

# 90  
E. 90

**EXECUTIVE ORDER NO. 90**

**ADMINISTRATION OF BUDGET APPROPRIATIONS**

Whereas, The New York City Charter empowers and charges the Mayor with the responsibility of administering the Expense and Revenue Budgets for the 1978 fiscal year.

Now, therefore, in order to carry out and provide for an effective administration of the fiscal year 1978 Expense and Revenue Budgets, consistent with the fiscal condition of the City and to insure conformity with the City's Financial Plan, it is hereby ordered as follows:

Section 1. The budget appropriations of all departments and agencies shall be administered during the fiscal year 1978 under the terms of this Executive Order.

Section 2. The term "Agency" as used in this Executive Order means any office, administration, department, division, board, bureau, commission, corporation, institution or other unit of government, the expenses of which are paid in whole or in part from the City Treasury.

Section 3. Schedules of the appropriations contained in the Mayor's Budget Message which accompanied the Executive Budget, as amended by the City Council and Board of Estimate in adopting the Expense Budget for the 1978 fiscal year are hereby approved.

Section 4. Under the Quarterly Allotment and Personnel Ceiling Control System, each of the following actions will be performed by each agency and approved by the Director of Management and Budget:

(a) Establish a quarterly allotment for obligations and expenditures, by units of appropriation and major object code.

(b) Establish a quarterly head count ceiling for full-time personnel by unit of appropriation. Part-time personnel will have only a dollar amount ceiling. Separate full-time personnel ceilings, and the related reporting of actual staffing will be established for Regular Employees, Uniformed Forces, and Pedagogical full-time employees.

(c) The number of agency separations and hires will be reported and monitored against plan, as will payroll expenditures including normal gross salary adjustments, overtime holiday pay, differentials, and termination payments.

(d) Agencies having lump sum budgets will have lump sum obligation and expenditure plans and allocations.

(e) Specified reserves not included in the quarterly spending allotments may be established and such reserves cannot be expended or obligated until released by the Director of Management and Budget.

(f) Each agency must review monthly variance expense/revenue reports within 5 working days of request from the Office of Management and Budget.

No agency shall expend any sum in excess of its quarterly spending allotments or exceed aggregate position and salary limits. The Director of Management and Budget shall have the power to suspend an agency's ability to modify its budget if it exceeds its quarterly allocation limits. Where agencies prove to be unable to control obligations and expenditures (except in mandated and uncontrollable activities) the Mayor may request that the Comptroller withhold payments and/or may direct the Director of Management and Budget to assume direct responsibility for the administration of the agency budget schedule. Each agency shall administer all funds appropriated or available for programs and purposes of the agency in accordance with quarterly allotment plans approved or modified by the Director of Management and Budget.

**Section 5. Budget Modifications**

(a) Subject to the quarterly spending allotments and aggregate positions and salary limits, and to conditional approvals of selected items (5(d) below) changes in schedules within units of appropriation may be made by the head of each agency. Any such changes shall be published in THE CITY RECORD and copies shall be forwarded to the Office of Management and Budget and the Comptroller.

(b) Where a modification increases or decreases any unit of appropriation, a copy shall be forwarded to the Director of Management and Budget for his approval. Where any such increases or decreases results in any unit of appropriation being increased or decreased by more than 5 per cent, the Director of Management and Budget shall notify the Board of Estimate and the Council of the proposed action. Within thirty days of such notice, either the Board of Estimate or the Council may disapprove the proposed action. Written notice of any transfer made pursuant to this sub-section shall be given to the Comptroller and shall be published in THE CITY RECORD not less than thirty days before the effective date of the transfer.

(c) The Revenue Budget may not be modified without approval of the Director of Management and Budget.

**(d) Schedule Modifications—**

The following modifications that change schedules in the units of appropriation are subject to "conditional approval" by the Director of Management and Budget:

1. Intra-City Purchases and Sales.
2. Schedules within Control Categories (e. g., CETA, Community Development, and LEAA Grants).
3. Scheduling of Lump Sums.
4. Fringe Benefits (pensions, HIP(s), FICA, Supplemental Employee Benefits and Workmen's Compensation).
5. Establishing a new Executive Pay Plan or Management Pay Plan positions.

**(e) Forms for Modification of the Budget**

With the exception of budget modifications noted in 5(d) above, changes in units of appropriation shall be entered on IFMS Budget modification forms and transmitted to the Financial Information Services Agency and to the Director of Management and Budget. Modifications noted in 5(d) above shall be submitted to the Director of Management and Budget, who, upon approval of such modifications, shall transmit them to the Financial Information Services Agency.

