



New York City Council

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**Hearing on the Mayor's Fiscal Year 2012 Preliminary Budget &
the Fiscal Year 2011 Preliminary Mayor's Management Report**

Department of Consumer Affairs

March 14, 2011

Committee on Consumer Affairs

Hon. Daniel Garodnick, Chair

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Summary and Highlights

Department of Consumer Affairs

Dollars in Thousands

	2009 Actual	2010 Actual	2011 Adopted	2011 Feb Plan	2012 Feb Plan	*Difference 2011 – 2012
Personal Services	\$15,800	\$16,128	\$16,004	\$18,211	\$17,192	\$1,188
Other than Personal Services	5,740	6,212	4,722	5,447	5,238	517
Table Total	\$21,540	\$22,340	\$20,725	\$23,658	\$22,430	\$1,704

*The difference of Fiscal 2011 Adopted compared to Fiscal 2012 February Plan funding.

The Department of Consumer Affairs' (DCA or the Department) Fiscal 2012 Preliminary Budget is \$22.43 million, of which \$19.89 million is funded by City tax levy. The overall operating budget for Fiscal 2012 has increased by \$1.7 million, or 8.2 percent, compared to the operating budget for Fiscal 2011 at Adoption last year. This increase is the result of \$568,000 in expenditure increases and re-estimates (New Needs) enacted by the Department, \$626,000 in Intra-City transfers for administrative services and fees (see page 8) and \$510,000 in increased State funding for Tobacco Youth Enforcement. (see page 10) The New Needs in DCA's Fiscal 2012 Preliminary Budget are described below.

- **Process Server Exam Fees:** DCA will spend \$8,000 in Fiscal 2011 and \$94,000 in Fiscal 2012 in exam fees to license process servers. Revenue generated by the process servers will offset the associated costs. (see page 7)
- **CAMIS Replacement Training Expense:** DCA will provide \$320,000 in Fiscal 2012 to train staff related to the implementation of a new licensing and permitting system that will replace the City Agencies Management Information System (CAMIS). (see page 7)
- **Extension of IT Positions:** DCA will provide \$230,000 in Fiscal 2012 for the extension of information technology (IT) positions for the Business Express/CAMIS replacement projects. (see page 7)

Included in the Fiscal 2012 Preliminary Budget is the following revenue PEG (Program to Eliminate the Gap). A revenue PEG allows an agency to reduce its City tax-levy budget in anticipation of additional revenue.

- **Sidewalk Café Consent Fees:** By instituting increasing filing and annual consent fees, DCA anticipates collecting an additional \$1.26 million in Fiscal 2011 and \$1.89 million in Fiscal 2012 from sidewalk cafés. (see page 8)

Department of Consumer Affairs

The Department of Consumer Affairs (DCA) ensures that New York City's consumers and businesses benefit from a fair and vibrant marketplace. DCA issues more than 73,000 licenses in 55 business categories and performs onsite inspections to ensure compliance with license regulations, weights and measures regulations, and the New York City Consumer Protection Law. DCA mediates and resolves individual consumer complaints, obtains restitution for consumers, and brings litigation and enforcement actions against repeat violators to halt deceptive advertising and trade practices. Through press releases and press conferences, public awareness campaigns, community outreach, public hearings, the 311 Customer Service Center, its website, and publications, DCA educates the public and businesses about their rights and responsibilities.

Additionally, through the Office of Financial Empowerment (OFE), a program of the Mayor's Center for Economic Opportunity (CEO), DCA engages in financial education, the development of fair financial products, and targeted consumer protection from predatory and deceptive practices for New Yorkers with low incomes. OFE conducts research to better understand the financial needs and available services for people with low incomes, maintains a network of financial education providers, offers a searchable directory of financial education services on its website, and coordinates and launches large-scale public awareness campaigns to help New Yorkers access benefits such as the Earned Income Tax Credit.

Key Public Services Areas

- Protect and empower consumers.
- Facilitate fair business practices.
- Ensure efficient, accountable, and customer-friendly operations.

Critical Objectives

- Expedite the resolution of consumer complaints.
- Ensure compliance with tobacco regulations to minimize sales to minors.
- Enforce compliance with license laws, consumer protection laws, and weights and measures laws.
- Minimize licensing center wait time and license processing time while maximizing customer service.

