³⁴ Because local laws can only be submitted in a general election under the Charter provision described above, a Mayor-created Charter Revision Commission may continuously “bump” local laws from the general election ballot by simply submitting its question or questions at any general election.³³⁵

While the Mayor’s important role in the legislative process—such as signing or vetoing bills³³⁶—is well established, it includes checks such as a veto override by a two-thirds vote of the Council.³³⁷ By contrast, when a local law requiring approval in a referendum is blocked from being submitted in a special election and a general election, the voters are denied the opportunity to directly reform their government. Furthermore, the ability of a Mayor-appointed commission to unilaterally prevent a referendum where it is otherwise required arguably creates an imbalance in power in favor of the Mayor and away from the very people, i.e. voters, that the Mayor represents and their representatives in the Council.

Staff Recommendation

Staff recommend that the Commission consider and solicit public feedback on authorizing local laws subject to mandatory referendums to be submitted in special elections.

³³⁴ NY Municipal Home Rule Law § (36)(5)(e).

³³⁵ NY Senate Bill S.590, available at <https://www.nysenate.gov/legislation/bills/2025/S590> (This bill would remove bumping from state law).

³³⁶ Charter § 37(b)

³³⁷ *Id.*

Budget Transparency

Units of Appropriation

The Building Blocks of the City Budget

The City's Expense Budget, larger than nearly all U.S. state budgets at \$118.5 billion in Fiscal Year 2025, is composed of Units of Appropriation (U/As) for each city agency.³³⁸ As specified in Charter section 100(c), each U/A should represent the amount appropriated (i.e., identified in the budget for expenditure) "to a particular program, purpose, activity or institution."³³⁹ Each city agency must have at least one U/A for personal services (PS – e.g., salaries) and one U/A for other than personal services (OTPS – e.g., supplies, equipment).³⁴⁰

U/As serve as the building blocks of the City budget because they are the level at which the Council votes to appropriate funding for specific budget priorities. The Charter relies on U/As, and the ability to restructure them, as the "essential tool" for the Council to assert a measure of budgetary and therefore policymaking control.³⁴¹

In theory, when reallocating budget power from the Board of Estimate to the Council, the 1989 Charter reform aimed for transparent and programmatically coherent U/As to allow the Mayor and the Council to engage in the democratic, political work of bargaining over budget priorities and then tracking their implementation during the fiscal year.³⁴²

However, despite Charter section 100(c)'s definition of a U/A as encompassing "a particular program, purpose, activity or institution," "for the most part, the units of appropriation never

³³⁸ City Council Finance Division, "Fiscal Year 2026 Financial Plan Overview," (Mar. 2025), *available at* <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2025/03/FY26-Financial-Plan-Overview-2.pdf>, at 3.

³³⁹ Charter § 100(c).

³⁴⁰ *Id.*

³⁴¹ Council Finance, "Budget Powers Memo" (Jan. 2001), on file with Commission staff. See also: Independent Budget Office, "Budget Building Blocks: Units of Appropriation" (Nov. 2023), *available at* <https://www.ibo.nyc.ny.us/iboreports/budget-building-blocks-units-of-appropriation-november-2023.pdf>.

³⁴² Frederick A.O. Schwarz, Jr. & Eric Lane, *The Policy and Politics of Charter Making: The Story of New York City's 1989 Charter*, 42 N.Y.L. Sch. L. Rev. 723, at 845.

changed to become more programmatic, notwithstanding the [1989] changes to the City Charter.”³⁴³

Charter section 100(c) states that a U/A “*may* represent the amount requested for more than one particular program, purpose, activity or institution *if* the council has adopted, on the recommendation of the mayor, or if the council has adopted on its own initiative and the mayor has approved, a resolution setting forth the names, and a statement of the programmatic objectives, of each program, purpose, activity or institution to be included in such a single unit of appropriation” (emphasis added).

Yet, “[n]o such [U/A] resolution has ever been submitted by the Mayor or adopted by the Council.”³⁴⁴ Instead, since the 1989 Charter reforms, successive mayors have retained overly broad U/As to make it easier to shift funds between programs within a single U/A without returning to the Council for a budget modification.

Although the Charter provision authorizing the Council to “increase, decrease, add, or omit” any U/A in the Executive Budget appears on its face to authorize the Council to alter the scope and/or subdivide units of appropriation, the extent of the Council’s authority to do so is not entirely clear and has not been tested.³⁴⁵

Instead of directly altering U/As to more closely align their structure with the “particular program, purpose, activity or institution” standard, the Council has historically followed the process outlined in Charter section 247(b) to include recommendations for any changes in the U/A structure in its response to the Mayor’s Preliminary Budget.

For example, the Council has advocated that the budget include a separate U/A for overtime spending in the uniformed services agencies to improve management of those agencies’

³⁴³ Elizabeth Fine and James Caras, “Twenty-Five Years of the Council-Mayor Governance of New York City: A History of the Council’s Powers, the Separation of Powers, and Issues for Future Resolution,” 58 *New York Law School Law Review* (2012-2013), *available at* https://digitalcommons.nyls.edu/nyls_law_review/vol58/iss1/10/, at 131.

³⁴⁴ *Id.* at 132.

³⁴⁵ Charter § 254(a).

frequently underbudgeted spending.³⁴⁶The Council has not, however, directly added or subdivided any U/A to accomplish this objective, instead asking the Mayor to include this distinction in the Executive Budget.

As another example, it remains difficult for the Council to appropriate funds specifically for medical transportation for inmates held by the Department of Correction (DOC), since the U/A containing this function is overly broad. Were the Council to add funds to this U/A with the intention of enhancing medical transportation, the Mayor is permitted to spend those funds on other programs housed within the same U/A without asking the Council to approve a budget modification.³⁴⁷

Beginning in Fiscal Year 2008,³⁴⁸ the Office of Management and Budget (OMB) and the Council agreed to an additional budget presentation called the “Budget Function Analysis” (BFA), for certain agencies.³⁴⁹ The Council has regularly called for more than 15 agencies to be included in the BFA and, critically, for a clear relationship between a function area and its U/A describing a “particular program”—which, in most circumstances, there is not. For example, the Department for the Aging’s “Senior Centers and Meals” BFA area combines citywide home-delivered meal services and the operations of hundreds of senior centers, which have different contracted providers, Request for Proposal (RFP) timelines, service goals, permanent agency staff, and so forth.³⁵⁰

³⁴⁶ New York City Council, “Response to the Fiscal 2024 Preliminary Budget and Fiscal 2023 Mayor’s Management Report” (Apr.3, 2023) at 45.

³⁴⁷ *Written Testimony of James Caras* (Mar. 24, 2025).

³⁴⁸ Two agencies were initially presented in the program budget form; there are 15 agencies in program budget form as of Fiscal Year 2026. See “Analysis of the Fiscal 2010 Preliminary Budget and Fiscal 2009 Preliminary Mayor’s Management Report for the Landmarks Preservation Commission” (Mar. 2009), *available at* https://council.nyc.gov/budget/wp-content/uploads/sites/54/2017/01/budget_report_landmarks_3_09.pdf; N.Y.C Office of Management and Budget, FY 2026 Preliminary Budget Function Analysis (Feb. 7, 2025), *available at* <https://www.nyc.gov/assets/omb/downloads/pdf/jan25/jan25-bfa.pdf>.

³⁴⁹ The BFA “details the expense budget of certain agencies by major functional areas. Within each functional area, expenditures by personal services and other than personal services are presented, as well as the funding supporting the function.” NYC Office of Management and Budget, “Budget Publication Descriptions” (accessed on Apr. 4, 2025), *available at* <https://www.nyc.gov/site/omb/publications/description-of-all-publications.page>.

³⁵⁰ NYC Office of Management and Budget, “Budget Function Analysis” (Apr. 26, 2022) at 183.

Over the past few decades, dozens of additional U/As have been created in negotiations with OMB. Yet, U/As are regularly diluted from prescribing specific programs into describing broader functional areas, such as “Agencywide Operations” or “Enforcement and Development” in the Department of Buildings. Even where the number of U/As has been increased, it is not difficult to find examples in the budget where the U/A structure falls short of the Charter standard for specificity.³⁵¹ Ultimately, the practical considerations of reorganizing long-standing contracts housed in certain U/As, and the necessity of adopting an on-time and balanced budget each year, have made battling over U/As as the deadline for budget adoption looms an unappealing prospect. The Council often lacks the bandwidth to ensure that the U/A structure adheres to the “particular program, purpose, activity or institution” standard as it negotiates for other priorities.

In summary, the failure to reconstruct the budget on a programmatic basis in 1989 has created a power imbalance in controlling and monitoring appropriations, and therefore setting policy, as envisioned by the drafters of the 1989 Charter.

The Commission heard testimony from the Independent Budget Office (IBO) and other experts that the language around U/As should be amended to provide mechanisms to ensure adherence to the Charter’s intention for narrower, programmatic U/As.³⁵²

Options for accomplishing this goal include narrowing the definition of the term or clarifying that the Council has the legal authority to subdivide and reorganize U/As as it sees fit, subject to the typical mayoral veto and override process outlined regarding the adoption of the budget.

³⁵¹ To provide two further examples: (i) The Department of Education (DOE) places almost \$8 billion (over 23 percent of the agency’s \$33 billion budget) in a single U/A entitled “General Education Instruction and School Leadership,” which encompasses a number of educational programs. (ii) The New York Police Department (NYPD) places budgets for all 123 police precincts into a single “Operations” U/A totaling \$1.6 billion (a quarter of the \$6.4 billion NYPD budget), which also includes boroughwide offices, detective work, forensic investigation, narcotics, and strategic response. Funding can be shifted by the executive branch without returning to the City Council for approval and transparency to the public. *Written Testimony of Louisa Chaffee* (Mar. 10, 2025), available at <https://www.ibo.nyc.ny.us/iboreports/charter-testimony-march-10-2025.pdf>.

³⁵² “Testimony of IBO Director Louisa Chaffee,” (March 10, 2025), available at <https://www.ibo.nyc.ny.us/iboreports/charter-testimony-march-10-2025.pdf>.

Furthermore, the City could expand the use of BFAs by providing them for all agencies and ensuring a direct relationship (“crosswalk”) between agency function areas and U/As.

Another option may be to have a joint re-determination of programmatic U/As at some regular cadence, such as every five or ten years, to ensure the ongoing appropriateness of units intended to describe, in general, departmental programs. This could be done jointly between the Council and the Mayor outside of the “budget season” (typically, January to June), and/or include other parties with a stake in promoting budget transparency and accountability, such as the Comptroller or the IBO.

