NEW YORK CITY COMPTROLLER
BRAD LANDER

A Stronger Fiscal Framework for New York City

Proposals to Improve the City's Financial Management and Promote Fiscal Responsibility

BUREAU OF BUDGET

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Executive Summary

At more than $110 billion annually, New York City's operating budget is the largest municipal budget in the country by far, and is larger than the budgets of all but four states (NY, CA, TX, FL).[1] The City's capital budget is also expansive, with $88.1 billion in expected commitments from FY 2024 to FY 2028, and the City's highly-rated debt issuers projected to borrow $70.6 billion over the same period.[2] New York City provides a uniquely broad scope of services for one general purpose government, and to fund that scope of services, has a uniquely broad set of taxes and revenues.

In 1975, following the near-bankruptcy of the City during its worst fiscal crisis, caused by a combination of shifts in the global economy and the City's own weak financial practices, the New York State Financial Emergency Act for the City of New York (FEA) established a framework that has guided the City's fiscal management for nearly 50 years. The City has consistently closed the fiscal year with a General Fund surplus since FY 1981 and has not issued short-term obligations to sustain its cash balance since FY 2004. Rating agencies and investors in the City's bonds consistently rank the City's strong fiscal management as a credit strength, even when other factors may be seen as vulnerabilities.

Nearly fifty years later, it is time to reflect on the FEA framework (the emergency elements of which largely expired in 2008) and how it can be improved upon. The creation of a new charter revision commission, which has as one of its announced goals to "promote fiscal responsibility," provides an opportunity to strengthen the City's fiscal practices and modernize the overall framework.

The proposals outlined below build upon the FEA's core provisions. They aim to ensure that the City is able to accumulate sufficient reserves to use during economic recessions, achieve efficiencies and long-term savings to generate a budgetary cushion while avoiding cuts to vital services, maintain the affordability of the City's debt, conduct realistic assessments of the City's capital assets, and ensure timely registration and payment of City contracts.

1. **Require the adoption of a rainy-day fund policy.** The City Charter (Chapter 58, Section 1528) should be amended to require the adoption of a formula-driven policy to determine the City's rainy-day fund target size, deposits, and withdrawals, rather than leave annual deposits to the vicissitudes of the annual budget process. The Mayor, the City Comptroller, and the City Council should determine the parameters and features of the

[1] Data from the National Association of State Budget Officers.

[2] Data are as of the April 2024 Capital Commitment Plan. Total is net of reserves for unattained commitments.

policy. Reporting on implementation of the rainy-day fund policy should be required annually to the City Comptroller, the State Comptroller, the Financial Control Board, the City's Independent Budget Office, and the public.

2. **Mandate efficiency reviews and long-term savings in the budget process and make agencies accountable for judgments and claims against the City.** In current practice, the Mayor has discretion to include Programs to Eliminate the Gap (PEGs) in the quarterly updates to the Financial Plan. PEGs are often predominantly comprised of short-term savings, budget re-estimates, and personnel accrual savings. At the same time, the budgets often structurally and unreasonably under-estimate recurring and non-discretionary expenses. To address these **weaknesses**, the Charter should be amended to require and facilitate the Office of Management and Budget to:
    - Work with agencies to set customized, multi-year savings targets.
    - Include incentives for agencies to implement efficiencies that produce recurring rather than one-time savings.
    - Eliminate the chronic underbudgeting of recurring and non-discretionary expenses and more accurately budget the cost of the City's workforce to reduce the reliance on personnel accrual savings in the near term.
    - Establish a regular framework for reporting on savings and efficiency initiatives, reviewed by oversight entities, and hold agencies accountable for them.
    - On the same timelines, agencies could propose new programs for consideration by OMB and City Hall, along with metrics for determining whether these programs were meeting their outcomes.
    - Move financial responsibility for certain legal claims against the City from central budget to agency budgets, in order to give agencies an incentive to take steps that will reduce such actions.

    To provide the institutional framework for the achievement of these goals, the Office of the Comptroller proposes the following amendments to the City Charter:

    i. The budget process (Chapter 10) should be modified to include the formulation of annual efficiency reviews and long-term savings initiatives for City agencies. The Charter should mandate annual reporting to the City Council, the City Comptroller, and the City's other fiscal monitors on the implementation of these efficiency measures and long-term savings initiatives, and allow fiscal oversight entities to access information that is necessary to provide independent assessments.
    ii. The expense budget (Chapter 6) should be amended to require the creation within each agency's expense budget of a unit of appropriation for judgments and claims.

3. **Require that debt service does not exceed 15 percent of City tax revenues and that the Capital Stabilization Reserve be used to ensure this target is maintained.** Annual debt service (consisting of New York City General Obligation bonds, New York City Transitional Finance Authority Future Tax Secured bonds and City-related subject to appropriation debt) as a share of local tax revenue is a key measure of debt affordability. The City's 15 percent threshold is included in the City's Debt Management Policy and is understood to be a widely accepted benchmark, often cited by the rating agencies and various monitors of the City's budget. However, there is currently no procedure for ensuring that the target is maintained.

   The City Charter (Chapter 10, Section 258) should be amended to require that:

   i. Annual debt service does not exceed 15 percent of City tax revenues in each year of the financial plan.
   ii. The financial plan includes a Capital Stabilization Reserve in each year of the plan in a minimum amount to be indexed over time. This reserve is already included by the Mayor in each year of the financial plan as a matter of policy.
   iii. The City deploys the Capital Stabilization Reserve to pre-pay debt service in any fiscal year within the financial plan where debt service is projected to be above the 15 percent threshold.

   In addition, the City should engage the State Board of Real Property Tax Services and the State Office of Real Property Tax Services in the review of the methodology for the calculation of Special Equalization Ratios, which leads to an underestimate of the City's Constitutional debt limit, as shown by the Office of the Comptroller. The underestimate has necessitated since the 1990s the creation of new debt issuers that are exempt from the limit and the exclusion of increasing amounts of certain debt outstanding from the calculation of City indebtedness.

4. **Modernize the City's approach to infrastructure assessment, capital planning and budgeting to comply with Government Finance Officers Association (GFOA) and Municipal Finance Officers' Association (MFOA) best practices.** The City's Asset Inventory Management System (AIMS) is intended to provide an annual condition assessment of the City's capital infrastructure. Unfortunately, the AIMS report does not accurately identify the true costs of maintaining the structural integrity of the City's major infrastructure assets. Meanwhile, the Ten-Year Capital Strategy serves more as a list of agency-generated projects than a strategic set of priorities. The City needs to modernize its capital planning and budgeting process to include better infrastructure assessments (including more effective use of technology) and a process for prioritizing long-term

infrastructure investments based on clear criteria that address aging infrastructure, climate resiliency, criticality, and the cost of deferred maintenance.

