

CAPITAL PROJECTS AND BUDGET

§ 210. Definitions. As used in this charter:

1. The term "capital project" shall mean:

(a) A project which provides for the construction, reconstruction, acquisition or installation of a physical public betterment or improvement which would be classified as a capital asset under generally accepted accounting principles for municipalities or any preliminary studies and surveys relative thereto or any underwriting or other costs incurred in connection with the financing thereof.

(b) The acquisition of property of a permanent nature including wharf property.

(c) The acquisition of any furnishings, machinery, apparatus or equipment for any public betterment or improvement when such betterment or improvement is first constructed or acquired.

(d) Any public betterment involving either a physical improvement or the acquisition of real property for a physical improvement consisting in, including or affecting:

(1) Streets and parks;

(2) Bridges and tunnels;

(3) Receiving basins, inlets and sewers, including intercepting sewers, plants or structures for the treatment, disposal or filtration of sewage, including grit chambers, sewer tunnels and all necessary accessories thereof; or

(4) The fencing of vacant lots and the filling of sunken lots.

(e) Any other project allowed to be financed by the local finance law, with the approval of the mayor and the comptroller.

(f) Any combination of the above.

2. The term "pending" shall mean not yet completed.

3. The term "standards" for each category of capital projects to which they apply shall include: maximum gross and net areas allowed; types of programs which may be operated in the facility; performance requirements for environmental systems; allowable materials and finishes; maximum areas allowed for different functions and activities; approximate cost limits per square foot of construction; and such other items designated by the mayor or by resolution of the council.

4. The term "scope of project" or "proposed scope of project" shall mean a description of a capital project included in the capital budget that contains specific guidelines for the design and implementation of such project consistent with the standards for the appropriate category of capital projects and includes each of the following items of information which are relevant to the capital project involved:

(a) Purposes and public to be served;

(b) Programs to be conducted in the facility;

(c) Gross and net amounts of space and bulk for any building or structure and for areas for different functions and activities;

(d) Identification of required architectural, engineering or other consultants and estimated fees for such consultants;

(e) Estimated completion dates for scope, design and construction;

(f) Total estimated project costs, including costs for site acquisition, preparation and tenant relocation, design, construction and equipment;

(g) Estimated expenditures for the project for each fiscal year until its completion;

(h) Estimated annual costs to operate programs within the facility when fully staffed and to maintain the facility; and,

(i) Such other information as shall be required by the mayor or by resolution of the council.

5. The term "cost" shall include the contract liabilities and expenditure incurred for work in carrying out the physical improvement and interest thereon, and the compensation to be made to the owner of any real property acquired for the improvement as determined by a court

Source: City Charter

or by agreement, and interest thereon.

6. The term "expenses" shall mean any expenses incurred in relation to an assessable improvement exclusive of cost and of damages assessed by the board of assessors.

7. The term "street," as used in this chapter, shall include street, avenue, road, alley, lane, highway, boulevard, concourse, parkway, driveway, culvert, sidewalk, crosswalk, boardwalk, and viaduct, and every class of public road, square and place, except marginal streets.

8. The term "real property" shall include all lands and improvements, lands under water, water front property, the water of any lake, pond or stream, all easements and hereditaments, corporeal or incorporeal, and every estate, interest and right, legal or equitable, in lands or water, and right, interest, privilege, easement and franchise relating to the same, including terms for years and liens by way of judgment, mortgage or otherwise.

**§ 211. Capital budget borough allocations.** a. Borough allocation. Five percent of the appropriations, funded by debt supported by city tax levy funds and state and federal funds over which the city has substantial discretion, proposed in the executive capital budget for the ensuing fiscal year, except any lump sum appropriation for school construction or rapid transit proposed to be made to public authorities established pursuant to the provisions of state law, shall be allocated among the boroughs by a formula based on an equal weighting of factors relating to population and geographic area, and shall be known as the capital budget borough allocation. Such formula shall be established by local law, but in any fiscal year for which no such local law is effective such amount shall be allocated among the boroughs on the basis of the average of (i) each borough's share of the total population of the city, and (ii) each borough's share of the total land area of the city.

b. Preliminary borough allocations; initial borough president notification. Concomitantly with the submission of the preliminary capital budget and preliminary certificate, the mayor shall inform each borough president of the portion of the executive capital budget for the ensuing fiscal year and of the executive capital budgets for each of the three succeeding years that, pursuant to the formula required by subdivision a of this section, would be allocated to each borough if the amount of the appropriations proposed in the executive capital budget for each of such fiscal years were the same as the maximum amounts of appropriations for such years which the mayor anticipates to be certified in the preliminary certificate issued in accordance with section two hundred thirty-five. The amount of such portion shall be known as the preliminary capital budget borough allocation.

c. Borough president proposals. 1. Each borough president, during the consultations required by section two hundred forty-four, shall submit to the mayor, in such form as the mayor shall prescribe, proposed capital appropriations in an amount not exceeding that borough's allocation of the capital budget borough allocation as certified by the mayor to the borough presidents during such consultations. The timing of such certification shall allow sufficient time for such consultations and for meeting the deadlines established by section two hundred forty-nine. Each such proposed appropriation shall be accompanied by the following information:

(a) for each such proposed appropriation for construction of a capital project, the estimated annual cost to operate and maintain the facility to be constructed pursuant to such appropriation when construction is completed. Such estimates shall be prepared in accordance with the

standards established for this purpose pursuant to section two hundred twenty-one of this chapter and shall be certified by the director of the office of management and budget. In the event that a borough president and the director of management and budget do not agree on such estimate for a particular project, such director and the director of the independent budget office shall jointly certify an estimate for such purpose;

(b) for each such proposed appropriation for the planning and design of a capital project, (i) the estimated cost of the construction of the project, and (ii) the fiscal year in which the borough president intends to propose an appropriation for the construction of the project, if no technical problems regarding the viability of the project are identified during planning, site selection or design; (c) the total of all appropriations which will be necessary during the three ensuing fiscal years to provide for the construction of projects for which planning and design appropriations are being proposed.

