

EXECUTIVE ORDER No. 52

November 10, 2004

**TRANSFER OF FUNCTIONS WITH RESPECT TO THE
WNYE TELEVISION AND RADIO STATIONS AND ASSIGNMENT OF THE
LICENSES OF SUCH STATIONS**

WHEREAS, section 1072(p) of the Charter grants the New York City Department of Information Technology and Telecommunications (“DOITT”) the power to perform such responsibilities with respect to information technology and telecommunications as the Mayor shall direct;

WHEREAS, the WNYE television and radio stations are currently operated by the City School District of the City of New York (doing business as the “Board of Education of the City of New York” or the “New York City Department of Education” and hereafter referred to as “DOE”);

WHEREAS, DOITT operates NYC TV, providing programming on cable television educational and governmental channels;

WHEREAS, in an effort to enhance the quality of programming and to promote the effective coordination of telecommunications resources, DOE and DOITT intend to complete the assignment of the licenses for the WNYE radio and television stations from DOE to DOITT; and

WHEREAS, on October 26, 2004, the Federal Communications Commission granted its consent to such assignment, subject to its completion in accordance with such consent;

NOW, THEREFORE, by the power vested in me as Mayor of the City of New York, it is hereby ordered:

Section 1. Effective December 12, 2004, or as soon as practicable thereafter, the function of operating the WNYE television and radio stations and ancillary functions, including but not limited to staffing, program development, day-to-day operations and overall supervision and management, shall be transferred from DOE to DOITT.

§ 2. DOITT is hereby authorized to make arrangements for the assignment by DOE to DOITT of the licenses for the WNYE television and radio stations on December 12, 2004, or as soon as practicable thereafter, and to assume responsibilities with respect to such stations consistent with such assignment.

§ 3. To the extent practicable, prior to the date of the transfer of functions, DOE and DOITT may make appropriate arrangements, with the purpose of ensuring continuity in operating the WNYE television and radio stations, with respect to: (a) use by DOITT of DOE facilities and real and personal property in furtherance of this Order; (b) appropriate disposition of contracts and agreements entered into by DOE for the benefit of such stations; and (c) appropriate disposition of accounts receivable with respect to station operations.

§ 4. The Department of Citywide Administrative Services and DOITT shall take all steps necessary, consistent with applicable law, to implement this Order, including ensuring the transfer, pursuant to section 70(2) of the Civil Service Law, of employees substantially engaged in the performance of the functions to be assumed pursuant to this Order. Employees who are subject to pending disciplinary charges on the date of the functional transfer, or against whom a disciplinary penalty has been assessed but not yet served or paid on or prior to such date, shall be retained in the employment of DOE until the resolution of the adjudicative or administrative proceedings and until any outstanding disciplinary penalty has been served or paid.

§ 5. In accordance with applicable law, employees of DOE, upon becoming employees of the City, may elect to transfer their pension service credit from the Board of Education Retirement System (“BERS”) to the New York City Employees Retirement System or may elect to remain in BERS as transferred contributors.

§ 6. This Order shall be construed and implemented in a manner consistent with federal, state and local laws and regulations, including but not limited to the Federal Communications Act of 1934, as amended.

§ 7. The transfer of functions and the assignment of the WNYE radio and television station licenses authorized and directed by this Order shall be contingent upon the written concurrence of the Chancellor of DOE at least twenty days before the effective date of such transfers.

§ 8. This Order shall take effect immediately.

Michael R. Bloomberg
Mayor