The Office of the Comptroller proposes to amend Chapter 49, Section 1110-a of the City Charter to:

i. Explicitly state that the purpose of the infrastructure assessment is to inform the 10-year capital strategy.
ii. Require the inventory to include pertinent details about the function, location, structural dependencies, estimated useful life, and most recent condition assessment of each asset.
iii. Require that each agency is responsible for conducting a realistic assessment of its capital assets based on a protocol developed by the Office of Management and Budget.
iv. Require the identification of the capital needs to be included in the 10-year capital strategy based on considerations including: the level of deterioration (particularly any asset conditions that jeopardize public safety), the criticality of an asset to an agency function or mission, and federal and state requirements that may apply to certain types of assets.
v. Require a justification for the exclusion of recommended capital needs from the Capital Commitment Plan.

5. **Mandate timeframes for each stage of the contracting process.** In February 2022, Mayor Adams and Comptroller Lander released an Action Memo: A Better Contract for New York: A Joint Task Force to Get Nonprofits Paid On Time. The first recommendation set forth therein was to establish timeframes for each stage of the procurement and contracting process in order to hold the City and vendors accountable for the timely registration of contracts and ensure that the City has the ability to pay its vendors timely. Currently, there are no mandated timeframes that govern the City's procurement process outside of the 30-day review period that is mandated by the City Comptroller's Office as set forth in the Charter. Over two years later, the City has yet to implement this recommendation.

   The Office of the Comptroller proposes to amend Chapter 13, Section 311 of the City Charter to require that the Procurement Policy Board set prompt contracting timelines for each step of the procurement process and report regularly on how well each contracting agency is complying with those timelines.

6. **Make the core features of the FEA framework permanent in State law.** The core features of the FEA framework are currently set to expire after November 15, 2037, or earlier if

outstanding bonds that contain the State Covenant from subdivision one of section 10-a of the FEA were to be refunded. State law should make several of the main features of the FEA framework permanent, including:

- The General Debt Service Fund, which retains the City's property taxes upon collection and prioritizes them for payment of GO debt service and any short-term debt.
- The FEA provisions that were over time added to the City Charter (budget balancing, GAAP accounting, four-year planning, etc.).
- The fiscal monitoring functions and the annual certification of the Financial Control Board (FCB), with the addition of provisions enabling fiscal oversight entities to collaborate more effectively.

The Financial Emergency Act (FEA)

The FEA was passed by the State Legislature in 1975 to address New York City's fiscal crisis. Among other features, the act contains the following salient provisions:

- The City budget must be balanced for each fiscal year, according to Generally Accepted Accounting Principles (GAAP).
- The City must prepare and update quarterly a four-year Financial Plan for revenues, spending, and borrowing. The current fiscal year budget, and, starting with the Financial Plan in January, the following fiscal year budget must be balanced according to GAAP.
- The City may only issue bonds for capital costs (not operating costs) and faces stricter limits for the amount and term of short-term notes for cash flow needs than allowed for other municipalities by the New York State Local Finance Law (LFL).[3]
- Property tax receipts are retained by the State Comptroller in a General Debt Service Fund (GDSF) for the payment of the City's General Obligation bonds' debt service before accruing to the City's General Fund.

[3] The Financial Emergency Act imposes various limitations on the issuance of short-term debt. Tax Anticipation Notes (TANs) are capped at 90% of the available tax levy, (as defined in the FEA). TANs and their renewals must mature within the fiscal year in which they were issued. Revenue Anticipation Notes (RANs) are capped at 90% of the available revenues (as defined in the FEA) for the fiscal year. RANs must mature within the fiscal year in which they were issued, and their renewals must mature in the fiscal year following that of original issuance. Principal and interest payments of Bond Anticipation Notes (BANs) are capped at 50% of the principal amount of bonds issued in the 12 months preceding the month of issuance.

The act also established a Financial Control Board (FCB) to monitor the City's fiscal condition. The FCB members are the Governor (Chairperson), the Mayor, the State Comptroller, the City Comptroller, and three members who are appointed by the Governor, with the advice and consent of the State Senate. The Control Board acts by majority vote of the entire seven-member board, each of whom has one vote. The Governor and the Mayor jointly appoint the FCB executive director (vacant since 2020).

During the "control period," the FCB was empowered to approve or disapprove the City's financial plans, contracts, and borrowing. The City exited the control period established by the FEA on June 30, 1986; and the Board's subsequent authority to put the City into a new control period if it were deemed to be necessary expired on July 1, 2008. Since the end of the control period, the FCB has acted as one of the City's fiscal monitors, along with the Office of the City Comptroller, the Office of the State Deputy Comptroller for the City of New York, and (since its creation in 1989) the NYC Independent Budget Office.

The FCB continues to hold a formal meeting annually (generally in August) to ascertain whether the conditions that would have initiated the start of a new control period have occurred or that there is a substantial likelihood and imminence of such occurrence (though the FCB no longer has the power to put the City into a control period, even if these conditions were to be met). The conditions are:

1. The City shall have failed to pay debt service on any of its obligations when due or payable;
2. The City shall have incurred an operating deficit of more than $100 million (given the timing of the FCB annual meeting, this determination is based on available information and precedes the publication of the City's Annual Comprehensive Financial Report, mandated by the FEA to be completed by the end of October);
3. The City shall have issued notes (i.e., short-term debt) in violation of the FEA;
4. The City shall have violated any provision of the FEA, substantially impairing the ability to repay its notes or bonds when due and payable or its ability to adopt or adhere to a balanced budget, or
5. The State and City Comptrollers cannot certify that the City could access capital markets to satisfy its capital and seasonal financing needs in accordance with the financial plan then in effect.

Per the FEA, even after the end of the control period and potential control period (if re-instituted), FCB continues to be required to review the contracts of the City and of its covered organizations (the Department of Education, Health and Hospital Corporation (H+H), and others as defined in section 2 of the act) for their adherence to the financial plan. In practice, the FCB has long delegated this function to the City's Office of Management and Budget (OMB). The review is duplicative of others embedded in the contract approval process (including those conducted by OMB itself), and of controls embedded in the City's Financial Management System (FMS). New guidelines for contract review became effective on January 1, 2023, lifting the monetary threshold for review that was set in 1987, as advocated by the Office of the City Comptroller and recommended by the NYC Capital Process Reform Task Force.

Exceptions from GAAP balance

GAAP budgeting requires that expenses are accrued to the year they are incurred, and revenues accrue to the year they are earned. Permanent deviations from GAAP budgeting require changes to the FEA and to the City Charter.

The FEA provides that the City can carry forward to future fiscal years the balance of the Health Stabilization Fund, School Crossing Guards Health Insurance Fund, Management Benefits Fund and, as added in 2020, the Revenue Stabilization Fund (RSF). In addition, the City can carry forward the balance of certain funds that are restricted as to their use. In 2010, the FEA was amended to allow the City to finance certain pollution remediation costs through bond proceeds, essentially removing what would have been the operating budget impact of GASB 49.