2. If a borough president proposes an appropriation for the construction of a capital project, the appropriation must provide for the total amount estimated to be necessary for the completion of the project. If such a proposed appropriation for the construction of a capital project is for an amount which is less than the amount that the office of management and budget estimates to be necessary for the completion of the project, the borough's capital budget borough allocation in any future year in which additional appropriations are necessary for the completion of the project shall be reduced by the amount of such additional appropriations.

3. If the total appropriations necessary, during any of the ensuing three fiscal years, to provide for the construction of (i) projects for which the borough president is proposing appropriations for planning and design, and (ii) projects for which appropriations were previously made for planning and design on the recommendation of the borough president, is greater than the capital budget borough allocation anticipated to be available during such years based on the certificate issued pursuant to paragraph sixteen of section two hundred fifty of this charter, then the borough president shall submit for inclusion in the executive budget a list of the projects requiring construction appropriations during such year, in priority order.

4. If the estimated annual cost to operate and maintain the capital projects being proposed for construction by a borough president is greater than the amounts dedicated to such expense budget purposes from the expense budget borough allocation and the capital budget borough allocation expense budget contingency projected to be available to the borough president in one or more ensuing fiscal years then such proposed appropriations may only be included by a borough president in the capital budget with the concurrence of the mayor.

d. The mayor shall include the proposed appropriations submitted by the borough presidents in accordance with subdivision c of this section in the executive capital budget provided however, that the mayor may also include such comments and recommendations relating to such proposals as the mayor deems appropriate.

**§ 212. Format of departmental estimates for capital projects, preliminary capital budget and executive capital budget.** The departmental estimates for capital projects and the executive capital budget shall consist of a detailed estimate of all capital projects pending or which the agency head, for departmental estimates, or the mayor, for the executive budget, believes should be undertaken within

the ensuing fiscal year and the three succeeding fiscal years. Each agency head, for departmental estimates, and the mayor, for the executive budget, shall submit a written response to each of the capital budget priorities included in the community board's statement of budget priorities submitted in accordance with section two hundred thirty. Such responses shall include the response of the agency head and the mayor, as appropriate, regarding the disposition of each such priority and meaningful explanations of any disapprovals contained in such estimates or budget.

§ 213. **Preliminary capital budget.** The preliminary capital budget shall consist of: (1) a financial plan covering estimates of capital expenditures for the four ensuing fiscal years, (2) departmental estimates for capital projects as provided in section two hundred twelve together with the cash flow requirements and proposed sources of funding for each project included in such estimates, (3) a capital program status report which sets forth the appropriations for each project included in the capital budget for the current fiscal year together with the expenditures to date, and (4) a summary description of the purpose of each capital project and the needs it will fulfill, the schedule for beginning and constructing the project, its period of probable usefulness and an appropriate maintenance schedule.

§ 214. **Executive capital budget.**

a. The executive capital budget shall set forth separately each capital project, including the capital projects proposed by the borough presidents in accordance with section two hundred eleven, and shall include:

1. A brief description and the location of each project; the total estimated cost of the project; the appropriations which have been previously adopted for this project; the amount of appropriations recommended to be adopted for the ensuing fiscal year, the aggregate amount of which shall not exceed the amount in the mayor's certificate; the amount of appropriations required thereafter to complete the project; the sources of funds for the project including state, federal, private and other funds; the period of probable usefulness; the estimated additional annual maintenance and operation costs; any terms and conditions of the project; and the estimated dates of completion of final scope, final design and final construction;

2. A listing of all pending projects; and any recommendations that any pending projects be modified, rescinded or postponed accompanied by a statement of the budgetary impact of any such action; and

(3) A listing of proposed capital projects by community district and by borough and an identification of those projects which were included in the statement of capital priorities submitted by each community board and borough board.

b. The executive capital program shall set forth for both program categories and individual projects:

1. A statement for each of the three succeeding fiscal years of the total dollar amounts necessary to complete projects initiated in prior years and projects proposed in the executive budget, the amounts necessary for projects proposed to be initiated in future years and the amounts necessary for amendments and contingencies; and (2) A statement of the likely impact on the expense budget of staffing, maintaining and operating the capital projects included in or contemplated by the capital program.

§ 215. Ten-year capital strategy. a. The ten-year capital strategy shall be issued by the mayor pursuant to section two hundred forty-eight after (i) submission of a preliminary strategy by the department of city planning and the office of management and budget pursuant to section two hundred twenty-eight, and (ii) submission of a report on the preliminary strategy by the city planning commission following a public hearing, pursuant to section two hundred thirty-four.

b. Contents of ten-year capital strategy. Each ten-year capital strategy shall include:

(1) a narrative describing the strategy for the development of the city's capital facilities for the ensuing ten fiscal years; the factors underlying such strategy including goals, policies constraints and assumptions and the criteria for assessment of capital needs; the anticipated sources of financing for such strategy; and the implications of the strategy, including possible economic, social and environmental effects;

(2) tables presenting the capital commitments estimated to be made during each of the ensuing ten fiscal years, by program category and agency. Where relevant the anticipated sources of financing for particular categories and projects shall be specified; and

(3) a map or maps which illustrate major components of the strategy as relevant.

c. In the preparation of the preliminary ten-year capital strategy, the department of city planning and office of management and budget shall consider (i) the strategic policy statements of the mayor and the borough presidents pursuant to section seventeen, (ii) relevant citywide, borough and community plans adopted pursuant to section one hundred ninety seven-a, and (iii) the reports pursuant to section two hundred fifty-seven comparing the most recent ten-year capital strategy with the capital budgets and programs adopted for the current and previous fiscal years.

§ 216. Amendment. a. Upon receipt of a recommendation in writing from the mayor or a borough president, in manner specified herein, the council may amend the capital budget or capital program in the same manner as the adoption of the capital budget and capital program including the right to approve the proposed amendment as submitted or to increase or decrease the amounts of funds proposed to be appropriated thereby, but only if funds are available within the capital budget and the applicable program category of the capital program; provided, however, that (i) the mayor may only recommend such an amendment relating to an appropriation included in the capital budget pursuant to section two hundred eleven with the concurrence of the relevant borough president; and (ii) the borough president may only make such a recommendation with regard to such an appropriation if it provides for an offsetting reduction in another appropriation included in the capital budget pursuant to section two hundred eleven on the recommendation of such borough president and it is concurred in by the mayor.

b. Upon the adoption of any such amendment by the council, it shall be certified by the mayor, the public advocate and the city clerk, and the capital budget shall be amended accordingly.

c. Not later than five days after such certification such amendment shall be filed in the office of the comptroller and shall be published forthwith in the City Record.