Previous Charter Revision Commissions, including those in 2010 and 2019, reviewed the City’s system of U/As but did not place questions regarding them on the ballot. Other large municipalities, such as Los Angeles, have recently taken steps to improve budget transparency by clarifying spending occurring in programs more readily understandable to the public, like parking services provided by the City’s Department of General Services.³⁵³

Staff Recommendation

Staff recommend that the Commission seek additional comment from the public, elected officials, and budget experts on the extent to which the current budget affords transparency and accountability and how to ensure that U/As meet the statutory standard of applying to one program, purpose, activity, or institution.

³⁵³ Mayor Karen Bass, FY 2024-2025 Detail of Department Programs, Volume I, “Foreword, City of Los Angeles Budget System,” available at <https://cao.lacity.gov/budget24-25/BlueBook1/#p=6>, at 7. (“The City modified its budget concept to place primary emphasis on services and their attainment by incorporating selected concepts of program budgeting [sic]. Programs are defined within the framework of City departments, such as parking services provided by the Department of General Services or traffic control provided by the Police Department, rather than interdepartmentally.”)

Procurement

Transparency and Accountability in Contracting

About \$1 in every \$5 spent by the City of New York is paid to a contractor, meaning a business, organization, or individual entering into a formal agreement with a city agency to provide goods, services, or construction in exchange for public funds.³⁵⁴

In the expansive realm of education and human services, which includes pre-K, shelter for the homeless, food assistance, and youth and senior programs, services are generally provided by non-profit organizations.³⁵⁵ These non-profit organizations, also regularly called community-based organizations (CBOs), perform critical work every day for many of New York’s most vulnerable residents. There were nearly 10,000 active human-services contracts in Fiscal Year 2024, with a paid value exceeding \$37.1 billion.³⁵⁶

Despite the breadth of services offered by CBOs, they have struggled to receive timely payments on their contracts with New York City. Oftentimes, the City does not register contracts for human services providers in the same fiscal year for which the contractors were contracted to deliver services. This leads to a delay in vendors receiving payment, since city agencies only reimburse these providers for their expenses after reviewing their invoices to ensure conformity with their registered contracts—without a registered contract the contractor cannot be paid for their services.

According to the Mayor’s Office of Contract Services (MOCS), which provides the City’s central procurement oversight and management, across all mayoral agencies, contracts were only registered on time, i.e., before the contract start date, 28% of the time in Fiscal

³⁵⁴ The City’s contract budget, which is a subset of the expense budget, totaled \$23.2 billion at Fiscal 2025 Budget Adoption. See e.g., Charter §§ 310-311, New York City Procurement Policy Board (PPB) Rules, and the Administrative Code.

³⁵⁵ A notable exception to the City’s reliance on non-profits for human services are the emergency contracts for asylum seeker services, which the City commenced in 2022.

³⁵⁶ NYC Checkbook, accessed Mar. 31, 2025: Prime Vendor Spend to Date for FY 2024 contracts, industry “Human Services.” Total includes paid value on contracts with multiple years.

Year 2024. 62% were registered within 30 days of the contract state date.³⁵⁷ Meanwhile, a full quarter of contracts did not have their contracts registered within 60 days of their start date, with 10% being over six months late.³⁵⁸

In response to these delays, CBOs regularly need to take out loans or rely on other income streams like philanthropy or private fundraising. The Fund for the City of New York offers a Returnable Grant Fund as a stop-gap measure, although capital and costs deemed by the Fund as non-essential are not eligible for loans.³⁵⁹ The additional bureaucracy and documentation of applying for and managing loans (in lieu of simply receiving funds allocated in a pending contract) creates delays and draws staff away from organizational goals. Mission-driven CBOs will take every step before discontinuing services to vulnerable populations. However, in worst case scenarios, CBOs have had to close their doors due to insufficient funds caused at least in part by late payments by the City.³⁶⁰

Charter section 311 establishes the Procurement Policy Board (PPB) as the City's rulemaking body for city procurement. The PPB has promulgated rules governing how city agencies may procure goods, services, and construction—including the rules around competitive bidding, contract awards, emergency purchases, timelines, and transparency.³⁶¹

³⁵⁷ This includes the 28 percent of contracts that were registered prior to their start date. The 62 percent registration within 30 days of contract start date marked an eight percentage point improvement from 54 percent in Fiscal Year 2023. For more, see "MOCS, 2024 Citywide Indicators Report, Section 3: Procurement Performance," available at <https://www.nyc.gov/site/mocs/resources/citywide-indicator-reports.page#ProcurementPerformance>.

³⁵⁸ *Id.*

³⁵⁹ NYC Mayor's Office of Contract Services, "Returnable Grant Fund," available at <https://www.nyc.gov/site/mocs/opportunities/returnable-grant-fund.page>.

³⁶⁰ Oscar Perry Abello, "Inside the Rise and Fall of Hester Street," Next City (Jan. 16, 2025), available at <https://nextcity.org/features/the-rise-and-fall-of-hester-street>.

³⁶¹ See Title 9 of the NYC Rules.

The IBO, CBOs, and other budget experts have testified to the Commission about the City's late payment practices and the operational challenges it presents to CBOs, arguing for various reforms to promote timely payment of contracts and contractor invoices.³⁶²

Many of the proposed reforms suggested to the Commission can be effectuated under some combination of the existing authority of the PPB, Council, Mayor, MOCS, Mayor's Office of Nonprofit Services (MONS), and Comptroller.³⁶³

For example, Local Law 169 of 2023 (see No. 1 in Table 1 in Appendix A), initiated a process by which the PPB must establish procurement timelines for non-profit human services contracting.³⁶⁴ The first report mandated by that local law, issued in October 2024, determined that the RFP process should take between 325 and 510 days (i.e., about 10 to 17 months) from pre-solicitation to contract registration (known as "end-to-end cycle time").³⁶⁵

One area where a Charter revision would be required relates to the composition of the PPB. The board currently consists of five members: three appointed by the Mayor and two by the Comptroller, who serve at the pleasure of their appointing official.³⁶⁶ There is no direct voice representing the Council, which frequently hears from CBOs about contract delays and regularly requires changes to contracting policy that involve PPB rulemaking. Nor does the Council review PPB appointees through an advice and consent process with its associated opportunity for public testimony regarding the nominees.

The Commission has heard compelling testimony regarding the need to improve the oversight, administration, transparency, and timeliness of payments for qualified vendors, especially those providing human services to New Yorkers.³⁶⁷ Appendix A details a range of

³⁶² "Testimony of IBO Director Louisa Chaffee," (March 10, 2025), available at <https://www.ibo.nyc.ny.us/iboreports/charter-testimony-march-10-2025.pdf>.

³⁶³ For more on MONS, established in 2022 and formalized in Executive Order 47 in January 2025, see <https://www.nyc.gov/site/nonprofits/index.page> and <https://www.nyc.gov/office-of-the-mayor/news/47-003/executive-order-47>.

³⁶⁴ Int 511-2022, Local Law 169 of 2023.

³⁶⁵ Mayor's Office of Contract Services, "Local Law 169 of 2023 Report," (October 1, 2024), available at <https://www.nyc.gov/assets/mocs/downloads/Regulations/PPB/LocalLaw169Report.pdf>.

³⁶⁶ Charter § 311(a).

³⁶⁷ *Written testimony of Michelle Bascome*, Nonprofit Staten Island (Mar. 20, 2025).

such reforms that policymakers may wish to consider. Yet these reforms can be accomplished through local law or other non-charter revision means.

In contrast to the proposals described in Appendix A, altering the composition or allowing public input during the appointment process of the PPB is a reform that would require amending the Charter and approval in a referendum.

Options for increasing public involvement in the structure of the PPB include providing the Council with advice and consent power over PPB appointees (similar to the City Planning Commission or the Taxi and Limousine Commission) or amending the composition of the five-member PPB itself. This could include a Council appointee, one or more appointees representing Borough Presidents or the Public Advocate, or other alternatives.

Staff Recommendation

Changes to PPB appointments and composition may help accelerate reform and enhance accountability from MOCS, city agencies, and other entities that govern and oversee city contracts with human services providers. Staff recommend that the Commission solicit additional feedback on ideas for changing the composition or appointment process for members of the PPB.

Impoundment Powers

Clarifying the Boundaries of Spending Authority

When governmental executives “unilaterally withhold or block investments that have been enacted into law,” they “impound” funds.³⁶⁸ The question of impoundment has recently surged into the national spotlight, as the Trump administration has attempted to freeze trillions of dollars in federal funding to “choke off the money.”³⁶⁹

Like U.S. Presidents, New York City Mayors may also impound legally appropriated funding. Charter section 255 outlines the standard adoption process of the City’s annual budget and the Mayor’s power to adjust the budget prior to adoption: the Mayor may veto “any increase or addition to the budget, any unit of appropriation, or any change in any term or condition of the budget” approved by the Council to the Executive Budget, after which the Council may either accept the changes in the Mayor’s veto, or override it with a two-thirds vote and adopt the budget it chooses.

Despite this, the Mayor has many additional controls over how to implement a budget, even once it is legally approved. For example, if the Mayor determines that any appropriation in the budget should not be spent during the fiscal year, they may “impound” that money and prevent it from being spent.³⁷⁰ No guidelines define the boundary between emergencies demanding fiscal prudence and discretionary rationales subverting the democratically adopted budget.³⁷¹

³⁶⁸ U.S. Senate Committee on Appropriations, “Trump’s Illegal and Unconstitutional Scheme to Withhold Funding Headed to Communities Across America,” Press Release (Jan. 24, 2025), *available at* <https://www.appropriations.senate.gov/news/minority/new-fact-sheet-trumps-illegal-and-unconstitutional-scheme-to-withhold-funding-headed-to-communities-across-america>.

³⁶⁹ Protect Democracy, “Checking Presidential Impoundment of Federal Funds” (Jan. 30, 2025), *available at* <https://protectdemocracy.org/work/checking-presidential-impoundment-of-federal-funds/>.

³⁷⁰ Charter § 106(e).

³⁷¹ 2019 Charter Revision Commission, “Preliminary Staff Report” (Apr. 2019), *available at* <https://www.nyc.gov/assets/charter/downloads/pdf/reports-ballot-issues/2019-preliminary-staff-report.pdf>, at 60-63.

Furthermore, Charter section 106(b) gives the Mayor the authority to set quarterly spending allotments, determine aggregate position and salary limits, and set aside “necessary reserves” for each U/A. These powers, which in practice may and are imposed by OMB, can modify appropriations adopted by the Council without Council input or transparency.

Even after the close of a fiscal year, no explanation exists as to why OMB may have withheld funds under its expansive powers. Charter section 229(b) says, “The mayor shall issue a report comparing actual revenues to estimated revenues in the budget as adopted for the previous fiscal year, accompanied by a detailed listing and an explanation of any variances between actual revenues and estimated revenues.” However, the Mayor does not seem to have ever issued such a report.