Subsection 8(2-a) of FEA gives the FCB discretion to authorize the phase-in of GAAP changes should immediate compliance have substantial adverse impact on the delivery of essential services by the City or its covered organizations. Changes introduced by the 2005 Charter Revision Commission (N.Y. Charter §258.f) gave the Mayor discretion to phase in GAAP changes, and the authority would go into effect should the FEA no longer be in effect.

The 2019 Charter Revision Commission recommended, and voters adopted, the removal of GAAP balance requirements to allow for the creation of the Revenue Stabilization Fund to function as the City's rainy-day fund. This was needed because GAAP would otherwise prevent withdrawals from the fund to be considered revenues in the year of the withdrawal rather than in the year of their accrual. Prior to this change, the City utilized its Retiree Health Benefits Trust Fund (RHBT) as a *de facto* rainy-day fund, and it continues to count the RHBT as a budget reserve, in addition to the RSF. Following the Charter amendment, the FEA was also amended in 2020 to establish the RSF as a true rainy-day fund.

General Debt Service Fund (GDSF)

The FEA (section 9-a) established a General Debt Service Fund (GDSF) held by the State Comptroller to pay debt service. Property tax revenues are collected by the City and are then transferred to the State Comptroller for deposit in the GDSF according to the following statutory formula:

1. During the first month of each fiscal quarter (commencing July 1, October 1, January 1 and April 1), GDSF retains property tax revenues until the amount retained equals the amount of general obligation debt service for the second and third months of such quarter.
2. During the second and third months of each quarter, GDSF retains property tax revenues until the amount retained equals the amount of general obligation debt service for the first month of the succeeding quarter.

Once the retention requirements have been satisfied, additional property tax revenues are paid into the City's General Fund. Since its inception, GDSF has been fully funded at the beginning of each payment period.[4] The City's retention mechanism, which increases the comfort of bond holders and rating agencies that debt service will be paid in a timely fashion, is quite uncommon amongst municipalities. Washington D.C. appears to be the only other city with a retention mechanism among the 20 most populous U.S. cities.[5] In the same section, the FEA also sets retention requirements for seasonal borrowing through TAN and RAN debt service accounts.

The State Covenant and the Termination of the FEA

The FEA gives the City authority to add a State covenant to bonds issued before a certain date (subdivision 1 of section 10-a) that establishes a "pledge and agreement" that the State "will not take any action" to impair the FCB's authority or change crucial provisions of the FEA. The final date before which the City can add such covenant has been routinely extended by one year at the end of the State legislative session and is currently in effect through June 30, 2024. The City has not included the State Covenant in bonds issued since 2003.

Originally, the FEA was set to terminate "on the earlier of (a) July 1, 2008 or (b) the date when . . . all bonds and notes containing the pledge and agreement authorized by subdivision one of

[4] The City has also covenanted in its GO bonds that, no later than the last day of each month, the GDSF has a balance sufficient to pay debt service on bonds and interest on short-term notes payable in the following month. Should the FEA formula not result in an amount sufficient to comply with the City covenant, the City would provide for early retention of the property tax or make payments into GDSF. Because of this covenant, at the termination of the FEA the City would maintain a separate fund to satisfy its pledge.

[5] In Washington D.C., the special property tax used to pay debt service is collected by a third party and deposited into an escrow account. In the 2000's, the City attempted to pass State legislation to add a statutory lien on property tax revenues to pay GO debt service. A statutory lien would provide additional security to bondholders in case of bankruptcy, by making them secured creditors of the City. Washington D.C., the City of Phoenix, and California cities have statutory liens. A statutory lien may positively affect the City's GO ratings.

section ten-a of this act are refunded, redeemed, discharged or otherwise defeased . . ." In 2003, the wording was changed from "the *earlier* of" to "the *later* of". [6] This means that the FEA remains in effect until bonds containing the State covenant are no longer outstanding, the latest of which are currently $2.4 million in GO Fiscal 1998 Series C bonds maturing on 11/15/2037.[7] As noted earlier, while the FEA remains in effect until that date, no control period may be imposed by the FCB.

Mayor Adams transmitted legislation to the State in 2022 and 2023 to codify GDSF, RAN, and TAN requirements separately from the FEA's authorization, which continues to be contingent on the bond covenants. Legislation was introduced by Assemblymember Braunstein in 2022 (A20214), but did not progress further.

FEA Provisions in the City Charter

The 2005 Charter Revision Commission made recommendations that were subsequently adopted via referendum to incorporate several provisions of the FEA into the City Charter. These

[6] See Chapter 686 of the Laws of 2003. The change to the termination provisions in the FEA was triggered by passage of the Municipal Assistance Corporation (MAC) Refinancing Act (See Chapter 62, part A4, and Chapter 63, part V of the Laws of 2003). The intent of the Refinancing Act was to relieve the City of the remaining MAC funding requirements, which were scheduled to end by 2008. However, the Refunding Act effectively transferred the economic burden of the remaining MAC debt service from the City to the State and extended it to 2034. MAC was created in June 1975, before the passage of the FEA, to fund the City's operating and capital budgets at a time when the City itself was shut off from the financial markets. MAC issued bonds backed by a 4.0% sales and use tax that replaced the City's. MAC tax collections were held by the State Comptroller in the Municipal Assistance Tax Fund until revenues were certified to have covered MAC's debt service, capital reserve, and operating expenses, and the excess released to the City's General Fund. Subsequent expansions of the MAC sales and use tax base accrued to the City's General Fund. Both MAC and its sales tax were set to expire on July 1, 2008 at the latest. MAC would cease to exist at the later of July 1, 2008 or one year after its liabilities were fully paid and discharged. The Refinancing Act, which was passed over the Governor's veto, required the Local Government Assistance Corporation ("LGAC") to pay the City $170 million each year, and authorized the City to assign all or any portion of that amount to a not-for-profit corporation. The City created the Sales Tax Asset Receivable Corporation ("STAR") as a local development corporation and assigned to it the payments from LGAC to secure bonds issued by STAR to refund all of the outstanding MAC debt. Due to litigation commenced by the Governor against the City, STAR did not issue its bonds until November 2004 following a Court of Appeals decision in favor of the City in August of that year. The sources and uses of the bond issuances are outlined in the STAR bonds documents. Chapter 59 of the Laws of 2021 included provisions to terminate LGAC's $170 million annual payment following the defeasance of all outstanding STAR bonds before July 1, 2021 (as was accomplished), and the payment of $46 million from LGAC to the City by June 30, 2021 (which took place on June 29, 2021).