§ 217. Restrictions on capital projects. a. No obligations of the city shall be issued or authorized for or on account of any capital

project not included in a capital budget, or for which funds have not been reserved in an appropriate program category of the capital program for any year of such program in which it is projected that funds will be expended for the completion of the project, or in excess of the maximum amount of obligations which may be issued on account of such project as fixed in such capital budget; and no amount may be expended on account of any capital project in excess of the amount appropriated for such purposes in a capital budget, except that the amount appropriated for such purposes may be increased by the mayor by not more than fifteen per centum thereof in order to meet any costs required to advance such project. Notice of any such increase shall be provided to the council together with a statement of identifiable funds available for payment of the increase.

b. Funds included in the capital budget for a capital project that are not obligated or committed during the fiscal year in which appropriated shall not be obligated or committed in the subsequent fiscal year unless reappropriated in a subsequent capital budget or an amendment thereto. A capital project included in a capital budget that is not initiated by the expenditure of funds within two years after its inclusion in the budget shall be eliminated from the budget.

c. The city may issue capital debt only to finance capital projects as defined in section two hundred ten. The capital budget may not include expense items that are properly includable only in the expense budget, as determined in accordance with the accounting principles set forth in the state comptroller's uniform system of accounts for municipalities, as the same may be modified by the state comptroller, in consultation with the city comptroller, for application to the city.

d. No capital project shall be included in the proposed executive capital budget or otherwise adopted as part of the capital budget or as an amendment thereto unless sufficient funds are available within the appropriate general program category of the capital program for any year of such program in which it is projected that additional appropriations will be necessary for the completion of the project.

§ 218. Site selection. a. The selection of sites for capital projects shall be pursuant to the uniform procedures provided pursuant to sections one hundred ninety-seven-c and one hundred ninety-seven-d, except for acquisition of office space pursuant to section one hundred ninety-five.

b. To the maximum extent feasible, final approval of a site for a capital project shall occur prior to or simultaneously with the approval of the scope of the project pursuant to this chapter.

c. During the review required by subdivision a, the community board and borough president shall also review, and may comment on, the scope of the project.

§ 219. Project initiation; commitment plan. a. The inclusion of a capital project in the capital budget as adopted or amended shall constitute a direction and order to the agency to proceed with the preparation of a scope of project pursuant to this chapter unless sufficient planning funds for such purpose have not been appropriated in the capital budget. The head of the agency shall notify the comptroller of the amount of appropriated planning funds to be encumbered for such purpose.

b. The approval of a scope of project for a capital project pursuant to this chapter, including the amount of obligations necessary to finance the design and construction of the project, shall constitute a

direction and order to the agency to design the project, unless sufficient funds for such purpose have not been appropriated in the capital budget or are otherwise not available within the appropriate program category of the capital program. Such approval shall constitute notification to the comptroller of the comptroller's authorization to expend appropriated design funds.

c. The approval of the final design for a capital project pursuant to this chapter shall constitute a direction and order to the agency responsible for construction to prepare bid and award documents and to proceed to bid, unless sufficient funds for such purpose have not been appropriated in the capital budget or are otherwise not available within each year of the capital program in which it is projected that funds will be expended for the completion of the project. Such approval shall constitute notification to the comptroller of the comptroller's authorization to expend appropriated construction funds.

d. The mayor shall require each agency to prepare and submit periodic reports in regard to the progress of its capital projects, including schedules and clear explanations of any delays for particular projects and summary information on each agency's record on such matters. Such reports shall be published at least three times each year: within ninety days of the adoption of the capital budget; with the preliminary capital budget; and with the executive capital budget. Copies of such reports shall be transmitted by the mayor to the council, the city planning commission, and the community boards, the borough boards and borough presidents. Such reports shall include, for each project, the dates set in the adopted capital budget for the completion of scope, design, and construction and any changes in such dates.

1. The report issued with the executive budget shall include, for each new capital project being proposed in the executive budget, a description of the project including, to the extent practicable, the information required to be included in a scope of project by paragraph four of section two hundred ten.

2. The report issued following the adoption of the budget shall include, for each capital project added to the budget, a description of the project including, to the extent practicable, the information required to be included in a scope of project by paragraph four of section two hundred ten.

3. The report issued following the adoption of the budget shall include, for each capital project for which a substantial change was made, a revised description of the project including, to the extent practicable, the information required to be included in a scope of project by paragraph four of section two hundred ten.

e. Any capital project which results in the acquisition or construction of a capital asset which will be subject to the requirements of section eleven hundred ten-a shall contain a provision requiring a comprehensive manual setting forth the useful life of the asset and explaining the activities necessary to maintain the asset throughout such useful life.

f. The mayor may issue directives and adopt rules and regulations in regard to the execution of capital projects, consistent with the requirements of subdivisions a, b, c and d of this section, which shall be binding upon all agencies.

§ 220. Improvements payable other than by city. Any owner of real property or any other person interested may apply to the council to authorize an improvement referred to in paragraph d of subdivision one of section two hundred ten hereof, not included in the capital budget.

The council may authorize such improvement to be made by the city or by such owner or other person interested upon compliance with the following conditions:

1. Such owner or group or other persons interested shall enter into an agreement with the city, whereby they will either authorize the city, or themselves agree, to perform such work in accordance with such plans and specifications approved by the agencies having jurisdiction thereover and under their supervision.

2. All of such work shall be done for the account of or at the sole cost and expense of the person or persons applying for permission to do the same, who shall furnish to the city such security and in such amount as may be required to secure the payment of such cost and expense or the proper performance of the said work in the time and in the manner agreed upon, and shall further secure the city, in the latter case, against latent defects in such work for a period of two years.

3. Such improvement shall be approved by the city planning commission and reviewed pursuant to sections one hundred ninety-seven-c and one hundred ninety-seven-d.

4. Any agreement providing for the performance of such work and the furnishing of such security, shall be first approved by the council before the same shall become effective.