While the executive’s need to swiftly stabilize the City’s finances in an emergency is well understood, examples from the late 1990s Yankee Stadium debate³⁷² through to the 2020s asylum seeker influx³⁷³ suggest that the 1989 Charter Revision Commission’s intention of establishing budget-setting as a co-equal democratic activity between the Mayor and the Council remains unfulfilled. The broad impoundment power retained by the Mayor seems to provide a back door that lessens budget democracy, transparency, and accountability.

Staff Recommendation

Staff recommend that the Commission solicit testimony regarding possible Charter revisions that would refine executive impoundment powers to align with “the state constitutional requirements that every local government have a directly elected legislative body responsible for initial policy making,” without seeing such policies undermined.³⁷⁴ Potential reforms should be considered in conjunction with more programmatic U/As and other efforts to strengthen budget transparency and accountability.

³⁷² *Id.* at 62.

³⁷³ Emma G. Fitzsimmons and Jeffery C. Mays, “Libraries and Arts Programs Spared From Cuts in N.Y.C. Budget Deal,” N.Y. Times (June 27, 2024), available at <https://www.nytimes.com/2024/06/27/nyregion/nyc-budget-culture-libraries.html>.

³⁷⁴ Frederick A.O. Schwarz, Jr. & Eric Lane, *The Policy and Politics of Charter Making: The Story of New York City’s 1989 Charter*, 42 New York Law School Law Review 723, at 840-41.

Reserves and Rainy Day Funds

Improving Fiscal Stability Amid Uncertainty

A rainy day fund is a pool of money set aside to be “used in the event of an economic downturn or a crisis that reduces revenue so that spending would not have to be drastically cut or taxes increased to maintain a balanced budget.”³⁷⁵ In 2019, voters approved a Charter amendment to support the creation of a Rainy Day Fund (officially called the Revenue Stabilization Fund, or “RSF”).³⁷⁶ The State then removed legal impediments to the RSF, and it was established in 2021.³⁷⁷

However, the City is currently not required to deposit money into its RSF when the economy is growing. Mandatory deposits would accumulate funds to be drawn down during a future recession or short-term emergency, preventing dramatic cuts to existing services.

The Citizens Budget Commission, State and City Comptrollers, and other stakeholders have considered further defining the RSF, such as by setting a target size of the fund, mandating formula-determined deposits, and limiting withdrawals to specific emergency circumstances.³⁷⁸

Comptroller Lander has suggested that the City set a target of 10 to 16% of its taxes for depositing into the RSF.³⁷⁹ Appropriate use of the RSF would also allow the City to return the

³⁷⁵ *Written testimony of Carol Kellerman*, Before the 2019 Charter Revision Commission (Mar. 11, 2019), available at https://static1.squarespace.com/static/5bfc4cecf7fde7d3719c06/t/5cbe06a2eb393169ff422229/1555957428332/Meeting_Testimony_3_11_19.pdf, at 49.

³⁷⁶ 2019 Charter Revision Commission Ballot Questions, Question #4, available at <https://www.nyc.gov/assets/charter/downloads/pdf/reports-ballot-issues/ballot-questions.pdf>.

³⁷⁷ New York State Comptroller Tom DiNapoli, “Strengthening New York City’s Rainy Day Fund,” (Nov. 2021) available at <https://www.osc.ny.gov/files/reports/osdc/pdf/report-13-2022.pdf>.

³⁷⁸ Andrew S. Rein, “Testimony on Improving City Finances and Resident Input Submitted to the New York City Charter Revision Commission” (Feb. 24, 2025), available at <https://cbcny.org/advocacy/testimony-improving-city-finances-and-resident-input>; *Oral Testimony of Ana Champney* (Mar. 24, 2025).

³⁷⁹ NYC Comptroller Brad Lander, “Preparing for the Next Fiscal Storm: Setting Guidelines for NYC’s Rainy Day Fund” (Mar. 23, 2022), available at <https://comptroller.nyc.gov/reports/preparing-for-the-next-fiscal-storm/>.

Retiree Health Benefit Trust (RHBT) to its mandated purpose of stabilizing funding for retiree health and welfare benefits.³⁸⁰

According to State Comptroller DiNapoli, “[r]ecent reviews by credit rating agencies suggest that governments that develop and maintain robust fiscal reserve policies may receive improved ratings compared to their peers.”³⁸¹ Despite these potential advantages, there has been no major reform to the RSF since its inception.

Staff Recommendation

Given ongoing fiscal uncertainty, testimony should be solicited regarding the adequacy of the City’s system of reserves, particularly the RSF. The City would benefit from having some guidelines to prevent the misuse of the RSF and ensure it serves its intended role of preventing sharp in-year cuts to services. The advantages of a more regulated RSF should be weighed carefully against arguments seeking to preserve the City’s fiscal position and the government’s flexibility in responding to emergencies.

³⁸⁰ *Id.*

³⁸¹ *Id.*, DiNapoli, “Strengthening New York City’s Rainy Day Fund,” at 3.

Consensus Revenue Estimates

Transparency in Forecasting, Fairness in Budget Negotiation

Per the Financial Emergency Act of 1975, New York City is required to balance its budget each year.³⁸² In practice, this means that the City's revenues must match its current expenditures and those of the following fiscal year, less any funds set aside for reserves.³⁸³

Accordingly, the estimated revenues for the current and following fiscal years provide the framework for the content of budget negotiations between the Council and Mayor about whether and how much to fund potential budget priorities.

Revenue estimates frequently vary between the Mayor (who issues the estimate), the Council (whose Finance Division develops its own revenue estimate), the IBO, and the Comptroller. All of these entities release economic and tax forecasts that are used to update revenue estimates.³⁸⁴

Overall, the OMB budgets conservatively, and regularly testifies that it is cautious with regard to savings, expenses, and revenue forecasts.³⁸⁵ In Fiscal Year 2026, the Council estimated an additional \$3 billion in revenues across the current and following fiscal year (FY 2025-

³⁸² New York State Financial Emergency Act, codified in N.Y.S. Unconsolidated Law § 5401 et seq. *For more, see:* NYC Comptroller Brad Lander, "A Stronger Fiscal Framework for New York City Proposals to Improve the City's Financial Management and Promote Fiscal Responsibility," (June 7, 2024), available at <https://comptroller.nyc.gov/reports/a-stronger-fiscal-framework-for-new-york-city/>.

³⁸³ The city's expense budget, concerned with funding daily operations of the city, must be in balance with revenues. The city's capital budget is not required to be balanced, although the cost of servicing the city's debt appears in the expense budget.

³⁸⁴ In addition to the above, the State Comptroller assesses and critiques OMB's revenue estimates, although the reasoning tends to be less extensive than for the other monitors discussed. The Financial Control Board (a product of the city's mid-1970s fiscal crisis, established in 1975), also reviews the City's fiscal position and revenues.

³⁸⁵ *Written testimony of NYC Budget Director Jacques Jiha, Ph.D.*, "New York City Council Budget and Oversight Hearings on The Preliminary Budget for Fiscal Year 2024," Hearing Testimony, (Mar. 6, 2023), available at <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=6027917&GUID=1E424E4D-F1BD-4F9C-A37F-044A91354726&Options=&Search=>, at 1 and 2.

2026) compared to OMB.³⁸⁶ The Comptroller estimated an additional \$1.3 billion in revenues across the same two fiscal years compared to OMB.³⁸⁷

Voters approved a 2019 Charter amendment requiring the Mayor to submit a non-property tax revenue estimate to the Council by April 26, instead of June 5.³⁸⁸ However, after that date, the Mayor may still submit an updated estimate explaining why it was fiscally necessary.³⁸⁹ This has established a more consistent timeline for the so-called “revenue letter,” however substantial changes to the total amount of resources available for allocation occur until the point of budget adoption, which must be completed by June 30 each fiscal year, as savings and new revenues are reflected in the current fiscal year (through a final budget modification) and following fiscal year.³⁹⁰ Therefore, recent budget negotiations between the Mayor and Council have remained hampered by disputes over available revenues.³⁹¹

The disparity in expected revenues creates an information asymmetry between the Mayor and the Council. Instead of understanding what resources are available and negotiating which budget priorities ought to be funded, late-stage revenue adjustments limit robust deliberations among the 51-member Council and Mayor about appropriations and savings.

To address some of these deficiencies, the Commission has heard testimony that the Council and the Mayor should issue a joint revenue estimate.³⁹² This process of joint revenue

³⁸⁶ NYC Council Finance Division, “New York City Council’s Response to the Fiscal 2026 Preliminary Budget and Fiscal 2025 Preliminary Mayor’s Management Report” (Apr. 1, 2025), *available at* <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2025/04/Fiscal-2026-Preliminary-Budget-Response-8.pdf>.

³⁸⁷ NYC Comptroller Brad Lander, “Testimony on the FY26 Preliminary Budget and January 2025 Financial Plan” (Mar. 5, 2025), *available at* <https://comptroller.nyc.gov/newsroom/testimonies/comptroller-lander-delivers-testimony-on-the-fy26-preliminary-budget-and-january-2025-financial-plan/>.

³⁸⁸ Charter § 250(5).

³⁸⁹ Charter § 1515(c).

³⁹⁰ *Id.*, “N.Y.C. Council’s Response to the Fiscal 2026 Preliminary Budget” at 10: “OMB’s conservative revenue and expenditure forecasting means that additional resources will likely be realized throughout the course of the fiscal year. Many of these additional resources are identified with little or no actions needed; accruals from personal services and higher than estimated tax collections are two examples.”

³⁹¹ Emma G. Fitzsimmons and Jeffery C. Mays, “Libraries and Arts Programs Spared From Cuts in N.Y.C. Budget Deal,” NY Times (June 27, 2024), *available at* <https://www.nytimes.com/2024/06/27/nyregion/nyc-budget-culture-libraries.html>.