[7] Other bonds containing the State Covenant are GO Fiscal 2003 Series F maturing 1/15/2033, with approximately $314,600 outstanding, and Fiscal 2002 Series D, maturing 6/1/2032, with $1.545 million outstanding. It may be possible for the State legislature to terminate the FEA without violating the State covenant included in the City's outstanding bonds because at the time those bonds were issued the FEA would have expired on July 1, 2008 at the latest. The City could extend the FEA by issuing new bonds containing the State covenant and maturing beyond November 15, 2037. As noted above, while this option is renewed annually, the City has not issued bonds with the State covenant since 2003.

provisions would survive the termination of the FEA. The Commission had four recommendations, which were included as ballot questions:

- Require that the City end each fiscal year in balance in accordance with GAAP (incorporated in N.Y. Charter §258.a).
- Require the City to prepare a four-year financial plan, with quarterly modifications during the year (incorporated in N.Y. Charter §258.b through §258.f).
- Require the City to continue the stricter limits on short-term indebtedness (incorporated in N.Y. Charter §266).
- Require the City to conduct an annual audit in accordance with generally accepted auditing standards, completed within four months of the end of the fiscal year (incorporated in N.Y. Charter §95.a).

Despite the adoption in the City Charter of key elements of the FEA, the City cannot on its own create the property tax retention mechanisms included in the FEA. Nor can the City on its own renew the State's pledge and agreement to not take any action that would impair the power of the City to comply with the covenants included in its GO bonds or any right or remedy of any owner of the bonds to enforce the City's covenants.[8]

Impact of the FEA's Fiscal Framework on Credit Ratings

The City of New York is unique among municipalities in terms of the strength of financial controls and practices, as set by the FEA and the City Charter. The Office of the Comptroller reviewed

[8] The Official Statement for GO Bonds Fiscal 2024 Series D, Series E, and Series F describes the City covenants as follows: "The City will covenant that: (i) a separate fund or funds for the purpose of paying principal of and interest on bonds and interest on notes of the City (including required payments into, but not from, City sinking funds) shall be maintained by an officer or agency of the State or by a bank or trust company; and (ii) not later than the last day of each month, there shall be on deposit in a separate fund or funds an amount sufficient to pay principal of and interest on bonds and interest on notes of the City due and payable in the next succeeding month. The City currently uses the debt service payment mechanism described above to perform these covenants. The City will further covenant in the Bonds to provide a general reserve for each fiscal year to cover potential reductions in its projected revenues or increases in its projected expenditures during each such fiscal year, to comply with the financial reporting requirements of the Act, as in effect from time to time, and to limit its issuance of bond anticipation notes and tax anticipation notes as required by the Act, as in effect from time to time, and to include as terms of the Bonds the applicable multi-modal provisions and to comply with such provisions and with the statutory restrictions on multi-modal rate bonds in effect from time to time.

The State pledges and agrees in the Financial Emergency Act that the State will not take any action that will impair the power of the City to comply with the covenants described in the preceding paragraph (the "City Covenants") or any right or remedy of any owner of the Bonds to enforce the City Covenants (the "State Pledge and Agreement")."

rating and bond disclosure from the 20 most populous U.S. cities as they relate to the main features of the City's framework. In particular:

1. Financial Plans: most of the cities produce multi-year financial plans, but unlike New York City, they are generally not required by statute and generally are produced annually, rather than quarterly.
2. Balanced Budget/GAAP: although all of the cities require a balanced budget, New York City is unique in requiring the budget be balanced in accordance with GAAP.
3. Third Party Financial Monitoring: in addition to New York City, Philadelphia seems to be the only other of the top 20 most populous cities that until recently required an outside monitor.[9] Washington D.C. does not currently have outside monitors; however, a new control period would be initiated and the District of Columbia Financial Responsibility and Management Assistance Authority would be reconstituted if certain events occur, such as default on any borrowing or failure to make any required payments related to pensions and benefits.
4. Debt service retention: only Washington D.C. has a mechanism similar to New York City's general debt service fund.

Credit rating agencies view the City's legal framework contained in the FEA and the City Charter to be positive credit features for the City's GO and appropriation debt. The provisions were factored in Moody's scorecard under "institutional framework" and "leverage", in S&P's scorecard under "management", and in Kroll's rating determinant categories under "management structure and policies." Fitch's four major criteria (revenue framework, expenditure framework, long-term liability burden and operating performance) cover the institutional framework, but not in a separate category. Both Kroll and Moody's discuss the debt service retention mechanism in their reports.

Below is a summary of each of the rating agencies' comments on the City's legal framework.[10]

Fitch Ratings. Fitch's report dated March 25, 2024 is explicit in recognizing their positive impact:

> "Fiscal discipline instilled following the city's financial crisis in the 1970s is long institutionalized. The city is required to present a balanced budget on a GAAP basis, publish a four-year financial plan, which is updated three times per year,

[9] The city of Philadelphia submits a five-year financial plan on an annual basis and quarterly financial reports to the Pennsylvania Intergovernmental Cooperation Authority (PICA). PICA has the power to exercise certain advisory and review procedures with respect to the city's financial affairs, including the power to review and approve the city's five-year plan. PICA's authority was originally ending with the last payment of PICA bonds (which took place in June 2023) but it was extended to 2047.

[10] A more detailed discussion of the agencies' methodologies is available in the debt affordability study commissioned by the Office of the Comptroller, published in March 2024.

> and present a biennial 10-year capital strategy. Plans are thorough and highly detailed and tend to be based on realistic assumptions, in Fitch's view. Outside monitors who regularly report on the city's budget and financial plan include the Financial Control Board, the state comptroller, the city's charter-required Independent Budget Office and the privately funded Citizen's Budget Commission."

Furthermore, Fitch Ratings assigns `aaa' to the City's Operating Performance:

> "The 'aaa' assessment reflects a very strong gap-closing ability and the city's close budget monitoring and control, as demonstrated by its ability to maintain consistent balance and manage out-year gaps."

Kroll Bond Rating Agency (KBRA). KBRA's rating report for New York City, dated March 21, 2024, clearly states the importance of the City's legal requirements in its rating:

> "KBRA views the City's financial management and capital planning practices as very strong. The FEA and the City Charter require balanced budgets, with year-end results required to be balanced under generally accepted accounting principles ("GAAP"), and a four-year Financial Plan, updated quarterly, that must show current year balance and, starting in January, balance in the following fiscal year."

In addition, KBRA stresses the importance of the debt service retention requirement:

> "Pursuant to the Financial Emergency Act for the City of New York (the "FEA" or the "Act"), a general debt service fund ("the Fund") is established for G.O. Bonds and certain notes. Payments of the City real estate tax must be deposited upon receipt into the Fund and retained under a statutory formula. Since its inception in 1978, the Fund, which is held by the State Comptroller as Custodian, has been fully funded at the beginning of each payment period."