§ 221. Standards for capital projects. The mayor shall prepare general standards and cost limits for categories of capital projects and standards for the preparation of the scope of project for capital projects of various types. Such standards and limits shall be submitted by the mayor to the council for review. The proposed standards shall become effective thirty days after they have been filed with the council unless within that time the council modifies or disapproves them or part of them, after conducting a public hearing. Any modification by the council shall be subject to disapproval by the mayor in accordance with section thirty-eight and any such disapproval shall be subject to override by the council in accordance with such section.

§ 222. Scope of project. a. Each agency, with respect to a capital project under its jurisdiction included in a capital budget, shall prepare a proposed scope of project within appropriated planning funds. In preparing the proposed scope of project, the agency shall consult with the community board for the community district in which the capital project is to be located. The proposed scope of project, or, in the case of a delay, an explanation for such delay along with a revised schedule, shall be submitted to the mayor and to the respective council committee, borough president and community board by the date specified in the adopted capital budget in which the capital project is included. Such proposed scope shall identify all substantial differences between the guidelines for the capital project as contained in such scope and the description of the capital project contained in the report issued pursuant to subdivision d of section two hundred nineteen at the time such project was proposed in the executive budget or following the budget adoption in which such project was added to the capital budget.

b. Not later than sixty days after receipt of the proposed scope of project from an agency pursuant to subdivision a of this section, the mayor shall approve, modify, or disapprove the proposed scope of project and notify the agency, and the respective council committee, borough president and community board. In the case of a scope approved by the mayor with modifications, such notification shall include a copy of the scope as approved.



c. During the review of the selection of a site of a capital project pursuant to, the uniform land use review procedure established by section one hundred ninety-seven-c, the community board and borough president shall also review, and may comment on, the scope of the project.

d. No scope of project shall be approved by the mayor unless (1) it contains the information required by paragraph four of section two hundred ten and it conforms to the applicable standards for the type of project adopted pursuant to this chapter, and (2) funds are available within the appropriate program category of the capital program that can be reserved for each fiscal year required to complete the project.

§ 223. **Design of capital project.** The proposed design and final design for a capital project shall be made available for review to the respective council committee, borough president and the community board for the community district in which the project is to be located. The mayor or his representative shall review the final design to determine its conformance with the approved scope of project pursuant to this chapter.

§ 224. **Works of art.** a. As used in this section the term "works of art" includes all forms of the visual and performing arts conceived in any medium, material or combination thereof.

b. Works of art shall be provided for each capital project which involves the construction or the substantial reconstruction of a city-owned public building or structure the intended use of which requires that it be accessible to the public generally or to members of the public participating in, requiring or receiving programs, services or benefits provided thereat. For the purposes of this section a police precinct house and a firehouse shall be deemed to be such buildings.

c. An amount not less than one per cent of the first twenty million dollars and one-half of one per cent of any amount in excess of twenty million dollars of capital funds appropriated by the city for each such capital project, other than funds appropriated for the acquisition of real property, shall be allocated for works of art; provided, however, that this section shall in no case require the expenditure of more than four hundred thousand dollars for works of art for any capital project; nor more than the sum of one and one-half million dollars for works of art in any fiscal year. The mayor may exempt a capital project from the provisions of this section if in his sole judgment the inclusion of works of art as provided hereby would be inappropriate.

d. Reasonable advance notification of the intention to include works of art in a project shall be provided to the appropriate council member, borough president and chairperson of the community board of the community district in which the project is located. All such works of art shall be subject to the approval of the art commission pursuant to section eight hundred fifty-four of this charter.

e. The mayor shall adopt rules and regulations to implement the provisions of this section.

#### CHAPTER 10 BUDGET PROCESS

§ 225. **Budgetary responsibilities of the mayor, the director of management and budget and the comptroller.** a. The mayor shall each year, in accordance with the provisions of this chapter, prepare and submit to the council a preliminary budget and an executive budget each of which shall present a complete financial plan for the city and its

agencies for the ensuing fiscal year, setting forth proposed operating and capital expenditures, proposed interfund transfers, anticipated revenues and any other anticipated sources and uses of funds. Each such budget shall consist of three parts: the expense budget, which shall set forth proposed appropriations for the operating expenses of the city including debt service; the capital budget and program, which shall set forth proposed appropriations for capital projects for the ensuing fiscal year and the three succeeding fiscal years; and the revenue budget, which shall set forth the estimated revenues and receipts of the city.

b. There shall be an office of management and budget in the executive office of the mayor, the head of which shall be director of management and budget who shall be appointed by the mayor. It shall be the duty of the director to perform all such duties in regard to the budget and related matters as the mayor may direct. The director of management and budget shall have the power, personally or through representatives, to survey each agency for the purpose of ascertaining its budgetary requirements. The director may require any agency, or any officer or employee, to furnish data and information and to answer inquiries pertinent to the exercise of any of the director's duties in regard to the budget and related matters.

c. The comptroller shall produce timely analyses of the preliminary and executive budgets including evaluations of the recommendations of the borough presidents, as well as those of the mayor, and of the assumptions and methodologies used by the mayor in making the revenue estimates contained in such budgets.

**§ 226. Fiscal year.** The fiscal year of the city shall commence on the first day of July in each year and shall terminate at midnight on the ensuing thirtieth day of June.

**§ 227. Spending pursuant to appropriations.** a. No money, except for grants or gifts from private entities, shall be paid from any fund under the management of the city, or any fund under the management of any agency or officer of the city, or any other entity the majority of the members of whose board are city officials or are appointed directly or indirectly by city officials, except in pursuance of an appropriation by the council or other specific legal authorization; provided, however, that

(1) if at any time the council shall fail to make an appropriation for the payment of debt service on any debts of the city as they fall due, or for the payments to the several sinking funds, the commissioner of finance shall set apart, from the first revenues thereafter received applicable to the general fund of the city, a sum sufficient to pay such amounts and shall so apply such sum; and

(2) money, the ownership and equitable title of which belongs to an individual, corporation, organization or government other than the city and which is being held by any agency or officer of the city pending transfer of such money to such individual, corporation, organization or government in accordance with the terms and conditions pursuant to which it was placed in the custody of such agency or officer, may be transferred to such individual, corporation, organization or government by such agency or officer without an appropriation by law, provided such transfers are made in accordance with such terms and conditions; and