(f) In order to provide sufficient management capability for developing and monitoring the Quarterly Allotment and Personnel Ceiling Control System and the Management Plan and Report System the following information shall be submitted and certified only by the head of the agency on forms to be provided to all agencies by the Office of Management and Budget no later than 20 working days before the beginning of the month:

1. Planned hires.
2. Planned salary adjustments and promotions.
3. Planned purchases of office furniture and equipment.
4. Planned rental or purchase of data processing and copying machines.
5. All planned contracts for professional services.
6. All planned purchase of vehicles.
7. All planned out-of-state travel.
8. All planned leases of space.
9. Planned telephone purchases over \$100.

These proposed actions shall be consistent with applicable laws, rules, regulations and policies and shall take effect 20 working days after such information has been received by the Director of Management and Budget. Only such actions which have been submitted under this sub-section can take effect in the following month.

Section 6. All agencies shall be subject to the following general terms and conditions in the administration of budget appropriations:

(a) *Classification of Laborers*

The provisions of Interpretive Memorandum No. 6, issued by the City Director of Labor Relations and dated June 26, 1969 on Classification of Laborers, are to be fully complied with in filling vacant "A", "B", "C", "D", "E" positions of Laborer.

(b) *Salary Adjustments and Increment for Positions Covered by Career and Salary Plans*

Salary adjustments and increments are to be provided in accordance with the provisions of a resolution adopted by the Board of Estimate on June 23, 1955 (Cal. No. 498), as amended.

(c) *Salary Actions for Positions Under Collective Bargaining Agreements or Special Pay Plans*

Salary actions to be implemented in accordance with Collective Bargaining Agreements or Special Pay Plans, are to be provided in accordance with the provisions of the Personnel Orders, Implementing Personnel Orders, and Labor Relations Orders approved by the Mayor.

(d) *Skilled and Unskilled Labor*

1. The supporting schedules contained in the Mayor's fiscal year 1978 Budget Mes-

sage, contain provisions for the filling of certain positions only for a specific number of days. A payroll certificate shall be submitted in such form as the Comptroller may prescribe, establishing the fact that employees in such positions are working the required number of days, and the compensation of employees not working such number of days shall be reduced proportionately. It is not required to deduct compensation for absences due to vacation, sick leave, holidays, weather or other permissible cause.

2. No skilled laborer whose position is provided for in this budget at a prevailing rate and on a per diem basis shall be permitted to work in excess of five days in any one week, or two hundred and fifty days in one year, except in case of seasonal work or in an emergency, and then, only upon approval of the Mayor authorizing an increased number of days. The foregoing general provision shall be superseded by any special provision attached to any particular line or code in the Budget.

3. Where the number of days of employment is indicated, each day shall constitute such working hours as specified in the "Notes on Terms of Employment" in the Supporting Schedules contained in the 1978 Budget.

(e) *Snow and Ice Removal*

Funds are provided for this purpose in Department of Sanitation Units of Appropriation 107 and 108, and the Snow Budget shall be allocated only upon approval of the Mayor. Payment to all persons engaged in Snow and Ice Removal shall be made in accordance with the terms and conditions herein. All laborers, skilled mechanics and all other employees whose duties are appropriate, shall, upon request of the Commissioner of Sanitation, be required to work, consistent with their titles, in removing snow. If their compensation is fixed upon a per annum basis, no extra compensation shall be paid for the number of days worked upon which per annum compensation is based. If any such employee shall fail or refuse to work in removing snow, the individual's per annum compensation shall be reduced proportionately to the number of days during which the employee fails to work.

(f) *Maintenance Charges*

Incumbents receiving full or partial maintenance are to receive full compensation and increments in accordance with the Career and Salary Plan and other special pay plans approved by the Board of Estimate. Such employees are to reimburse the City of New York in accordance with the schedules of charges heretofore approved by the Board of Estimate on February 23, 1956 (Cal. No. 217), or any amendments thereto, in the following manner:

1. Charges shall be debited against the total compensation the incumbent is entitled to (inclusive of increments and other differentials), and shall be paid for by the incumbent from such total compensation received.

2. Administration for the collection of charges shall be the responsibility of the department or agency employing the incumbent, subject to audit by the Comptroller.

(g) *Payment of Overtime for City Employees*

Authorization to work overtime compensable in cash shall be evenly distributed, where practicable, within each agency or agency subdivision, among all those employees who are eligible to perform the overtime work required. No authorization shall be granted to an employee to work overtime compensable in cash in excess of 5% of the base salary received by the employee during the preceding 12 month period unless such authorization is signed by the agency head or deputy to whom the agency head has granted authorization power.

(h) *Limitations on Expenditures*

No liability is to be contracted for in excess of funds available for the purpose. The head of a department or other agency shall be held strictly accountable for exceeding appropriations without specific itemized approval of the Mayor. All unencumbered appropriations will lapse on June 30, 1978. The Department of General Services shall accept no requisitions encumbering appropriations after June 30, 1978, and, for purposes of efficient operations, may set an earlier date. Agencies shall neither order nor charge any appropriation not encumbered by June 30, 1978.