Moody's. Moody's credit opinion for the City, dated March 21, 2024, specifically mentions the debt service retention mechanism as well as other requirements of the City Charter and FEA:

> "State law requires that the real property tax – which is used to pay general obligation debt service – be segregated into a general debt service fund held by the state comptroller. The state also statutorily covenants not to impair the rights of city bondholders to be paid when due. Those features do not create a statutory lien on the property tax in favor of general obligation bondholders, but are strengths in the payment mechanism that are not found in most local government general obligation bonds."

The rating also reflects the city's “very strong institutional strength and financial governance.”[11]

S&P. S&P’s report for the City, dated March 21, 2024, provides the highest “very strong” score for both institutional framework and management. On the City’s management, the report stated:

> “New York City benefits from a governance structure...under the Financial Emergency Act that requires maintenance of a balanced budget and from strong planning practices that mitigate risk and ensure that the financial plan addresses out-year budget gaps. In addition, the city established a formal rainy-day reserve in fiscal 2021, bolstering our view of governance, but has not yet created a regular mechanism for annual reserve contributions.”

Proposals to strengthen the City’s fiscal framework

The Office of the Comptroller proposes several statutory and policy changes that build upon the fiscal framework established by the FEA and address areas for improvement of current fiscal practices. These include:

1. Creating rules for the Revenue Stabilization Fund;
2. Establishing a system of regular efficiency reviews and the implementation of long-term savings initiatives as regular features of the City budget process and making agencies responsible for judgments and claims against the City;
3. Amending the City’s debt management policy to maintain the affordability of debt service payments;
4. Modernizing the City’s approach to infrastructure assessment, capital planning and budgeting; and
5. Mandating timeframes for each stage of the procurement and contracting process.

These changes, particularly the budgeting practices regarding efficiency reviews and long-term savings, should be phased in incrementally and would likely take a few years to implement fully.

In addition, the Office of the City Comptroller proposes to codify key provisions of the FEA into permanent State law, and to modernize the fiscal monitoring function of the FCB.

[11] See the March 2024 Economic Newsletter for an analysis of recent changes to Moody’s criteria that could lead to upgrades and downgrades.

Rules for the Revenue Stabilization Fund (RSF)

The 2019 charter revision commission recommended, and the public subsequently voted, to amend the City Charter, and in 2020, the state legislature amended the FEA to allow the City to create the Revenue Stabilization Fund (RSF).[12] The RSF balance as of the end of FY 2023 was $1.96 billion.[13]

However, while the establishment of RSF was a positive and a much-needed development, its operation lacks crucial features, namely:

1. A target size.
2. Rules and guidelines for deposits.
3. Reasonable rules and guidelines for withdrawals.

Without a target, or rules and guidelines for deposits, the amount deposited into the RSF each year is left to the vicissitudes of the annual budget process.

Regarding withdrawals, the state legislation provides that no more than 50 percent of the RSF can be withdrawn in any given year, unless the Mayor certifies the existence of a "compelling fiscal need, which may be based on circumstances in a national or regional recession, a reduction in total revenues from the preceding fiscal year as projected in the financial plan […], a natural or other disaster, or a declared state of emergency in the City of New York or the State of New York." These conditions are too permissive. For instance, the budget published in April is showing a decline in total revenues between FY 2024 and FY 2025 (largely a result of the end of federal stimulus funding related to Covid-19). That is, the Mayor is currently enabled to certify a compelling fiscal need as defined in legislation and the entire RSF balance could theoretically be withdrawn.

The rules for RSF should lead to the accumulation of sufficient reserves during economic expansions to provide meaningful budget relief during economic contractions, and should prevent their depletion but for periods of economic downturns or other extraordinary adverse circumstances. The rules should be:

1. Credible and able to achieve a target commensurate to the volatility of tax revenues.
2. Counter-cyclical, so as to require deposits during economic recoveries.

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[12] NY State Senate Bill S8400 (nysenate.gov). In practice, the legislation allows the City to use the year-end General Fund surplus in future years and the amount "deposited" in RSF is the accumulated surplus.

[13] See Annual Comprehensive Financial Report for FY 2023, p.96. The City typically closes the fiscal year with a General Fund surplus of $5 million and by the end of FY 2019 the cumulative balance amount was $488 million. This amount was classified as "non-spendable" in the City's financial statements. The 2020 legislation that created RSF allowed the classification of the non-spendable balance and future surpluses as "committed."

3. Simple, transparent, and easy to implement.
4. Updated as warranted.

The Office of the Comptroller believes that the appropriate implementation mechanism would be a formal, adopted policy, established by the Mayor, Comptroller, and City Council, with clear reporting requirements to verify adherence to it. This would allow the City to plan for deposits as part of the budget process, while maintaining appropriate flexibility.

The Comptroller has proposed the following, as one potential framework for such a policy:[14]

1. Set the RSF target at 16 percent of City tax revenues, which would provide fiscal relief for the duration of the average-length economic downturn, based on an analysis of business cycles in recent decades.

2. Minimum deposits should equal 50 percent of the difference between current-year growth of non-property tax revenues and the average growth rate of non-property tax revenues in the previous six years. Historic analysis suggests that this would capture a meaningful share of growth beyond the annual baseline, providing a pathway to the target while still leaving room for critical services and investments.

3. Deposits above the minimum should be encouraged to achieve the target size.

4. Allow withdrawals in case of two consecutive quarters of decline in payroll employment, or in case of catastrophic events as for instance defined in the legislation for the NYS rainy-day fund.[15]

5. Except in case of catastrophic events, annual withdrawals should be limited to 5 percent of tax revenues in the year before the withdrawal, based on the average yearly drop experienced in previous recessions.

This minimum deposit rule could be easily incorporated in the budget process. At any time that the City's-forecasted non-property tax revenues grows above the average of the previous six years, the financial plan would automatically include the corresponding deposit into the RSF. The current-year deposit amount would fluctuate with successive revisions to the financial plan but would ultimately be determined at the close of the fiscal year.

The City's budget process already provides the appropriate framework for withdrawals: the Mayor can present a budget modification at any time, but the updates to the budget and the

[14] See Preparing for the Next Fiscal Storm, and the November 2022 Economic Newsletter's Spotlight When Should the City Tap Its Rainy-Day Funds?
[15] See Chapter 56 of the Laws of New York, article 6, §92-CC.

four-year financial plan are usually in November, January, April, and June. Additionally, the Mayor can update the revenue forecast for the upcoming fiscal year in May and up until budget adoption.