(3) money or other financial resources may only be transferred from one fund to another without specific statutory authorization for such a transfer if that money or those other financial resources are being

loaned temporarily to such other fund and an accurate accounting and reporting of the balance of financial resources in each fund and of the amount due by each fund to each other fund is made at the end of each month; and

(4) grants or gifts from private entities exempt from the requirements of this section, and expenditures of such funds, shall be subject to disclosure, at least annually, by the responsible agency, officer or entity in a form and containing such information as the mayor shall prescribe for this purpose by rule.

b. The head of each agency of the city, and each entity the majority of the members of whose board are city officials or individuals appointed directly or indirectly by city officials, shall, on or before the fifteenth day of October in each year, submit to the mayor and the council, in such form as the mayor shall prescribe, a statement of the sources, amounts and disposition of all money received by such agency or entity, or by a unit or officer of such agency during the preceding fiscal year, other than (i) money appropriated for the use of such agency or entity by the council, or (ii) money paid by such agency or entity into the city treasury and reported in the annual report of the comptroller for such fiscal year. The mayor shall ensure that copies of such statements are available for public inspection, and shall designate a city officer to maintain copies of such statements for such purpose.

§ 228. Draft ten-year capital strategy. Not later than the first day of November in each even-numbered year, the director of management and budget and the director of city planning shall jointly submit to the mayor, the council, the borough presidents and the city planning commission a draft ten-year capital strategy prepared in accordance with the provisions of section two hundred fifteen.

§ 229. Revenue reports of the comptroller and mayor. a. Not later than the first day of November, the comptroller shall certify to the mayor the actual revenues for the previous fiscal year.

b. Not later than the fifteenth day of November, 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. This report shall be published in the City Record.

§ 230. Community board budget priorities. a. Not later than thirty days prior to the date set by the mayor in accordance with section two hundred thirty-one for the submission of departmental estimates, each community board shall submit to the mayor and the appropriate borough president a statement of its expense budget priorities and a statement of its capital budget priorities for the ensuing fiscal year, in such form and containing such information as the mayor shall prescribe. The form prescribed by the mayor shall include (i) a method by which continuing support may be expressed by a community board for existing programs and capital projects and (ii) reasonable limitations on the total number of expense and capital budget priorities which a community board may propose. The mayor shall provide each community board with reasonable notice of the date set for the submission of such priorities. The mayor shall ensure that representatives of each agency that delivers local services, or is responsible for capital projects, within any community district shall be available for consultation with the community board for such community district in the preparation of its statement of budget priorities.

b. Each community board in the preparation of its statement of budget priorities, shall, upon adequate public notice, hold a public hearing at which residents of the community district and other interested individuals may express their opinions as to the service and capital needs of the district.

c. Copies of each statement of budget priorities shall be provided expeditiously by the mayor to the city planning commission and the head of each agency affected.

**§ 231. Departmental estimates.** a. Not later than such date as the mayor may direct, the head of each agency shall submit to the mayor, in such form and containing such information as the mayor shall require, a detailed estimate of the expense budget requirements of such agency for the ensuing fiscal year and capital budget and program requirements for the ensuing fiscal year and three succeeding fiscal years, prepared in accordance with the provisions of section one hundred and section two hundred twelve, respectively, and a detailed estimate of all receipts, from sources other than taxes, which the agency anticipates collecting during the ensuing fiscal year. Such estimates shall be known collectively as departmental estimates and shall be known respectively as expense budget departmental estimates, capital budget and program departmental estimates and revenue budget departmental estimates. Copies of such departmental estimates shall be provided expeditiously by the mayor to each borough president.

b. In the preparation of such departmental estimates, the head of each agency that delivers local services, or is responsible for capital projects, within any community district shall (1) consult with the community board for such community district through appropriate officers and employees of the agency, and (2) consider the community board statements of expense and capital budget priorities submitted in accordance with section two hundred thirty of this chapter.

**§ 232. Report of the comptroller on capital debt and obligations.** Not later than the first day of December, the comptroller shall submit to the mayor, the council and the city planning commission a report, which shall be published forthwith in the City Record, setting forth the amount and nature of all obligations authorized on account of each pending capital project and the liabilities incurred for each such project outstanding on the first day of July and setting forth and commenting in detail upon the city's financial condition and advising as to the maximum amount and nature of debt and reserves which in the comptroller's opinion the city may soundly incur for capital projects during each of the four succeeding fiscal years, and containing such other information relevant to this subject as may be required by local law, by the mayor by executive order, or which the comptroller deems necessary and relevant.

**§ 233. Report of the comptroller on the state of the city's finances.** Not later than the fifteenth day of December, the comptroller shall report to the council, at a stated meeting of the council, on the state of the city's economy and finances, including evaluations of the city's financial plan, as most recently updated by the mayor in accordance with section two hundred twenty-eight, and the assumptions on which the revenue and expenditure forecasts contained therein are based.

**§ 234. City planning commission hearing and statement on the draft ten-year capital strategy.** Not later than the sixteenth day of January

in each odd numbered year, the city planning commission shall submit to the mayor, the borough presidents and the council a report containing its comments on the draft ten-year capital strategy submitted in accordance with section two hundred twenty-eight of this chapter, including such recommendations as it deems appropriate. The city planning commission, in the preparation of such report, shall, upon adequate public notice, hold a public hearing at which interested organizations and individuals may express their opinions regarding the draft ten-year capital strategy.

§ 235. Preliminary certificate of the mayor on capital debt and obligations. No later than the sixteenth day of January, the mayor shall submit to the council, the comptroller, the borough presidents and the city planning commission and publish a preliminary certificate setting forth the maximum amount of debt and reserves which, in the mayor's opinion, the city may soundly incur for capital projects during the ensuing fiscal year and during each of the following three fiscal years, and the maximum amount of appropriations and expenditures for capital projects which the city, given such maximum amount of debt and reserves, may soundly make during each such fiscal year. At any time up to the submission of the executive capital budget to the council, the mayor may amend such preliminary certificate. Any such amendments shall be submitted to the council, the comptroller, the borough presidents and the city planning commission, and published forthwith in the City Record.