³⁹² *Written Testimony of Council Member Gale Brewer* (Mar. 10, 2025).

estimation, also called a “consensus estimate,” is used by a range of states and cities across the country,³⁹³ including New York State.³⁹⁴

The New York Constitution does not require consensus revenue estimates, but they are codified by statute in section 23 of the New York State Finance Law.³⁹⁵ Relevant political stakeholders begin to confer on the economy and revenues half-way through the State’s fiscal year, in November, when budget representatives of the Governor, state Senate and state Assembly leaders and Comptroller gather to review financial information such as the “economic outlook, revenue forecasts, projected spending, the impact of relevant state and federal statutory provisions, and any other matters deemed appropriate.”³⁹⁶

In addition to this review of financial information, before November 5, these officers are to report estimates of “state receipts and state disbursements” for the current and ensuing fiscal years.³⁹⁷ Ultimately, as the beginning of the state’s fiscal year approaches on April 1, the consensus economic and revenue forecast is meant to be adopted by both the Governor and the Legislature. However, if a joint report is not adopted, then the State Comptroller’s estimates are used as a backstop.³⁹⁸

New York State offers one model for establishing consensus revenue forecasts. This could be accomplished through different mechanisms and with various time frames. For example, the Charter could set May 1 as the date to establish the Mayor and Council’s joint revenue estimate, providing over a month for budget negotiations to discuss the appropriate expenditure of such funds, including setting aside reserves. The Comptroller’s estimate could be used if an agreement is not reached. However, the New York State model is limited

³⁹³ Yael Shavit, “Revenue Forecasting Processes in New England,” New England Public Policy Center at the Federal Reserve Bank of Boston (Apr. 2009), available at <https://www.bostonfed.org/-/media/Documents/Workingpapers/PDF/briefs904.pdf>.

³⁹⁴ See NY Constitution Article VII.

³⁹⁵ NY State Finance Law § 23(5), (6).

³⁹⁶ *Id.*

³⁹⁷ *Id.*

³⁹⁸ *Id.* at (6)(c).

because the forecasts do not serve as a cap on expenditures, nor are they required to be used in the budget.³⁹⁹

In response, a potential consensus revenue estimate process for the City could consider requiring the revenue forecast, except in the case of a demonstrable fiscal crisis, or permitting deviation in the case of a later agreement between the Mayor and City Council. The interaction effect between revenue estimation and budget modifications also merits further discussion, as savings from the current fiscal year become a source of resources for the next.

Staff Recommendation

The Commission would benefit from testimony expanding on possible models that would increase transparency and accuracy regarding the City's fiscal position and promote a fair process during annual budget negotiations.⁴⁰⁰

³⁹⁹ *Options for Budget Reform in New York State*, Citizens Budget Commission, (Sept. 20, 2007), available at https://cbcny.org/sites/default/files/report_budgetreform_09202007.pdf, at 13.

⁴⁰⁰ Elizabeth McNichol, "Improving State Revenue Forecasting: Best Practices for a More Trusted and Reliable Revenue Estimate," Center on Budget and Policy Priorities, (Sept. 4, 2014), <https://www.cbpp.org/research/improving-state-revenue-forecasting-best-practices-for-a-more-trusted-and-reliable-revenue>.

Land Use

On December 12, 2024, Mayor Adams announced the appointment of his second Charter Revision Commission. The 13 mayor-appointed commissioners represent a group of housing and affordability experts who have been specifically tasked with introducing Charter amendments designed to combat the City’s housing crisis.⁴⁰¹ This Charter Revision Commission’s proposals are expected to appear on the November 2025 General Election ballot. The following recommendations are independent of any actions that body may take.

Fair Housing and Community Planning

Holding Agencies Accountable to Equitable Planning

The Council adopted the Fair Housing Framework Law in December of 2023 as a step towards confronting the City’s housing crisis.⁴⁰² It was designed to ensure transparency, accountability, and proactive measures for addressing the City’s housing challenges by ensuring each neighborhood does its fair share of developing affordable housing.⁴⁰³ Fair housing policies aim to address a variety of challenges that have been created by long histories of housing discrimination; they allow more equitable access to opportunities and neighborhood amenities, regardless of someone’s background.⁴⁰⁴ The Fair Housing Framework Law requires the creation of a fair housing plan,⁴⁰⁵ long-term housing needs

⁴⁰¹ Office of the Mayor, “Mayor Adams Announces New Charter Revision Commission to Continue Important Work Tackling Generational Housing Crisis Impacting Working-Class New Yorkers,” Press Release (Dec. 12, 2024) available at <https://www.nyc.gov/office-of-the-mayor/news/916-24/mayor-adams-new-charter-revision-commission-continue-important-work-tackling>.

⁴⁰² Local Law 167 of 2023.

⁴⁰³ NYC Council, “New York City Council Votes to Pass Fair Housing Framework Bill...,” Press Release (Nov. 15, 2023) available at <https://council.nyc.gov/press/2023/11/15/2503/>.

⁴⁰⁴ Deputy Mayor Vicki Been, “Where We Live NYC Plan,” The City of New York (Fall 2020) at 9-12.

⁴⁰⁵ Charter § 16-a(b).

assessment,⁴⁰⁶ housing production targets,⁴⁰⁷ a strategic equity framework,⁴⁰⁸ public input processes,⁴⁰⁹ and reporting.⁴¹⁰ Each requirement has its own timeline to ensure that the framework is not static but rather adjusts as the city changes.⁴¹¹

The Charter dictates that an “administering agency” be designated by the Mayor to carry out this work.⁴¹² It is likely that the lead agency will be the Department of Housing Preservation and Development (HPD), as they are the primary agency responsible for housing-related initiatives in New York City fair housing plan and housing report requirements. Partner agencies such as the Department of City Planning (DCP) and the New York City Housing Authority (NYCHA), as well as entities such as the Economic Development Corporation (NYCEDC), will be critical partners toward ensuring that the fair housing plan’s goals, strategies, and housing production targets are met.⁴¹³ The requirements of the fair housing plan and housing reports are critical as a means to assess the existing conditions of the city’s housing landscape and inform housing policy goals and strategies. However, limitations still exist towards ensuring accountability for the City to take actions to meet its housing production targets. There is an opportunity to strengthen the Fair Housing Framework Law with Charter amendments that would require planning for housing growth in areas of the City that need land use changes in order to meet their housing production targets.

⁴⁰⁶ Charter § 16-a(c).

⁴⁰⁷ Charter § 16-a(d) requires the administering agency to produce a 5-year citywide housing production target as well as targets for each of the 59 community districts. The five-year housing production targets will address total housing units, affordable housing units, deeply affordable housing units, and housing serving the formerly homeless.

⁴⁰⁸ Charter § 16-a(e).

⁴⁰⁹ Charter § 16-a(f).

⁴¹⁰ Charter § 16-a(g).

⁴¹¹ Charter § 16-a.

⁴¹² Charter § 16-a(a).

⁴¹³ In both the Where We Live NYC Plan (2020) and the Where We Live NYC Plan – 2024 Progress Report (2025), these agencies are identified as critical partners on several of the 81 actions in the plan that are identified as being "In progress" according to the Implementation Matrix in the 2024 Progress Report.

There are opportunities to further ensure that planning for housing development is grounded in an equitable approach by modifying certain sections of the Charter that already relate to planning. This could include modifications to the roles of DCP,⁴¹⁴ the City Planning Commission (CPC),⁴¹⁵ and community boards.⁴¹⁶ For example, community boards are required to annually submit to the Mayor a “statement of community district needs,” which is to include an assessment of the district that outlines its present and future needs and ideas for best meeting those needs.⁴¹⁷ While the Charter does not explicitly require the “statement of community district needs” to include ideas for the growth, improvement, and development of the district, the Charter does make it clear that community boards are to think about these things.⁴¹⁸ Requiring the incorporation of the Fair Housing Framework Law housing production targets by community district into each community board’s statement of community district needs would ensure that each board addresses their role within an equitable citywide framework for development and empower them to develop strategies for meeting their targets.

To give community boards the opportunity and support to plan for their own growth, the City’s formal community planning process should be less resource-intensive and more meaningful. Charter section 197-a outlines a formal community planning process that can be sponsored by the Mayor, CPC, DCP, Borough Presidents, borough boards, and community boards. This provision allows them to propose a plan for development, growth, and improvement to CPC and, if approved or approved with modifications by CPC, to the Council for their review.⁴¹⁹ The guiding rules⁴²⁰ were adopted by CPC in 1991 under Mayor Dinkins and have not been updated since.⁴²¹ The “Rules for the Processing of Plans Pursuant to Charter

⁴¹⁴ Charter § 191, § 197-a, and § 197-c.

⁴¹⁵ Charter § 192, § 197-a, § 197-c, § 200, and § 201.

⁴¹⁶ Charter § 2800.

⁴¹⁷ Charter § 2800-d(10).

⁴¹⁸ Charter § 2800-d(9).

⁴¹⁹ Charter § 197-a(a).

⁴²⁰ Charter § 197-a(b) required the CPC to, "... adopt rules establishing minimum standards for the form and content of the plans..."

⁴²¹ New York City Planning Commission, "Rules for the Processing of Plans Pursuant to Charter Section 197-a" (Jul. 1991).

Section 197-a" are divided into seven articles, most of which detail specific guidelines and milestones for the development of the plan.⁴²² In 1997, DCP developed the "197-a Plan Technical Guide," in an effort to dispel confusion regarding the threshold standards for form and content and sound planning policy, and to clarify the general meaning of 197-a plans.⁴²³ 197-a plans are advisory, so they do not have the force of law to enact zoning changes. However, they are important for providing a policy framework for future land use actions and can elevate community visions into formal planning discussions.⁴²⁴

While the community planning process in Charter section 197-a was designed to inform more inclusive and equitable land use and planning policy for the City, it has been underutilized for years for a variety of reasons.⁴²⁵ The process is complex (see Appendix C), time-intensive, and costly, and there is a lack of clarity about its power relative to enacting zoning changes, even if the plan is ultimately adopted.⁴²⁶

While the 197-a community planning process has not been utilized in more than 10 years,⁴²⁷ other community planning processes have taken shape under the leadership of city agencies, community boards, and other planning organizations. For example, a large component of Mayor de Blasio's 2014 Housing New York Plan was based on, "working with communities to identify opportunity areas and plan for growth."⁴²⁸ Several of the neighborhoods identified in the plan led to rezonings and neighborhood investments that were guided by community conversations leading up to and during the land use public review

⁴²² *Id.*

⁴²³ NYC Dept. of City Planning, "197-a Plan Technical Guide" (1997), at 1.

⁴²⁴ The Municipal Art Society of New York, "The State of 197-a Planning in New York City," (Fall 1998) at 1.

⁴²⁵ Jarrett Murphy, "Whose Dreams Will Decide?," *City Limits* (Dec. 21, 2010) *available at* <https://citylimits.org/whose-dreams-will-decide/>.

⁴²⁶ *Id.*

⁴²⁷ In a search of City Planning Commission Reports for Application Type "NP - 197A" using the NYC Dept. of City Planning search tool (*available at* <https://a030-cpc.nyc.gov/html/cpc/index.aspx>), the most recent report was related to a citywide proposal for the Waterfront Revitalization Program (N 120213 NPY) sponsored by the Dept. of City Planning and approved with modifications by the CPC on Sep. 11, 2013, and approved by the Council on Oct. 30, 2013.