3.

(i) *Approval of Contracts*

1. All contracts and open market orders, except those of the Board of Education, for supplies, materials and equipment, chargeable to appropriations classified as "Other Than Personal Service," shall be based upon specifications which have been approved by the General Services Department in accordance with the New York City Charter. In the absence of such Standard or Tentative Standard Specifications for the particular supplies, materials or equipment required, contracts and open market orders shall be based upon specifications which are definite and certain and which permit competition, as required by the New York City Charter, or which comply with Section 12 of the regulations of the Board of Estimate adopted June 30, 1949 (Cal. No. 318-A), as amended.

2. The head of the agency awarding the contract shall, at the time the contract is transmitted to the Comptroller for registration, certify that such contract is based upon specifications which comply with the above provisions. All open market orders issued shall contain a certificate by the head of the agency issuing the orders that such order is based upon specifications which comply with the above provisions.

3. No contract subject to Mayoral approval and chargeable to this budget shall, after an award is made, be cancelled, nor shall any contract be modified in a manner materially affecting the substance thereof, unless such cancellation or such modification is approved by the Mayor or his duly authorized representative. This rule, however, shall not apply where the terms of the contract reserve to the head of an agency the right to void a contract for default or abandonment of the work by a contractor.

(j) *Approval of Contracts*

1. All contracts, in accordance with Section 343(a) of the New York City Charter, to be awarded without public letting, must be submitted to the Office of Management and Budget and approved by the Board of Estimate.

2. All consultant contracts to be awarded without competitive bidding shall, in accordance with Section 349 of the New York City Charter, be submitted to the Office of Management and Budget and approved by the Board of Estimate.

3. For expense budget contracts of \$100,000 or more, which require approval by the Emergency Financial Control Board, the definitions and procedures set forth in the memorandum issued by the Office of Management and Budget dated April 26, 1976 should be followed.

(k) *Purchase Jurisdiction*

Appropriations provided in this budget for supplies, materials and equipment which are payable from other than City funds shall be requisitioned through the Department of General Services. Agencies shall note purchase limitations which require purchase by the Department of General Services as indicated in the New York City Charter and operating rules of the Board of Estimate.

(l) *Authority for Petty Cash Expenditures*

Requests for permission to draw upon the Comptroller and the Finance Commissioner for requisition for such amounts as may be required to defray the cost of minor and incidental expenditures chargeable to appropriations included in the Budget for this fiscal year, may be made upon the Comptroller on vouchers filed by the agency for the amount required. Any agency authorized to procure supplies, materials, equipment, services and rentals must not exceed \$100 for each transaction. No one agency shall issue, nor may any one vendor receive from any one agency, a total of more than \$2,000 for purchases during one calendar month. Furthermore, purchases for one calendar quarter shall not exceed \$5,000 for any item, unless approved by the Board of Estimate.

(m) *Fees*

Appropriations to the various agencies for Witness Fees and Expenses, and Stenographer Fees (including minutes) shall be subject to administration by the Comptroller. In addition to the foregoing, the Comptroller is authorized to distribute the budget appropriations for Judgments and Claims.

(n) *Reports on Federal, State and Other Grants in Aid*

1. Grant or aid applications (Federal, State, Foundation or other source) shall not be submitted to the grantor agency without prior formal approval by the Director of Management and Budget. All agencies making such applications shall submit a "Request for Acceptance of Grant" form which will be provided by OMB. Such forms shall be submitted to the Office of Management and Budget, Capital, State and Federal Aid Monitoring Unit, Room 1019, Municipal Building.

2. A copy of the signed grant application, including related attachments, is to be furnished to OMB along with the Request for Acceptance of Grant form.

3. All applications for Federal grants or aid must include a provision for claiming indirect costs as provided by Federal Management Circular 74-4.

4. In addition, any agency making an application for a Federal, State, Foundation or other grant or aid source, receipt of which involves a commitment of City funds (for example, in the form of matching commitments of cash or personal services), shall submit a copy of such application to the Office of Management and Budget for its comments as to the availability of City funds before the application is filed with the grantor agency.

5. In addition, any agency having any grant awards or aid shall submit monthly reports on such grants or aid on forms which will be provided by the Office of Management and Budget in accordance with the instructions relating to such forms. Such reports should be submitted to the Office of Management and Budget no later than 5 working days after the end of each month.

Section 7. *Financial Plan*—The provision of this Executive Order are subject to any

applicable provisions of the New York State Financial Emergency Act for the City of New York, as amended, and any orders or regulations issued in pursuance thereof. The aforementioned Act requires that all liabilities, obligations, and disbursements of the City and covered organizations be in accordance with the Financial Plan approved by the Emergency Financial Control Board.

Section 8. Executive Order No. 24 dated December 9, 1974, "Vacancy Control Board" is hereby repealed.

Section 9. This Executive Order shall take effect immediately.