§ 236. Submission of the preliminary budget. Not later than the sixteenth day of January, the mayor shall submit to the council and publish a preliminary budget for the ensuing fiscal year. Copies of such budget shall be provided to the council, borough presidents, each community board and borough board, the city planning commission, and the department of city planning. Beginning in calendar year 1999 and every calendar year thereafter, a copy of such preliminary budget shall also be provided to the council not later than the sixteenth day of January on floppy disks having dimensions of three and one-half inches or on CD Roms. Such floppy disks or CD Roms shall be in a readable ascii format or readable Lotus or Excel spread sheet format or any other format mutually agreed upon between the mayor and the council.

§ 237. Report of independent budget office on revenues and expenditures. On or before the first day of February, the director of the independent budget office shall publish a report, for the ensuing fiscal year, with respect to expected levels of revenues and expenditures, taking into account projected economic factors and the proposals contained in the preliminary budget submitted by the mayor for such fiscal year. Such report shall also include a discussion of city budget priorities, including alternative ways of allocating the total amount of appropriations, expenditures and commitments for such fiscal year among major programs or functional categories taking into account how such alternative allocations will meet major city needs and effect balanced growth and development in the city.

§ 238. Community board review of preliminary budget. Not later than the fifteenth day of February, each community board shall submit to the mayor, the council, director of management and budget, the appropriate borough president and each member of the borough board of the borough in which the community board is located, a statement containing the

community board's assessment of the responsiveness of the preliminary budget to its statement of budget priorities submitted pursuant to section two hundred thirty and any other comments or recommendations which it wishes to make in regard to the preliminary budget.

§ 239. Estimate of assessed valuation, and statement of taxes due and uncollected by the commissioner of finance. Not later than the fifteenth day of February, the commissioner of finance shall submit to the mayor and to the council:

a. a tentative estimate of the assessed valuation of real property subject to taxation for the ensuing fiscal year, which shall be published forthwith in the City Record; and

b. a certified statement showing as of a specified date the amount of all real property taxes due, the amount expected to be received and the amount actually uncollected by such categories and classifications as will facilitate understanding of such information.

§ 240. Tax Benefit Report. Not later than the fifteenth day of February the mayor shall submit to the council a tax benefit report which shall include:

a. a listing of all exclusions, exemptions, abatements, credits or other benefits allowed against city tax liability, against the base or the rate of, or the amount due pursuant to, each city tax, provided however that such listing need not include any benefits which are applicable without any city action to such city tax because they are available in regard to a federal or state tax on which such city tax is based; and

b. a description of each tax benefit included in such listing, providing the following information:

1. the legal authority for such tax benefit;

2. the objectives of, and eligibility requirements for, such tax benefit;

3. such data and supporting documentation as are available and meaningful regarding the number and kind of taxpayers using benefits pursuant to such tax benefit and the total amount of benefits used pursuant to such tax benefit, by taxable and/or fiscal year;

4. for each tax benefit pursuant to which a taxpayer is allowed to claim benefits in one year and carry them over for use in one or more later years, the number and kind of taxpayers carrying forward benefits pursuant to such tax benefit and the total amount of benefits carried forward, by taxable and/or fiscal year;

5. for nineteen hundred ninety and each year thereafter for which the information required by paragraphs three and four are not available, the reasons therefor, the steps being taken to provide such information as soon as possible, and the first year for which such information will be available;

6. such data and supporting documentation as are available and meaningful regarding the economic and social impact and other consequences of such tax benefit; and 7. a listing and summary of all evaluations and audits of such tax benefit issued during the previous two years.

§ 241. Borough board preliminary budget hearings. Not later than the twenty-fifth day of February each borough board shall submit a comprehensive statement on the budget priorities of the borough to the mayor, council, and director of management and budget. Each borough board, in the preparation of this statement, shall, upon adequate public notice, hold one or more public hearings on the preliminary budget, to

obtain the views and recommendations of the community boards within the borough, residents of the borough and others with substantial interests in the borough, on the proposals contained in the preliminary budget and on the capital and service needs of the borough. Officers of agencies, when requested by the borough board, shall appear and be heard.

§ 242. **Statement of debt service by the comptroller.** Not later than the first day of March, the comptroller shall submit to the mayor and to the council a certified statement which shall be published forthwith in the City Record and which shall contain a schedule of the appropriations required during the ensuing fiscal year for debt service, including appropriations to the several sinking funds as required by law, and such other information as may be required by law.

§ 243. **The operating budget of the council.** Not later than the tenth day of March, the council shall approve and submit to the mayor detailed itemized estimates of the financial needs of the council for the ensuing fiscal year. Such estimates shall be comprised of at least one personal service unit of appropriation and at least one other than personal service unit of appropriation for each standing committee of the council and for each organizational unit established pursuant to section forty-five of this charter. The mayor shall include such estimates in the executive budget without revision, but with such recommendations as the mayor may deem proper.

§ 244. **Preparation of the executive budget.** In preparing the executive budget to be submitted in accordance with section two hundred forty-nine, the mayor shall consult with the borough presidents.

§ 245. **Borough president recommendations to the mayor.** a. Not later than the tenth day of March, each borough president shall submit to the mayor and council, in such form and containing such information as the mayor shall prescribe, any proposed modifications of the preliminary budget which the borough president recommends in accordance with the provisions of subdivision b of this section.

b. Each borough president shall propose such modifications to the preliminary budget as the borough president deems to be in the best interest of the borough, taking into consideration community and borough board priorities and testimony received at public hearings held pursuant to section two hundred forty-one. The net effects of any such modifications recommended by the borough president may not result in an increase in the total amount of appropriations proposed in the preliminary budget. If increases in appropriations within the borough are recommended, offsetting reductions in other appropriations within the borough must also be recommended. Each proposed increase or reduction must be stated separately and distinctly and refer each to a single object or purpose.

§ 246. **Report of independent budget office on preliminary budget.** On or before the fifteenth day of March, the director of the independent budget office shall publish a report analyzing the preliminary budget for the ensuing fiscal year.