⁴²⁸ Deputy Mayor Alicia Glen, "Housing New York: A Five-Borough, Ten-Year Plan," *The City of New York* (May 5, 2014) at 31.

process.⁴²⁹ It is understandable that DCP would avoid the onerous 197-a process in favor of more flexible processes for neighborhood planning efforts. However, the lack of a usable standardized process for community planning results in a haphazard approach to planning. Given the explicit priorities of the last several administrations to develop more housing citywide, it is difficult to understand why the 197-a planning process has not been updated by CPC since 1991.

The lack of standardization around these community planning processes creates inconsistencies in approach and outcomes, especially over the long term.⁴³⁰ Furthermore, without a framework to guide the prioritization of neighborhoods to be studied for housing growth, it appears as a mystery to the public and policy stakeholders as to why DCP studies some neighborhoods and not others. While each new Mayor in recent years has brought forth a bold new housing plan, no long-term strategy exists to ensure that the housing goals are actually being met, much less that they are being met equitably. While the Fair Housing Framework Law is a meaningful first step toward ensuring mayors in the future will have the information available to serve as a guiding light for future equitable housing policy, it is limited in its ability to ensure that critical planning work to yield results is being undertaken.

Community plans typically lead to proposed land use changes and recommendations for new capital investments, programs, and services to address the needs of the local community.⁴³¹ In order for the land use changes from these community plans to ultimately be adopted, they must go through the City's public review process, which is known as Uniform Land Use Review Procedure (ULURP).⁴³² It was developed in 1975 to ensure that decisions about significant land use changes would go through a structured process involving multiple levels of government and community input.⁴³³ Land use actions subject to

⁴²⁹ Deputy Mayor Vicki Been, "Housing New York Final Report," The City of New York (2020) at 85-91.

⁴³⁰ New York City Council, "Planning Together," (Dec. 2020) at 26.

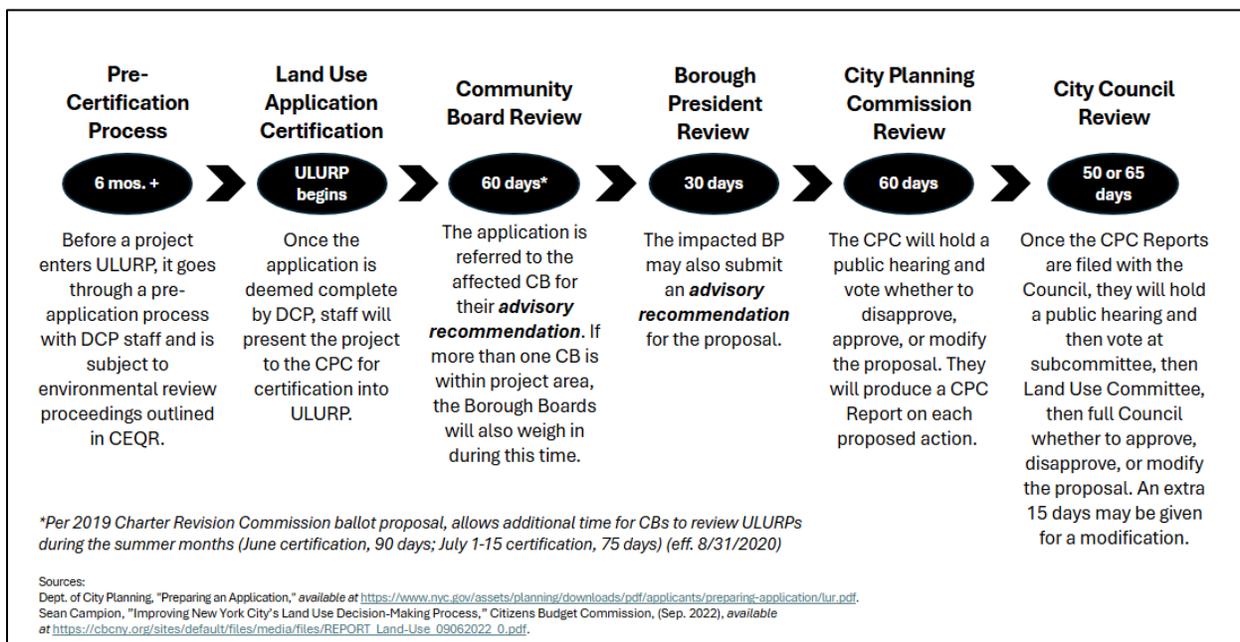
⁴³¹ NYC Dept. of City Planning, "Neighborhood Planning," *available at* <https://www.nyc.gov/content/planning/pages/planning/neighborhood-planning>.

⁴³² Charter § 197-c.

⁴³³ NYC Dept. of City Planning, "Public Review," *available at* <https://www.nyc.gov/content/planning/pages/planning/public-review#history>.

ULURP include rezonings, special permits, site selections, and certain dispositions of City-owned land.⁴³⁴

Chart 1: Overview of the ULURP Process



The Council is the final step in the ULURP process for applications that CPC approves, but the Council is not permitted under ULURP to review applications that CPC disapproves. While CPC is technically a separate entity from DCP, CPC heavily weighs the advice from DCP. The CPC chairperson is the director of DCP,⁴³⁵ so the two entities are very closely linked, especially when it comes to advancing a particular mayoral administration's planning and zoning policy. This makes it difficult for community groups to advance proposals that do not adhere to DCP's planning rationale. The Commission heard testimony from the Morningside Heights Improving Community Coalition that expressed concern that their proposal for a rezoning of their neighborhood, which aims to stimulate housing growth in some areas while preserving neighborhood character in others, would not advance through ULURP.⁴³⁶ Their concern was rooted in feedback they had received on the proposal by DCP, even though the application

⁴³⁴ Charter § 197-c(a).

⁴³⁵ Charter § 191(a).

⁴³⁶ *Oral Testimony of Robert Stern* (Mar. 10, 2025).

has broad support from the local community board, Borough President, and the Council, all of whom are joint applicants on advancing the proposal into ULURP.⁴³⁷ Towards the end of the de Blasio administration in January 2020, the years-long community planning process that culminated in the release of the Bushwick Community Plan came to a bitter end after disagreement between the stakeholders of the plan and DCP could ultimately not be resolved.⁴³⁸ Bushwick Community Plan’s steering committee and local Council Members had worked closely with DCP and other city agencies to create a balanced plan, which ultimately languished without the full support of DCP and the de Blasio administration.⁴³⁹

There has long been a struggle to balance top-down planning with community-based planning, and as the Municipal Art Society of New York has observed, the City’s current planning process tends to foster ineffective opportunities for public engagement since community voices often enter the conversation too late in the process.⁴⁴⁰

The Commission has a unique opportunity to consider updating the community planning process and ULURP, in conjunction with strengthening the requirements of the fair housing plan and housing reports, in order to increase accountability and transparency with respect to CPC and DCP’s approach to neighborhood planning, while also providing more opportunities for local community boards to plan for their own housing growth.

Staff Recommendation

Staff recommend that the Commission further consider and solicit public feedback concerning: exploring the adoption of new rules regarding the 197-a community planning process to make the process more accessible to community boards and explicitly address the fair housing plan; requiring that DCP pursue 197-a plans or assist community boards

⁴³⁷ *Id.*

⁴³⁸ Sadeef Ali Kully, “Downzoning Differences: Clash Over Housing Projections Led to Bushwick Stalemate,” City Limits (Mar. 6, 2020) available at <https://citylimits.org/downzoning-differences-clash-over-housing-projections-led-to-bushwick-stalemate/>.

⁴³⁹ *Id.*

⁴⁴⁰ Municipal Art Society of New York, “Testimony from the Municipal Art Society of New York to the City Council Committee on Governmental Operations on Int. 2186-2020,” (Feb. 23, 2021) available at <https://www.mas.org/wp-content/uploads/2021/02/testimony-2021-02-23-gov-operations.pdf>.

with creating their own such plans in neighborhoods that meet certain criteria in the fair housing plan and housing reports for equitable housing growth; and requiring that certain city agencies and entities incorporate the fair housing plan and reports into planning documents, including community boards incorporating and responding to the five-year housing production targets for their community district in their annual statements of community district needs. Additionally, staff recommend further consideration and solicitation of public feedback as to whether to amend the Charter to require that the threshold at CPC for disapproving an application should be increased if a combination of community board, Borough President, and Borough Board recommend approval of a land use application.

ULURP Pre-Certification Reforms

Expediting the Pre-Certification Process

DCP certifies that applications are complete and ready before beginning ULURP, and DCP staff works very closely with applicants during this pre-certification phase.⁴⁴¹ During this time, DCP provides guidance and technical assistance to ensure proposals comply with current zoning and planning policies.⁴⁴² DCP also guides applicants through the City Environmental Quality Review (CEQR) process to identify potential significant adverse impacts and disclose them in the relevant environmental assessment and impact statements, a notoriously long and expensive process that is guided by state law.⁴⁴³ During the pre-certification phase of ULURP, DCP may also facilitate meetings and consultations between other city agencies that may be relevant to the proposed development. Once DCP has confirmed that all required studies, maps, legal documents, and analyses are accurate and complete, staff will present the proposal to CPC and the application will be deemed certified, marking the formal beginning of ULURP.⁴⁴⁴ While the ULURP process takes about seven months after certification,⁴⁴⁵ the pre-certification phase is far longer, typically several years before an application can begin formal review.⁴⁴⁶

ULURP is designed to ensure a specific timeframe associated with each step of the process to provide standardization and predictability in the City's review of important land-use decisions.⁴⁴⁷ However, the process leading up to ULURP certification, known as the "pre-ULURP" or "pre-certification" phase, has no defined timeline and lacks transparency for the

⁴⁴¹ NYC Dept. of City Planning, "Preparing an Application," *available at* <https://www.nyc.gov/content/planning/pages/applicants/preparing-application>.