The City also holds a $4.8 billion balance in the Retiree Health Benefit Trust (RHBT) to fund the long-term liability deriving from retiree health care benefits (also known as Other Post-Employment Benefits – OPEB) which amounted to $100.3 billion in FY 2023. Before the creation of RSF, the long-term balance of RHBT was used as a *de facto* rainy-day fund and it continues to be included by the OMB as a component of the City's reserves. To the extent that these funds are intended to be used for long-term reserves, the City should consider transferring the RHBT balance to the RSF, and then separately developing a plan to build up the RHBT to cover long-term OPEB liabilities.[16]

Recommended City Charter amendments. Amend Chapter 58, Section 1528 to require the adoption of a formula-driven policy to determine the City's rainy-day fund target size, deposits, and withdrawals. The Mayor, the City Comptroller, and the City Council should determine the parameters and features of the policy. Reporting on implementation should be required annually to the City Comptroller, the State Comptroller, the FCB, the City's Independent Budget Office, and the public. Further, the current language in Section 1528 stating that, "The city may maintain a revenue stabilization fund to serve as a year-to-year reserve account" should be changed to "The city shall maintain a revenue stabilization fund..."

Regular Efficiency Reviews and Long-Term Savings Initiatives

The FEA requires that the City's current fiscal year budget and, beginning with the Financial Plan in January, the subsequent fiscal year's budget, be balanced according to GAAP. Outyear budgets in the plan, however, are typically presented with gaps, meaning that expenditures exceed forecasted revenues. In times of fiscal pressure, including periods of recession or following unexpected growth in expenditure needs—and particularly where budget gaps are projected in the near-term—the City has implemented gap-closing programs.

Most often referred to as Programs to Eliminate the Gap (PEGs), these have often been short-term, ad-hoc exercises. Usually, OMB presents City agencies with a flat savings target—typically

[16] In a recent update to its rating opinion, Moody's Investor Services noted that drawing down the RHBT long-term balance to balance the budget may have negative repercussions on the City's rating. Transferring the RHBT long-term balance to RSF may be able to avoid such an outcome. Obviously, a transfer would increase the net OPEB liability, which itself may also be viewed unfavorably by rating agencies. Moody's language is analyzed in more detail in the March 2024 Economic Newsletter (City Finances section).

a share of its City-funded expenditures—shortly before a financial plan update is released. This leaves little time for an in-depth and transparent examination of costs or for long-term efficiency planning. In many cases, vacancy savings (i.e. unspent personnel and OTPS funds, as a result of vacant positions relative to budgeted headcount) are the primary form of savings identified, yielding the appearance of savings, without any actual adjustments.

Efficiency reviews and long-term savings initiatives should be made a recurring feature within the budget process to incentivize recurring savings, efficiency improvements, and new revenues (including grants). In addition, regular assessments should ascertain if savings and efficiencies are achieved. On the same timelines, agencies could propose new programs for consideration by OMB and City Hall, along with metrics for determining whether these programs were meeting their outcomes. Such an approach would better identify savings, while preserving and strengthening capacity to meet critical needs. The Office of the Comptroller proposes the following framework for long-term efficiency planning.

1. First, there must be systematic and regular reviews of the City's baseline budgets to realistically reflect spending and to recalibrate costs that have been chronically under or overbudgeted. As this Office has previously documented, the City has established a practice over multiple administrations of underbudgeting certain known costs when compared to actual expenditure trends. Resources are added to the budget to cover these costs during the ongoing fiscal year. Examples include uniformed overtime, homeless shelter costs, rental assistance, special Education Carter Cases, and others. Conversely, there are other areas where the City routinely overbudgets funds, using accumulated savings to close gaps. An example of this, particularly in recent years, are funds budgeted for the salaries for full-time employees. This allows for "paper savings" at the end of the fiscal year, without long-term efficiencies, like better staff management or attrition planning. In addition, agencies' authorized headcount plans (the number of positions an agency is allowed to hire up to for each fiscal year, updated in each financial plan) can at times become misaligned with funding in their personnel service budget. These authorized headcount plans should be reviewed and recalibrated as needed.

   While there likely is room for efficiency savings in all these areas, it is necessary first to accurately reflect actual costs, to allow for a transparent discussion about where genuine savings lie. This will also allow agencies to receive credit when they can implement real efficiencies or programmatic reforms that result in lower costs. This recalibration of baseline budgets should be based on recent, actual costs, along with current projections of cost drivers (for example, caseloads, work rules, etc.). While some agencies will see their outyear budgets at first increase, as more realistic estimates are adopted as part of this process, costs can then be meaningfully controlled as the review/efficiency planning process is implemented over time. These baseline budget reviews must become a regular part of each financial plan update, revising baseline costs as needs change.

2. After current baseline costs are reviewed and accurately reflected in the budget, the Office of Management and Budget must work together with agencies to set customized, multi-year efficiency savings targets, which should include the maximization of grant revenues where feasible. The targets could vary based on factors including, but not limited to, the share of an agency budget that is based on formula-driven costs, or how much of its budget are entitlements, two instances that limit agency discretion. Targets may vary by type of agency based on priorities—for example primarily service-delivery agencies may have lower targets than largely administrative agencies. Agencies should also be encouraged to work collaboratively, along with OMB, to review and consolidate duplicative programs, and to share best practices. This will allow agencies to together propose specific efficiency initiatives to meet their targets. Targets should, at least at first, grow over time, allowing agencies the opportunity to scale up savings that may take time. After initial targets are set, they should be reviewed and revised with every quarterly financial plan.

3. The policy must provide a reward/risk structure to incentivize agencies to implement efficiency plans and produce savings and to increase accountability. For example, agencies that achieve targets could retain some portion of the funds for new needs in their budget. Agencies that do not meet targets would be subject to increased approvals and oversight from OMB. This would help OMB to understand why efficiency plans cannot be met or to help formulate better target savings goals.

4. The implementation of efficiency programs must be transparent to both the City agencies and the public. The programs must have clear guidelines for how efficiency targets are set, as well as for what areas of spending, if any are excluded. In terms of monitoring, descriptions of proposed changes should include either programmatic or spending category detail. The City should limit the use of P-codes, potentially limiting the share of savings taken in these codes. P-codes are budget codes that act as holding codes for proposed savings that are not allocated to a specific program. For example, an agency may use a P-code to budget personnel cost savings due to attrition but not necessarily predict where exactly in the agency that attrition may happen, i.e. which budget code. While this is a pragmatic tool for budgeting, it obscures where savings are being taken and should not be used to hide potentially unpopular programmatic cuts or push difficult decisions to a later date. Lastly, progress toward efficiency program goals, by initiative, should be included in each of the City’s quarterly budget updates and subject to review by the City’s fiscal monitors.

On the same timelines, agencies could propose new programs for consideration by OMB and City Hall, along with metrics for determining whether these programs are meeting their outcomes.

5. Agencies should be held accountable for judgments and claims against the City. For the past decade, New York City has spent about $1 billion annually to resolve claims and lawsuits against the City. In FY 2023, such costs totaled $1.45 billion. These include the cost of claims due to injuries and damage from crashes of City-owned vehicles, slips and falls on City property, civil rights violations, wrongful convictions, and others detailed in the Comptroller's Offices' Annual Claims Report.