§ 247. **Council preliminary budget hearings and recommendations.** a. Not later than the twenty-fifth day of March, the council, through its committees, shall hold hearings on the program objectives and fiscal implications of the preliminary budget, the statements of budget

priorities of the community boards and borough boards, the draft ten-year capital strategy and the report of the city planning commission on such strategy, the borough presidents recommendations submitted pursuant to section two hundred forty-five to the extent that such recommendations are available at the time of these hearings, and the status of capital projects and expense appropriations previously authorized. The public and representatives of community boards and borough boards may attend and be heard in regard to all such matters. Representatives of the director of management and budget and the director of city planning may attend the hearings and ask questions. Officials of agencies, when requested by the committees of the council, shall appear and be heard.

b. Findings and recommendations of the council, or its committees, including recommendations for any changes in the unit of appropriation structure which the council deems appropriate, shall be submitted to the mayor and published not later than the twenty-fifth day of March. The net effect of the changes recommended by the council in the preliminary capital budget shall not result in a capital budget which exceeds the maximum amount set forth in the preliminary certificate issued pursuant to section two hundred thirty-five of this chapter.

§ 248. **Ten-year capital strategy.** Not later than the twenty-sixth day of April in each odd-numbered year, the mayor shall issue and publish a ten-year capital strategy, prepared in accordance with the provisions of section two hundred fifteen of this charter.

§ 249. **Submission of the executive budget.** a. Not later than the twenty-sixth day of April, the mayor shall submit to the council (1) a proposed executive budget for the ensuing fiscal year, and (2) a budget message, both of which, along with any accompanying reports and schedules, shall be printed forthwith. Beginning in calendar year 1998 and every calendar year thereafter, copies of such proposed executive budget, budget message and any accompanying reports and schedules shall also be provided to the council not later than the twenty-sixth day of April on floppy disks having dimensions of three and one-half inches or on CD Roms. Such floppy disks or CD Roms shall be in a readable ascii format or readable Lotus or Excel spread sheet format or any other format mutually agreed upon between the mayor and the council.

b. As soon after the submission of the executive budget as is practicable, the mayor shall submit to the council copies of all proposed local laws and all proposed home rule requests necessary to implement the recommendations made in the executive budget.

c. **Adjustment of expense budget borough allocation.** If the executive expense budget submitted by the mayor in accordance with this section includes an expense budget borough allocation which is greater or less than the expense budget borough allocation certified by the mayor to the borough presidents in accordance with subdivision d of section one hundred two, the mayor shall, concomitantly with the submission of the executive expense budget, notify each borough president of the difference between such amounts and of the portion of such difference allocable to each borough pursuant to the provisions of section one hundred two. Within seven days of receiving such notification, each borough president shall submit to the mayor and the council, in such form as the mayor shall prescribe, proposed additional appropriations or proposed reductions in appropriations equaling such portion of such difference.

d. **Adjustments of capital budget borough allocations.** If the



executive capital budget submitted by the mayor in accordance with this section includes a capital budget borough allocation which is greater or less than the capital budget borough allocation certified by the mayor to the borough presidents in accordance with subdivision c of section two hundred eleven the mayor shall, concomitantly with the submission of such executive capital budget, notify each borough president of the difference between such amounts and of the portion of such difference allocable to each borough pursuant to the provisions of subdivision a of section two hundred eleven. Within seven days of receiving such notification, each borough president shall submit to the mayor and the council, in such form as the mayor shall prescribe, proposed additional appropriations or proposed reductions in appropriations equaling such portion of such difference.

§ 250. The budget message. The budget message, which shall not be deemed a part of the budget, shall include:

1. An explanation, in summary terms, of the major programs, projects, emphases and objectives of the budget, the general fiscal and economic condition of the city, the tax and fiscal base of the city, and intergovernmental fiscal relations.

2. Itemized information and supporting schedules of positions, salaries and other than personal service expenses, anticipated for the ensuing fiscal year.

3. Recommendations for any changes in the revenue sources and fiscal operations of the city, including intergovernmental revenue and fiscal arrangements.

4. An itemized statement of the actual revenues and receipts and accruals of the general fund and of all other revenue sources, including state and federal aid and revenues for specified purposes, for each of the four preceding fiscal years, and for the first eight months of the current fiscal year, and the estimated amount of such items for the balance of the current fiscal year, and for the ensuing fiscal year. In preparing such information the mayor shall consult with the comptroller.

5. A listing of the sources and amounts of all revenues and other monies of a nonrecurring nature that are being proposed to be utilized during the ensuing fiscal year and that are not expected to be available or used in subsequent fiscal years.

6. A four-year financial plan, containing, (a) for each agency, for all existing programs, forecasts of expenditures for the ensuing fiscal year and the succeeding three fiscal years at existing levels of service; (b) forecasts of revenue by source from existing sources of revenue for the ensuing fiscal year and the succeeding three fiscal years; and (c) for each new or expanded program, an indication of when such program is projected to be fully implemented and a forecast of the annual recurring costs for such program or program expansion after it is fully implemented.

7. For each agency, a comparison of the proposed appropriations for the ensuing fiscal year with (i) the amounts appropriated in the current expense budget as originally adopted and as modified through the first eight months of the current fiscal year, (ii) the amounts actually expended in the previous fiscal year and (iii) the amounts actually expended through the first eight months of the current fiscal year and the estimated expenditures for the balance of the current fiscal year.

8. For each agency that has local service districts within community districts and boroughs, a statement of proposed direct expenditures in each service district for each unit of appropriation and a statement of the basis for the allocation of direct expenditures to local service

districts of each such agency.

9. An explanation of principal changes in performance goals and indicators from the date of submission of the preliminary management report to the submission of the proposed executive budget.

10. An itemized statement, covering the city's entire capital plant, except for those portions of the capital plant which have been committed to the care and control of the board of education or officers or employees thereof, by agency and project type and, within project type, by personal services and other than personal services, of the amounts appropriated for maintenance of such capital plant in the previous and current fiscal years as originally adopted and as modified through the first eight months of the current fiscal year, and of the amounts actually expended for such maintenance in the previous fiscal year and through the first eight months of the current fiscal year and the amounts estimated to be expended for such purpose during the balance of the current fiscal year; and, for each agency, an explanation of the substantive differences, if any, between the amounts actually expended for such maintenance in the previous fiscal year or projected to be expended for such purpose in the current fiscal year and the amounts originally appropriated for such purpose for such years.