⁴⁴² *Id.*

⁴⁴³ *Id.*

⁴⁴⁴ *Id.*

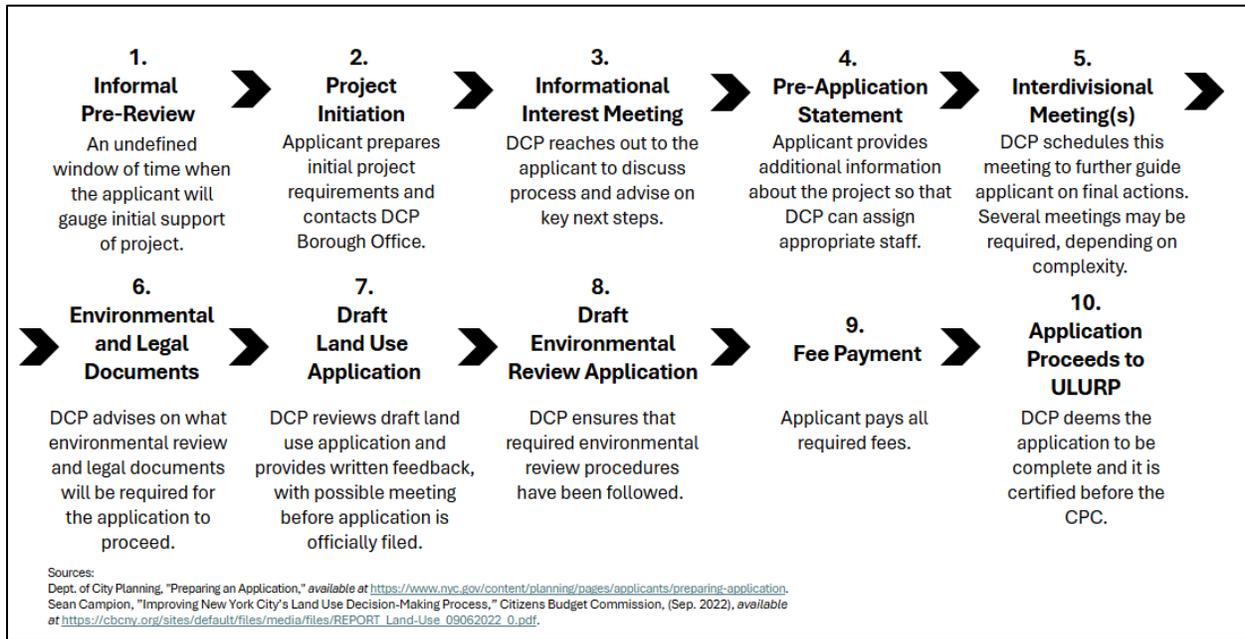
⁴⁴⁵ *Id.*

⁴⁴⁶ Sean Campion, "Improving New York City's Land Use Decision-Making Process," Citizens Budget Commission, (Sep. 2022), *available at* https://cbcny.org/sites/default/files/media/files/REPORT_Land-Use_09062022_0.pdf.

⁴⁴⁷ Christine Gaspar and Mark Torrey, "What is ULURP?," The Center for Urban Pedagogy (2017), at 18-21.

public and the other participants in the ULURP process.⁴⁴⁸ The pre-certification process is iterative and can take several years.⁴⁴⁹ During this time, the applicant goes through 10 different steps with DCP to prepare the application and related environmental review materials.⁴⁵⁰

Chart 2: Overview of the ULURP Pre-Certification Process



Voters approved the 2019 Charter Revision Commission’s “pre-certification 30-day notice” requirement, which went into effect in 2020.⁴⁵¹ It applies to all ULURP applications initiated by city agencies or private applicants and mandates that DCP provide public notification at least 30 days before an application is certified into ULURP.⁴⁵² The intent of this requirement was to increase transparency and predictability for projects about to enter the ULURP

⁴⁴⁸ 2019 Charter Revision Commission, "Final Report of the 2019 New York City Charter Revision Commission" (Aug. 2, 2019), at 81.

⁴⁴⁹ Sean Campion, "Improving New York City's Land Use Decision-Making Process," Citizens Budget Commission, (Sep. 2022).

⁴⁵⁰ NYC Dept. of City Planning, "Preparing an Application," available at <https://www.nyc.gov/content/planning/pages/applicants/preparing-application>.

⁴⁵¹ 2019 Charter Revision Commission, "Final Report of the 2019 New York City Charter Revision Commission" (Aug. 2, 2019). Charter § 197-c(c).

⁴⁵² *Id.*

process, give communities more time prepare for a proposed action before the start of the “ULURP clock,” and promote early engagement between the applicant and other community stakeholders.⁴⁵³ The pre-certification notice typically includes project details such as a description of the application, a draft version of the ULURP materials, and any related environmental review.⁴⁵⁴ Voters made it clear in 2019 through their support for this ballot initiative that they wanted more transparency and accountability during the pre-certification process. Further improvements to create a more effective and efficient process should be explored.

Staff Recommendation

Staff recommend that the Commission further consider and solicit public feedback (particularly from affordable housing developers and housing advocates) concerning whether improvements should be made to the lengthy and opaque pre-certification process with DCP, in order to improve transparency and accountability, and further expedite land use applications.

⁴⁵³ 2019 Charter Revision Commission, " Final Report of the 2019 New York City Charter Revision Commission" (Aug. 2, 2019).

⁴⁵⁴ Charter § 197-c(c).

City Office Space Acquisitions

Preventing Fraud and Utilizing Appropriate Expertise

Charter section 195 lays out a review and approval procedure for the City to acquire office space within existing buildings.⁴⁵⁵ The Department of Citywide Administrative Services (DCAS) acts as a broker on behalf of city agencies and other city entities to facilitate these acquisitions.⁴⁵⁶ These applications must be approved by CPC for the deal to proceed.⁴⁵⁷ CPC has 30 days to approve the application and file their approval with the Council, and the Council may disapprove the application by a two-thirds vote within 20 days of the CPC filing.⁴⁵⁸

While it is appropriate for CPC to review applications regarding the siting of new city facilities that relate to the orderly growth, improvement, and future development of the City,⁴⁵⁹ the review of office leases in pre-existing buildings, which are already zoned for office use, are not necessarily matters requiring planning and land use expertise. For these approvals, CPC looks at the site's suitability for cost-effective operations, operational efficiency, consistency with the citywide statement of needs (SON), and whether the facility will revitalize regional business districts.⁴⁶⁰ CPC does not deliberate the financial impacts of these real estate transactions.⁴⁶¹

There is little transparency in how Charter section 195 office lease deals are brokered with private entities. Applications lack details about the building owners and the cost of the lease

⁴⁵⁵ Charter § 195.

⁴⁵⁶ NYC Dept. Of Citywide Administrative Services, "Private Space Leased by the City," *available at* <https://www.nyc.gov/site/dcas/business/private-space-leased-by-the-city.page>.

⁴⁵⁷ Charter § 195(b).

⁴⁵⁸ Charter § 195(d).

⁴⁵⁹ Charter § 192(d)

⁴⁶⁰ New York City Planning Commission, "Criteria for the Location of City Facilities," (Dec. 3, 1990) at 10 (Article 7).

⁴⁶¹ Sally Goldenberg, Joe Anuta, Maya Kaufman, Jason Beeferman, "This Billionaire Got a Lucrative NYC Contract Despite Losing the Bid. He's Also a Big Eric Adams Donor." *Politico* (Oct. 23, 2024), *available at* <https://www.politico.com/news/2024/10/23/jesse-hamilton-eric-adams-city-lease-deal-donor-billionaire-00185118>.

to the City, leaving CPC and the Council with limited information to assess the desirability of the deal from a financial perspective. This has been a growing cause of concern for elected officials, who believe there should be more oversight on the transparency and accountability regarding these financial transactions.⁴⁶² It is worth exploring whether an entity with independent judgment and technical expertise in evaluating financial transactions, such as the Comptroller, may be better suited than CPC to review these applications. Creating a new process featuring the Comptroller could allow for a more transparent process, including financial and site evaluations. Replacing CPC in their role in reviewing these matters could give DCP and CPC more space to focus on other Charter mandates and important work regarding the physical planning and public improvement aspects of matters related to the City's development.⁴⁶³

Staff Recommendation

Staff recommend that the Commission further consider and solicit public feedback concerning whether to revise the way the city evaluates applications regarding the acquisition of office space, to shift the onus to approve these applications from CPC to the Comptroller and to broaden the criteria through which these applications are reviewed, and to include the financials of the proposed lease terms as well as a disclosure of the entity who owns the property.

⁴⁶² Greg B. Smith, "City Officials Open Three Probes Into Secret, Multi-Million-Dollar Leases Overseen by Adams Protege," *The City* (Oct. 28, 2024), available at <https://www.thecity.nyc/2024/10/28/city-officials-jesse-hamilton-eric-adams-leases/>.

⁴⁶³ Charter § 191(b)(1).

Other Recommendations

The following proposals garnered significant interest from members of the public. The staff does not recommend proceeding with them for the reasons discussed below.

Elections

The Commission has received testimony urging it to study and propose several election-related reforms. Particularly, the Commission has been urged to consider moving elections to even-numbered years,⁴⁶⁴ transitioning to a top-two open primary system,⁴⁶⁵ and permitting Council Members to serve three consecutive terms.⁴⁶⁶ Additionally, Commission staff has reviewed the possibility of consolidating the two consecutive two-year City Council terms that occur every 20 years into a single four-year term.⁴⁶⁷

The New York Constitution requires that “[a]ll elections of city officers” occur in odd-numbered years.⁴⁶⁸ Therefore, the Commission may not, on its own, move elections to even-numbered years. Staff views the drafting of Charter amendments made in anticipation of changes at the state level as premature, as the constitutional amendment process is lengthy and the final amendment could take a variety of forms.⁴⁶⁹ Furthermore, if the constitutional amendment and any implementing state legislation *require* (rather than merely authorize) a move to even-numbered years, then there will be no need for a referendum to modify the Charter regarding the timing of elections.⁴⁷⁰

⁴⁶⁴ *Written Testimony of Citizens Union* (Mar. 5, 2025); *Written Testimony of James Caras* (Mar. 24, 2025).

⁴⁶⁵ *Written Testimony of Citizens Union* (Mar. 5, 2025).

⁴⁶⁶ *Oral Testimony of Council Member Gale Brewer* (Mar. 10, 2025).

⁴⁶⁷ Charter § 25(a).

⁴⁶⁸ NY Constitution Article XIII, § 8.

⁴⁶⁹ NY Constitution Article XIX, §§ 1, 2.

⁴⁷⁰ Such a referendum would not pose a meaningful question to the voters as a vote to keep odd-numbered years cannot override the constitution and a vote in favor would merely affirm what the constitution already requires. Moreover, the constitutional amendment or implementing state legislation may already prescribe the means by which the transition is to take place; the state may even amend our Charter directly.