   Judgments and claims are generally paid out of a centrally budgeted reserve fund, so their fiscal impact is not directly felt by agencies responsible for them. As a result, incentives are misaligned: agencies do not internalize the cost of risky and avoidable behavior, nor do they have an incentive to reduce these behaviors because savings accrue centrally. The Comptroller's Office proposes transferring financial responsibility for paying certain settlements to agency budgets. The amount budgeted would be based on a trendline from the prior five years (with phase-in adjustments, since some claims take years to adjudicate). In this framework, agencies that reduce claims settlements below the budgeted amount would be able to apply a portion of the savings towards other needs, while agencies whose claims exceed their projections would be responsible for covering the additional cost from elsewhere in their budget or through an increase of savings targets, but without affecting service delivery or revenue-generating capabilities. Litigation and settlement authority would remain assigned to the Law Department and the Office of the Comptroller as currently (so the incentive for agencies would be to reduce claims, not simply to delay them by deferring settlements via litigation).

   Not all claims can be moved to agencies' budgets and the categories should be reviewed in detail to avoid unintended consequences and situations where the origin of the claim is not due to an agency's behavior. For instance, the *Gulino v. Board of Education* class action lawsuit originated from Department of Education's use of two New York State mandated teacher certification examinations and its cost may be too large to reasonably allocate to the agency (projected judgments amount to $1.35 billion, plus other damages). Another example is reversed convictions where it could take decades for a criminal court to vacate a wrongful conviction. In such instances, it would be unequitable to penalize the agency for unlawful actions taken often 10 to 40 years in the past by previous administrations.

   The City should pilot such a program beginning with motor vehicle crash claims, the costs of which have been rising in recent years. In FY 2023, settlements to resolve motor vehicle claims against the City cost $174 million, a 22 percent increase from the prior year. These include crashes that result in personal injuries and those that result in property damage. Currently, agencies do not have incentives to hold repeat reckless drivers accountable, or to implement technologies (e.g. speed delimiters) that would reduce crashes. To avoid adverse impacts on response times, emergency vehicles responding to an emergency should remain exempt.

Recommended City Charter amendments. To provide the institutional framework for the achievement of these goals, the Office of the Comptroller recommends the following amendments to the City Charter:

i. The budget process (Chapter 10) should be modified to include the formulation of annual efficiency reviews and long-term savings initiatives for City agencies. The Charter should mandate annual reporting to the City Council, the City Comptroller, and the City's other fiscal monitors on the implementation of the efficiency measures and savings initiatives, and allow fiscal oversight entities to access information that is necessary to provide independent assessments.
ii. The expense budget (Chapter 6) should be amended to require the creation within each agency's expense budget of a unit of appropriation for judgments and claims.

Debt Affordability and Debt Management

The amount of indebtedness that the City can incur to address its capital needs is set in the New York State Constitution, but State law is occasionally utilized to exclude certain portions of debt outstanding from the constitutional limit.[17] Within this framework, the City endeavors in its Debt Management Policy to "manage its debt issuances and Capital Commitment Plan" to maintain debt service as a share of City tax revenues below 15 percent.[18]

Despite the established 15 percent threshold, the City currently does not have a binding mechanism to implement measures in the event the benchmark is projected to be or is, in fact, breached. The Comptroller recommends amending the City Charter to establish into law the

[17] Most recently, the Education, Labor and Family Assistance (ELFA) State budget bill for SFY 2024-2025 (S8306-C/A8806-C, Part TT) increased the City's Transitional Finance Authority's exclusion of debt outstanding by $14 billion to provide room to satisfy the City's capital needs. This was the subject of an in-depth study published earlier this year. The estimate of the City's debt limit revolves on calculations by the Office of Real Property Tax Services (ORPTS) within the NYS Department of Taxation and Finance. The Office of the Comptroller showed that the calculations result in an underestimate of the City's debt limit. This results in the need from time to time to create debt facilities that are outside the debt limit or to exclude certain portions of debt outstanding from the limit.

[18] Debt service includes General Obligation, Transitional Finance Authority Future Tax Secured, and City-related subject-to-appropriation debt.

Capital Stabilization Reserve, which is already a budgeted expense in each year of the financial plan, and use it to avoid exceeding the 15 percent threshold.[19] The Comptroller's proposal for an implementation mechanism is as follows:

1. The Capital Stabilization Reserve should be included in each year of the financial plan in a minimum amount, not lower than the currently budgeted $250 million. This is consistent with current practice.
2. At the time of budget adoption, the Mayor should produce a 10-year forecast of debt service and tax revenues. Should the forecast indicate a breach of the 15 percent threshold within the financial plan period, the Mayor would not be able to draw down the current-year Capital Stabilization Reserve until the following Executive Budget.
3. The Mayor modifies the City's capital plan, debt service, and revenue assumptions as part of the November, Preliminary, and Executive budgets.
4. Should a breach be forecasted within the financial plan period at the time of the Executive Budget, the Mayor must use funds up to the available amount in the Capital Stabilization Reserve to defease, redeem, or otherwise retire GO, TFA FTS bonds, or conduit debt. The method and selection of bonds would be determined jointly by the Mayor and the Comptroller.

This approach has several advantages. First, it relies on an existing budgetary appropriation, without need to create separate funds. Second, it allows the City to flexibly address a potential breach of the 15 percent threshold through the budget cycle, and years in advance of it happening. Third, the adherence to the policy can be easily monitored. And lastly, it can be implemented by the Mayor and the Comptroller in the Debt Management Policy.

Recommended City Charter amendments. The City Charter Chapter 10, Section 258 should be amended to require that:

i. Debt service does not exceed 15 percent of City tax revenues in each year of the financial plan.
ii. The financial plan includes a Capital Stabilization Reserve in each year of the plan in a minimum amount to be indexed over time. This reserve is already included by the Mayor in each year of the financial plan as a matter of policy.
iii. The City deploys the Capital Stabilization Reserve to pre-pay debt service in any fiscal year within the financial plan period where debt service is projected to be above the 15 percent threshold.

[19] For the full analysis leading this this recommendation see the Office of the Comptroller's report titled How Much Is Enough?

Infrastructure Assessment, Capital Planning, and Budgeting

To address its substantial infrastructure needs, the City publishes a 10-year capital strategy projecting future commitments; the strategy for FY 2024-2033 is nearly $170 billion. However, the strategy currently does a poor job of establishing clear priorities for several reasons.

First, the City's Asset Inventory Management System (AIMS) is intended to provide an annual condition assessment of the City's capital infrastructure. Unfortunately, the AIMS report does not accurately identify the true costs of maintaining the structural integrity of the City's major infrastructure assets, as shown in an audit by the Office of the Comptroller.

Second, the Ten-Year Capital Strategy serves more as a list of agency-generated projects than a strategic set of priorities.

The City needs to modernize its capital planning and budgeting process to include better infrastructure assessments (including more effective use of technology) and a process for prioritizing long-term infrastructure investments based on clear criteria that address aging infrastructure, climate resiliency, criticality, and the cost of deferred maintenance.