11. A presentation of the maintenance activities proposed by the mayor to be completed during the ensuing fiscal year for all major portions of the capital plant, as such terms are defined in subdivision a of section eleven hundred ten-a, categorized by agency and project type; an explanation of the differences, if any, between such proposed activities and the activities scheduled to be undertaken during such fiscal year pursuant to subdivision c of such section; an explanation of the differences, if any, between the proposed appropriations for such activities and the estimates of the amounts submitted, pursuant to subdivision f of such section, as necessary to maintain such portions of the capital plant; and a presentation and explanation of the differences, if any, between the maintenance activities for all major portions of the capital plant proposed by the mayor, in the budget message for the previous fiscal year, to be completed during such fiscal year and the activities actually completed during such fiscal year.

12. A statement of the extent to which the executive budget incorporates the revisions to the preliminary budget suggested by the borough presidents, in accordance with subdivision a of section two hundred forty-five and the reasons why any other suggested revisions were not incorporated in the executive budget.

13. A statement of the modifications, if any, which the mayor recommends that the council make in the appropriations submitted by the borough presidents pursuant to sections one hundred two and two hundred eleven.

14. A statement of any substantive changes in the methodology and assumptions used to determine the revenue estimates presented pursuant to subdivisions four, five and six of this section from the methodology and assumptions presented in the preliminary budget.

15. A statement of the implications for the orderly development of the city, its community districts and boroughs of the capital projects included in or contemplated by the capital budget and program.

16. A certificate setting forth the maximum amount of debt and reserves which, in the mayor's opinion, the city may soundly incur for capital projects during the ensuing fiscal year and during each of the following three fiscal years, and the maximum amount of appropriations and expenditures for capital projects which the city, given such maximum amount of debt and reserves, may soundly make during each such fiscal

year.

§ 251. Borough president recommendations on the executive budget. Not later than the sixth day of May, each borough president shall submit to the mayor and the council a response to the mayor's executive budget. Such response shall indicate which of the recommended appropriations submitted by the borough president pursuant to section two hundred forty-five, which were not included by the mayor in the executive budget, should be considered by the council for inclusion in the budget. Any appropriations recommended in this manner for inclusion in the budget shall be accompanied by recommendations for offsetting reductions in other appropriations within the borough. Any such increases or reductions must be stated separately and distinctly and refer each to a single object or purpose.

§ 252. Report of independent budget office on executive budget. On or before the fifteenth day of May, the director of the independent budget office shall publish a report analyzing the executive budget for the ensuing fiscal year.

§ 253. Executive budget hearings. Between the sixth day of May and the twenty-fifth day of May, the council shall hold public hearings on the budget as presented by the mayor. The council may hold such hearings either as a body or by its finance committee or other committees. Officers of agencies and representatives of community boards and borough boards shall have the right, and it shall be their duty when requested by the council, to appear and be heard in regard to the executive budget and to the capital and service needs of the communities, boroughs and the city.

§ 254. Amendment and adoption of the executive budget. a. The council may not alter the budget as submitted by the mayor pursuant to section two hundred forty-nine except to increase, decrease, add or omit any unit of appropriation for personal service or other than personal service or any appropriation for any capital project or add, omit or change any terms or conditions related to any or all such appropriations; provided, however, that each increase or addition must be stated separately and distinctly from any items of the budget and refer each to a single object or purpose; and, provided, further, that the aggregate amount appropriated for capital projects shall not exceed the maximum amount of appropriations contained in the mayor's certificate issued pursuant to subdivision sixteen of section two hundred fifty.

b. The council shall consider, and act upon, all recommendations made by the borough presidents pursuant to section two hundred fifty-one of this chapter and all recommendations made by the mayor pursuant to paragraph thirteen of section two hundred fifty of this chapter.

c. The budget when adopted by the council shall become effective immediately without further action by the mayor, except that appropriations for the council or appropriations added to the mayor's executive budget by the council or any changes in terms and conditions, shall be subject to the veto of the mayor.

d. If an expense budget has not been adopted by the fifth day of June pursuant to subdivisions a and b of this section, the expense budget and tax rate adopted as modified for the current fiscal year shall be deemed to have been extended for the new fiscal year until such time as a new expense budget has been adopted.

civic or public interest advocacy organization involved in budgetary matters; and one officer or former officer of a human services advocacy organization involved in budget matters. No member may be reappointed to consecutive terms. Vacancies occurring because of the expiration of terms shall be filled promptly on the recommendation of the members of the committee whose terms are not expiring. Vacancies occurring otherwise shall be filled promptly on the recommendation of the remaining members of the committee. The members of the committee shall receive no compensation but shall be reimbursed for their necessary expenses. The committee shall at its first meeting in every even numbered year elect, from among its members, a chair and vice-chair who shall serve until the thirty-first day of March of the next even numbered year.

§ 260. Powers and duties. a. It shall be the duty of the office to provide to the comptroller, the president of the council, the members and committees of the council, the borough presidents, and the community boards information which will assist such officials and bodies in the discharge of their responsibilities which are related to the budgetary process, including:

- (1) information with respect to the budget, appropriations bills and proposed local laws with fiscal implications;
- (2) information with respect to estimated revenues and receipts and changing revenue conditions; and
- (3) to the extent practicable, such other information or analyses as may be requested by such officials and bodies.

b. The director, upon the request of a borough president or the president of the council for a proposed local law introduced by such official, or the chair or ranking minority member of a committee of the council for a proposed local law being considered by such committee, shall complete a fiscal impact statement of such proposed local law consistent with the requirements of section thirty-three.

c. The director shall from time to time publish such reports as may be appropriate to enhance official and public understanding of the budgetary process and of the budget documents published in accordance with the provisions of chapters six, nine and ten. The director shall from time to time publish such reports as may be necessary or appropriate to provide such information, data, and analysis as will enhance official and public understanding of matters relating to city revenues, expenditures, financial management practices and related matters.

d. The director may procure, for the office, up-to-date computer equipment, obtain the services of experts and consultants in computer technology, and develop techniques for the evaluation of revenue projections and budgetary requirements.

e. The director shall make all information, data, estimates, and statistics obtained under subdivision c of section ninety-eight, and all studies and reports prepared by the office, available for public inspection and copying during normal business hours and shall, to the extent practicable, furnish a copy of any such information or report to any person upon request at a reasonable cost.