Regarding the remainder of the election-related proposals, the 2022 John R. Lewis Voting Rights Act of New York (NYVRA) creates some uncertainty about how a Charter Revision Commission may make certain election-related changes.⁴⁷¹

Enacted after the preclearance component of the federal Voting Rights Act was found to be unconstitutional,⁴⁷² the NYVRA includes its own preclearance requirement.⁴⁷³ New York City is subject to preclearance under the NYVRA,⁴⁷⁴ and so cannot enact or implement certain election-related policies without prior authorization.⁴⁷⁵ Implementing rules clarify that the preclearance requirement applies to any covered policy “even if it appears to be minor or indirect, returns to a prior practice or procedure, purports to expand voting rights.”⁴⁷⁶

The scope of policies covered by the NYVRA is quite broad.⁴⁷⁷ The substantial research and writing required to obtain preclearance could significantly burden the Commission’s resources.⁴⁷⁸ Furthermore, the validity of the NYVRA is the subject of ongoing litigation.⁴⁷⁹ Given this uncertainty, staff recommend that substantial election-related issues be studied

⁴⁷¹ NY Election Law §17-200 et seq.

⁴⁷² *Shelby Cnty., Ala. v. Holder*, 570 U.S. 529, 544 (2013); Ana Kaplan, “Senate Majority to Pass the John R. Lewis Voting Rights Act of New York,” The New York State Senate (June 2, 2022), <https://www.nysenate.gov/newsroom/press-releases/2022/anna-m-kaplan/senate-majority-pass-john-r-lewis-voting-rights-act-new>.

⁴⁷³ NY Election Law §17-210.

⁴⁷⁴ State of New York: Office of the Attorney General, “The New York Voting Rights Act: Preliminary Identification of Covered Entities and Covered Policies Subject to Preclearance (to take effect on September 22, 2024),” (Dec. 19, 2023), [nyvra-preliminary-identification-of-covered-entities-and-covered-policies-subject-to-preclearance.pdf](#), at 24-25.

⁴⁷⁵ NY Election Law §17-210(6).

⁴⁷⁶ NY Codes Rules & Regulations Title 13, § 501.4(1).

⁴⁷⁷ NY Election Law § 17-210(2).

⁴⁷⁸ NY Codes Rules & Regulations Title 13, § 501.2(e)(1)(the burden of proving a policy meets the preclearance test would rest with this Commission).

⁴⁷⁹ *Clarke v. Town of Newburgh*, No. EF002460-2024, 2024 WL 4982210, at *2 (N.Y. Sup. Ct. Nov. 07, 2024)(finding the law unconstitutional because it was “extremely broad race and national origin-based legislation” that did not serve a compelling interest); *Clarke v. Town of Newburgh*, 226 N.Y.S.3d 310, 326-27 (App. Div. 2025); reversing the lower court because although the law did consider race it did so in a matter that was analogous to an anti-racial discrimination statute and therefore was not subject to strict scrutiny); *Coads v. Nassau Cnty.*, No. 611872/2023, 2024 WL 5063929 (N.Y. Sup. Ct. Dec. 6, 2024) (employing the same reasoning as the Appellate Division to uphold the law since it was not favoring any particular race).

by a future Charter Revision Commission that is created with a focus on election-related issues in mind.

Lastly, voters in 2019 approved a ranked-choice voting system for local primary and special elections via referendum.⁴⁸⁰ In staff's view, it would be prudent to wait to propose additional changes to this system until the effects of this change have been fully felt and studied.

⁴⁸⁰ Charter § 1057-g.

Community Boards

The Commission has received a variety of testimony relating to community boards, including testimony urging it to increase their funding,⁴⁸¹ change the community board member appointment date and make it a prerequisite that applicants have attended at least one meeting,⁴⁸² clarify the scope of the Borough Presidents' obligation to provide "technical assistance" to community boards,⁴⁸³ require the Department of Citywide Administrative Services to support community boards in finding space for public meetings,⁴⁸⁴ and consolidate support functions for community boards into one central entity.⁴⁸⁵

Most of these suggested Charter changes would not be subject to a mandatory referendum and are therefore not a good fit for a Charter Revision Commission.⁴⁸⁶ That said, it is true that the provision of support functions for community boards is a statutory hodgepodge:

1. Community boards themselves may obtain the services of "professional staff and consultants" to provide them with "staff support and technical assistance;"⁴⁸⁷
2. Agencies are required to "furnish promptly to each community board on request any information or assistance necessary for the board's work;"⁴⁸⁸
3. Borough Presidents are charged with providing technical assistance relating to planning and to generally provide "training and technical assistance to the members of community boards;"⁴⁸⁹

⁴⁸¹ *Written Testimony of Brooklyn Borough President Antonio Reynoso* (Mar. 5, 2025); *Written Testimony of Manhattan Borough President Mark Levine* (Mar. 10, 2025).

⁴⁸² *Written Testimony of Brooklyn Borough President Antonio Reynoso* (Mar. 5, 2025).

⁴⁸³ *Written Testimony of Manhattan Borough President Mark Levine* (Mar. 10, 2025).

⁴⁸⁴ *Written Testimony of Manhattan Borough President Mark Levine* (Mar. 10, 2025).

⁴⁸⁵ *Written Testimony of Brooklyn Borough President Antonio Reynoso* (Mar. 5, 2025).

⁴⁸⁶ Funding for community boards can be increased through the budget process. Appointment dates and qualifications can likely be changed via local law. The scope of the Borough President's obligation can be clarified through local law. DCAS is already required to support community boards via the general requirement that agencies assist community boards. Charter § 2800(e).

⁴⁸⁷ Charter § 2800(f).

⁴⁸⁸ Charter § 2800(e), (g).

⁴⁸⁹ Charter § 82(9), (12).

4. The Department of Information Technology and Telecommunications is to provide assistance and support with regards to the maintenance of community board websites;⁴⁹⁰ and
5. The Civic Engagement Commission (CEC) is tasked with providing “assistance and training to community boards, in consultation and coordination with the department of city planning and other relevant city agencies and with borough presidents to the extent practicable.”⁴⁹¹

These sections could be studied for potential clean-up and consolidation, but it does not appear that there is a lack of statutory authority (or mandate) for various agencies to provide assistance to community boards.

Regarding the idea of consolidating support functions for community boards in one central entity, the CEC is arguably meant to serve this function. The 2018 Charter Revision Commission, which created the CEC, envisioned the CEC’s functioning thusly:

The Commission proposes providing additional support to community boards, with a focus on the areas of land use, language assistance, and technology. The Civic Engagement Commission proposed by the Charter Revision Commission would be required—in consultation and coordination with DCP, other relevant City agencies, and with the Borough Presidents to the extent practicable—to provide additional resources and training to community boards, subject to appropriation. ⁴⁹²

Given the CEC’s coordinating role, it appears that decentralization is not the cause of the perceived lack of assistance for community boards; instead, it seems that this issue is caused predominantly by a lack of funding. At Fiscal 2025 Budget Adoption, the CEC had 25

⁴⁹⁰ Charter § 2800(b)(22).

⁴⁹¹ Charter § 3203(a).

⁴⁹² 2018 New York City Charter Revision Commission, Final Report of the 2018 New York City Charter Revision Commission Page (Sept. 6, 2018), available at <https://www.nyc.gov/assets/charter/downloads/pdf/final-report-20180904.pdf>, at 80.

budgeted positions with associated funding of \$2.7 million.⁴⁹³ The Charter also tasks the CEC with a multitude of other tasks such as assisting with citywide participatory budgeting, developing community partnerships, improving language access, and conducting programming in partnership with city agencies.⁴⁹⁴ As a result of the budgeting process, relatively limited resources are available to the CEC to fulfill its Charter mandate to serve all 59 community boards.

Finally, the five Borough Presidents, who appoint all community board members, have guaranteed minimum budgets because of the 2019 Charter Revision Commission reforms.⁴⁹⁵ Their budgets, however, do not appear to be consistently fully allocated; in Fiscal Year 2024, the Borough Presidents underspent their budgets by a cumulative \$1.5 million, which suggests a potential avenue for enhancing community board support, including with additional human resources, technology, land use, or other technical assistance.⁴⁹⁶

⁴⁹³ NYC Office of Management and Budget, “Supporting Schedules: June 2024 Adopted Budget, Fiscal Year 2025,” at 4225 (Budget Code 8600) *available at* <https://www.nyc.gov/assets/omb/downloads/pdf/adopt24/ss6-24.pdf>.

⁴⁹⁴ Charter § 3202(1)-(5).

⁴⁹⁵ At least one half of the appointees must be nominees of the local Council Member. Charter § 2800(a).

⁴⁹⁶ NYC Comptroller Brad Lander, “Annual Comprehensive Financial Report of the Comptroller for the Fiscal Years Ended June 30, 2024 and 2023 (Schedule G4),” *available at* <https://comptroller.nyc.gov/wp-content/uploads/documents/ACFR-2024.pdf>, at 300.

Waterfront Agencies

The Department of Ports and Trade, which managed city-owned maritime infrastructure, was dissolved in 1991 and its duties and responsibilities were assigned to several city agencies.⁴⁹⁷ Since regulation of New York City’s waterfronts falls under the authority of numerous entities, oversight has been disjointed and complex. Fourteen city, state, and federal agencies share responsibility for regulating the City’s 520 miles of waterfronts that span both private and city-owned land.⁴⁹⁸

The Department of Small Business Services is responsible for issuing permits for construction related to improvement or maintenance on all city-owned waterfront property and private property used for maritime purposes, such as piers, docks, bulkheads, and seawalls.⁴⁹⁹ The Department of Buildings is responsible for issuing permits for work on private property for non-maritime purposes.⁵⁰⁰

The New York City Economic Development Corporation and the Department of Transportation manage bridges, public berths, ports, piers, marine terminals, and ferry landings.⁵⁰¹ The New York City Economic Development Corporation also manages contracts to provide economic growth and restoration to the City’s waterfronts.⁵⁰²

The Department of City Planning is responsible for preparing a decennial Comprehensive Waterfront Plan in consultation with various city, state, and federal agencies and regulatory bodies.⁵⁰³ The plan includes an assessment of waterfront resources, a statement of the

⁴⁹⁷ NYC Department of City Planning, “NYC Comprehensive Waterfront Plan,” (Dec. 19, 2021), *available at* [nyc.gov/assets/planning/download/pdf/plans-studies/comprehensive-waterfront-plan/nyc_comprehensive_waterfront_plan.pdf](https://www.nyc.gov/assets/planning/download/pdf/plans-studies/comprehensive-waterfront-plan/nyc_comprehensive_waterfront_plan.pdf), at 258.

⁴⁹⁸ *Id.* at 259.

⁴⁹⁹ Charter § 643(7); NYC Department of Small Business Services, “Waterfront Permits,” *available at* <https://www.nyc.gov/site/sbs/businesses/waterfront-permits.page>.

⁵⁰⁰ *Id.*

⁵⁰¹ NYC Department of City Planning, “NYC Comprehensive Waterfront Plan,” (Dec. 19, 2021), *available at* https://www.nyc.gov/assets/planning/download/pdf/plans-studies/comprehensive-waterfront-plan/nyc_comprehensive_waterfront_plan.pdf, at 259.