As previously outlined by the Office of the Comptroller, the City should modernize its approach to infrastructure assessment, capital planning and budgeting to comply with Government Finance Officers Association (GFOA) and Municipal Finance Officers' Association (MFOA) best practices.

Recommended City Charter amendments. Chapter 49, Section 1110-a should be amended to:

i. Explicitly state that the purpose of the infrastructure assessment is to inform the 10-year capital strategy.
ii. Require the inventory to include pertinent details about the function, location, structural dependencies, estimated useful life, and most recent condition assessment of each asset.
iii. Require that each agency is responsible for conducting a realistic assessment of its capital assets based on a protocol developed by the Office of Management and Budget.
iv. Require the identification of the capital needs to be included in the next 10-year capital strategy based on considerations including: the level of deterioration (particularly any asset conditions that jeopardize public safety), the criticality of an asset to an agency function or mission, and federal and state requirements that may apply to certain types of assets.

v. Require a justification for the exclusion of recommended capital needs from the Capital Commitment Plan.

Mandate timeframes for each stage of the procurement and contracting process

Late registration and payment of contracts is a longstanding flaw within the City's financial management practices. The City annually procures more than $30 billion in goods and services, including over $12 billion in human services. The City's historically onerous and slow procurement process has created considerable contract registration delays that hinder vendors' ability to get paid on time. This problem particularly affects nonprofit organizations and minority- and women-owned businesses (MWBEs) who lack the working capital to cover delays.

In recent years, over three-quarters of the City's contracts with nonprofit organizations were registered after the contract start date, and the average contract was registered eight months late. As a result, many nonprofits are forced to take out loans and incur substantial costs to keep themselves afloat. Some vendors have chosen not to do business with the City at all, reducing options for quality services. In February 2022, Mayor Adams and Comptroller Lander released an Action Memo: A Better Contract for New York: A Joint Task Force to Get Nonprofits Paid On Time, identifying a series of steps to address contract retroactivity and get vendors paid timely.

Over the past two years, some of the steps proposed by the Joint Task Force have been taken. Many model City contracts have been adjusted to include an expanded work allowance or contingency, so that changes to the contract (e.g. cost of living adjustments, indirect cost rate increases, or change orders on construction projects) do not require a full re-registration process, saving many months. For the first time, many City Council discretionary awards — which comprise an outsize portion of nonprofit contract awards, relative to their size — have been made via multi-year contracts (subject to funding); while these contracts must go through the registration process in their first year, subsequent years will not require registration.

Unfortunately, as documented in the Comptroller's Annual Contracts Report, most recently released in January 2024, contract retroactivity has nonetheless continued to worsen.

The first recommendation set forth by the Joint Task Force in February 2022 was to establish timeframes for each stage of the procurement and contracting process in order to hold the City and vendors accountable for the timely registration of contracts and ensure that the City has the ability to pay its vendors timely. Currently, there are no mandated timeframes that govern the City's procurement process outside of the 30-day review period that is mandated by the City Comptroller's Office as set forth in the Charter.

Over two years later, the City has yet to implement this recommendation. Mandated time frames are necessary to hold contracting and oversight agencies accountable for each step of the procurement process.

Recommended City Charter amendments. Chapter 13, Section 311 of the City Charter should be amended to require that the Procurement Policy Board set prompt contracting timelines for each step of the procurement process, and report regularly on how well each contracting and oversight agency is complying with those timelines.

Making FEA provisions permanent and modernizing the FCB's fiscal monitoring functions

While many steps can be taken through City Charter amendment to strengthen the City's fiscal management, some critical steps will require changes to State law. To ensure that bondholder protections included in the FEA are not diminished, the following provisions should be either incorporated in the New York State Local Finance Law (with application only to New York City) or through stand-alone State legislation:

1. Section 8—The introductory paragraph and Subdivision 1.a. require the development and modification of a four-year financial plan inclusive of the City and its covered organizations, and requires that the city's expense budget be prepared and balanced so that the results would not show a deficit when reported in accordance with GAAP, with the exceptions currently specified in the FEA.
2. Section 8—Subdivision 1.d. sets standards of reasonableness for projections in the financial plan and cash flows.
3. Section 8—Subdivision 1.e. requires the general reserve in an amount no less than $100 million (to be appropriately updated) at the beginning of the fiscal year.
4. Section 8—Subdivision 4 sets forth requirements for the contents of the financial plan.
5. Section 8—Subdivision 6 requires the covered organizations to provide information to the City. The definition of covered organizations in Section 2 of FEA should also be maintained.
6. Section 9-a provides for the establishment and application of a general debt service fund and sets forth retention procedures for City real property tax, except for subdivision 3 which permits the retention schedule to be changed with the approval of the FCB and subdivision 4, which is no longer relevant.
7. Section 9-b imposes limitations on short-term borrowing.
8. Section 10-a. The City's Mayor and Comptroller should be given the authority to enter into agreements and make covenants modeled after those in subsection 10-a(3).

State law should maintain FCB's ability to act as a fiscal monitor (except for contract review), to provide, when warranted, temporary relief from GAAP changes, and conduct the annual certification of the five conditions that would have been necessary for the start of a control period. In addition, the FCB, City Comptroller, State Comptroller, and the City's Independent Budget Office should be required to conduct a joint annual review of:

1. The reasonableness of financial plan projections.
2. The attainment of Programs to Eliminate the Gap (PEGs) and savings plans.
3. Projections of the City's Constitutional debt limit, indebtedness, and debt service as a percentage of tax revenues.

Conclusions

The fiscal framework established by the FEA in 1975 set exemplary fiscal planning and budgeting practices that underpin the City's fiscal stability and have served New York City well over the past five decades.

Nearly fifty years later, several areas have emerged where financial management and practices should be strengthened and improved. The creation of a new charter revision commission with a focus, among others, on the task to "promote fiscal responsibility" provides an opportunity to create the institutional framework within which to achieve several key objectives:

1. Ensure that the City is able to accumulate sufficient reserves to use during economic recessions;
2. Achieve efficiencies and long-term savings to generate a budgetary cushion while avoiding cuts to vital services;
3. Maintain the affordability of the City's debt;
4. Conduct realistic assessments of the City's capital assets; and
5. Ensure timely registration and payment of City contracts.

These improvements to the City's financial management practices would strengthen the City's reserves, generate a budgetary cushion, potentially bolster the City's credit rating, better plan for the future, and expand the pool of vendors who can productively do business with the City.

None of those good outcomes, however, are the primary objective. Overall, these changes would allow the City to better deploy its sizable but still scarce resources — taxpayer dollars, federal and state funds, and other revenues — to most effectively meet the needs of all New Yorkers for a safer, thriving, healthy, well-educated, affordable, and well-managed city. That is the fiscal framework New York City deserves for the next fifty years.

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