⁵⁰² *Id.*

⁵⁰³ Charter § 205.

agency’s planning policy, proposals for implementing the planning policy, and input from the public.⁵⁰⁴

The Commission received testimony requesting the creation of a single agency dedicated to overseeing the City’s waterfronts. Specifically, testimony reflected a desire to combine all maritime and waterfront regulation responsibilities into one agency to streamline policy and oversight, infrastructure development, and economic planning.⁵⁰⁵

While revising the Charter has the potential to improve coordination and planning, a new agency could be created by local law without approval in a referendum. In 2022, for example, a bill introduced in the Council would have established an Office of the Waterfront, which would be responsible for coordinating among the various city agencies that handle matters related to waterfront use, supporting the Waterfront Management Advisory Board, and implementing the City’s Comprehensive Waterfront Plan.⁵⁰⁶ The bill did not pass. However, similar legislation could be enacted through the normal legislative process and thus does not need to be pursued by a Charter Revision Commission.

⁵⁰⁴ *Id.*

⁵⁰⁵ *Oral and Written Testimony of Stephen Lyman*, (Mar. 10, 2025); *Oral and Written Testimony of LaDawn Haglund*, (Mar. 10, 2025); *Oral and Written Testimony of Victoria Alexander*, (Mar. 10, 2025); *Oral and Written Testimony of Brad Vogel*, (Mar. 10, 2025); *Oral and Written Testimony of Alexa Aviles*, (Apr. 1, 2025).

⁵⁰⁶ Int. No. 536-2022.

Appendix A: Procurement Reform

The Commission has heard compelling testimony regarding improving the administration, transparency, oversight, and timely payment of qualified human service providers. These community-based organizations provide critical and culturally competent services to millions of New Yorkers and deserve a fair and functional contracting process that supports their operational goals.

Many of the proposed reforms can be done under the existing rulemaking authority of the Procurement Policy Board (PPB) and/or the normal Council-led legislative process without approval in a referendum. These proposals are shown below in Table 1.

The Commission encourages policymakers to focus on improving the City’s procurement process, and adopt reforms to ensure fairness, transparency, and consistency for human services vendors and the communities who rely on their essential services.

Table 1: Procurement Reforms Referred for Consideration as Laws or Rules

1	Mandate that the PPB establish procurement timelines for non-profit human services contracting (aligns with LL 169/2023, which requires PPB to promulgate rules by 10/1/25; see Charter section 311(b)(6))
2	Require agencies to automatically process extension contracts for their existing vendors in good standing whenever agencies are unable to begin processing new RFP awards at least six months prior to the end of existing contracts (based on findings of Oct. 2024 MOCS LL 169 report)
3	Require city agencies to pay (very soon after receipt) a minimum percentage for each invoice from a human services contractor in good standing, even if disputed portions have an extended timeframe for resolution
4	Set out a clear Charter mandate and responsibilities for the Mayor’s Office of Contract Services (MOCS) (similar to OMB or the Mayor’s Office of Operations); require a procurement Mayor’s Management Report (MMR) to provide insight into the mechanisms and timelines of procurement
5	Authorize the PPB to permit simultaneous contracting oversight functions wherever possible (e.g., among MOCS, Corporation Counsel, DOI, OMB, SBS Division of Labor Services, etc.)
6	Require contracting agencies to engage the Comptroller early in the procurement process, before a contract is executed (similar to the “pre-audit” authority granted to the New York State Comptroller)

7	Require MOCS to create a public-facing online tracking system that includes info about each individual vendor’s contract, status, and how long each agency took to process each contract during the pre-registration phase of procurement
8	Int. No. 514-2024 would require interest on late payments under city contracts with non-profit organizations. The non-profit contractor would not be eligible to receive the interest if the non-profit contractor has received a no-interest and no-service-fee loan issued or authorized by a city agency to cover related expenses ⁵⁰⁷
9	Require the payment of awarded funds to non-profits earlier in the registration process (<i>i.e.</i> , provide advances)
10	Raise the Charter’s threshold for when public hearings are required on individual contracts to shorten the contract registration process
11	Clarify the transparency requirement that subcontractors and any subcontracts be visible in PASSPort Public, NYC Checkbook, and any other public-facing procurement platforms
12	Require that oversight agencies maintain digital access to procurement platform backends like PASSPort to ensure access to bid documentation, RFPs, individual contracts, etc.
13	Require greater transparency in the use of city tax-levy for all city contracts, including any managed by non-city agencies (<i>e.g.</i> , Health + Hospitals)
14	Expand the use of prequalified vendor lists for emergency contracting for goods, services, and construction

⁵⁰⁷ Int. No. 514-2024.

Appendix B: Key Benchmarks for Agency Independence

Table 2 below lists key benchmarks for agency independence, alongside commonly used structural tools to achieve them:

Table 2: Key Benchmarks for Agency Independence

Benchmarks ⁵⁰⁸	Common Structural Tools
Agency leaders and commissioners appear free from partisan political influence, represent their communities, and are selected for professional competence and integrity.	<ul style="list-style-type: none"> • Advice & consent • Independent, transparent, open vetting and appointment process • Conflicts of interest guidelines and restrictions on key public offices, with independent enforcement mechanisms • Minimum qualification requirements for certain officers and roles • Internal and external organizational structures are protected against reorganization or other executive interference
Leaders and staff have security of tenure and protection against arbitrary changes in pay.	<ul style="list-style-type: none"> • Transparent, merit-based civil service hiring, pay, and promotions processes • Transparent and fair processes for discipline and removal of civil servants • Anti-discrimination and whistleblower protections • Protections for unions • Data protection for private citizens whose information is retained by an independent agency in the course of its work • Salary protection for key leaders

⁵⁰⁸ See Elliot Bulmer, Intl'l IDEA, Independent Regulatory and Oversight (Fourth-Branch) Institutions 22 (2019), <https://www.idea.int/sites/default/files/publications/independent-regulatory-and-oversight-institutions.pdf>; see also U.N. General Assembly, *Principles relating to the Status of National Institutions (The Paris Principles)*, Doc. No. A/RES/48/134 (Dec. 20, 1993), available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/principles-relating-status-national-institutions-paris>.

Benchmarks⁵⁰⁸	Common Structural Tools
<p>Independent officials, agencies, and other bodies have clear mandates and sufficient powers to perform assigned functions.</p>	<ul style="list-style-type: none"> • Statutory frameworks clarify mandates, powers, and key organizational structures • Statutory powers related to access to information or other enforcement powers to ensure interbranch cooperation, such as subpoena power, where necessary to perform oversight functions • Penalties or other enforcement provisions ensuring timely nominations/approvals • Quorum flexibility and/or automatic term extensions or approvals for nominees to key roles (where an appointing authority fails to nominate or approve timely)
<p>Independent officials, agencies, and other bodies have sufficient resources, including funding, staff, and facilities, as well as autonomy over the management of those resources.</p>	<ul style="list-style-type: none"> • Independent budgeting process • Protections against impoundment, hiring freezes, and burdensome fund disbursement processes that have the potential to undermine resource independence • Independent processes related to organizational resources, including reporting lines, restructuring processes, access to office space, technical support, discretion to determine staff working conditions, etc. • Operational protections related to filling staff vacancies and determining pay rates
<p>Independent officials and bodies maintain public transparency and accountability, including through reporting requirements and the ability to communicate freely with the public as needed.</p>	<ul style="list-style-type: none"> • Direct reporting requirements that do not require approval by other branches of government prior to publication and dissemination • Budget protections to ensure sufficient resources for public communications (see above) • Data protection for private citizens whose information is retained by an independent agency in the course of its work

Appendix C: 197-A Community Planning Process

Chart 3: 197-A Community Planning Process⁵⁰⁹

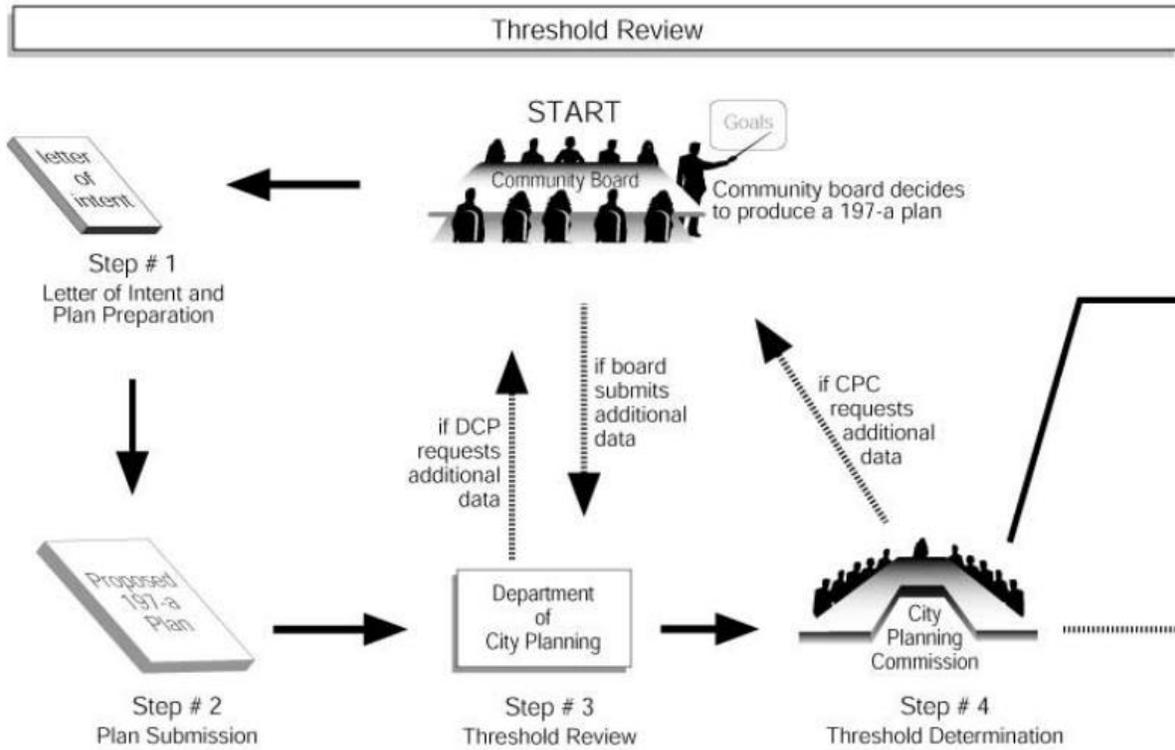


Chart continued below

⁵⁰⁹ NYC Dept. of City Planning, "197-a Plan Technical Guide" (1997) at 4-5.

Substantive Review