SOURCE: Mayor's Management Report

Department of Consumer Affairs Financial Summary
(Dollars in thousands)

	2009	2010	2011	2011	2012	*Difference
	Actual	Actual	Adopted	Feb Plan	Feb Plan	2011-2012
Budget by Program Area						
Administration	\$2,100	\$2,142	\$2,176	\$2,547	\$2,547	\$371
Licensing/Enforcement	11,692	11,876	11,525	13,361	12,342	817
Adjudication	2,008	2,110	2,303	2,303	2,303	0
Other than Personal Services	5,740	6,212	4,722	5,447	5,238	517
TOTAL	\$21,540	\$22,340	\$20,725	\$23,658	\$22,430	\$1,704
Funding						
City Funds	N/A	N/A	\$19,321	\$19,253	\$19,889	\$568
Intra-City	N/A	N/A	1,295	1,921	1,921	626
Other Categorical	N/A	N/A	0	50	0	0
State	N/A	N/A	109	2,434	619	510
TOTAL	N/A	N/A	\$20,725	\$23,658	\$22,430	\$1,704
Positions						
Fulltime Positions	248	248	274	293	296	22

**The difference of Fiscal 2011 Adopted compared to Fiscal 2012 February Plan funding.*

Headcount

The Department's headcount will increase by 22 full-time positions in Fiscal 2012. These positions include:

- 11 from the Department of Health and Mental Health (DOHMH) to process restaurant permits; (see page 8)
- Eight positions as a result of the increase in the New York State Department of Health Tobacco Enforcement grant; (see page 10) and
- Three additional IT positions to replace the Business Express/CAMIS program. (see page 7)

Revenue Budget

Department of Consumer Affairs Revenue and Expense Summary					
<i>(Dollars in thousands)</i>					
REVENUE	2009 Actual	2010 Actual	2011 Adopted	2012 Feb Plan	*Difference 2011-2012
Licenses and Franchises	\$16,103	\$19,250	\$15,235	\$15,658	\$423
Charges for Services	968	980	1,000	1,000	0
Fines	6,810	6,810	8,219	8,219	0
State Grants	179	3,281	2,434	619	(1,815)
Other Categorical	0	36	50	0	(50)
TOTAL	\$24,060	\$30,357	\$26,938	\$25,496	(\$1,442)
EXPENSE					
TOTAL	\$21,540	\$22,340	\$20,725	\$22,430	\$1,704

**The difference of Fiscal 2011 Adopted compared to Fiscal 2012 February Plan funding.*

DCA is a revenue-generating agency. Between Fiscal 2009 and Fiscal 2012, DCA generated, on average, \$26.7 million in revenue and had an expense budget of \$21.8 million, thus generating approximately \$5 million more in revenue than its expenditures. Approximately 63 percent of the revenue comes from licenses and franchises, which are predominantly from sidewalk cafes. The \$1.82 million decrease in State Grants is related to the New York State Department of Health Youth Tobacco Enforcement funding. The current contract will expire in September 2011. Upon its renewal, DCA should receive additional State funds to pay for the expenses to be incurred in Fiscal 2012 and additional revenues will then be recognized.

Contract Budget

The New York City Charter mandates the preparation of a Contract Budget to identify expenditures for contractual services, which are defined as any technical, consultant or personal service provided to the City by means of a contract. The Contract Budget is actually a subset of the Other Than Personal Services (OTPS) portion of the City's Expense Budget. The Administration prepares a Contract Budget twice each fiscal year. In January, it is prepared with the Departmental Estimates, and in late April it is submitted to the Council with the Executive Budget.

Category	Number of Contracts	2012 February	Percentage of DCA Total
Maintenance & Repair, General	2	\$2,640	0.01%
Office Equipment Maintenance	11	58,140	0.26%
Data Processing Equipment	1	1,800	0.01%
Printing Contracts	1	6,000	0.03%
Security Services	3	59,429	0.26%
Training Programs for City Employees	1	6,185	0.03%
Professional Services: Legal Services	1	3,000	0.01%
Professional Services: Computer Services	3	29,200	0.13%
Professional Services: Other	2	27,776	0.12%
TOTAL	25	\$194,170	0.87%

Program Areas

Administration

DCA's Administration program area includes spending for operations, staffing, budgeting, materials management, and other internal administrative services. It includes the Office of the Commissioner, Office of the General Counsel, Personnel, and Finance & Operations Divisions.

<i>Dollars in thousands</i>	2009 Actual	2010 Actual	2011 Adopted	2011 Feb Plan	2012 Feb Plan	*Difference 2011 – 2012
Spending						
Personal Services						
Full-Time Salaried – Civilian	\$1,966	\$1,887	\$2,107	\$2,478	\$2,478	\$371
Other Salaried and Unsalaries	63	182	38	38	38	0
Overtime - Civilian	40	54	5	5	5	0
P.S. Other	0	(1)	0	0	0	0
Additional Gross Pay	30	20	26	26	26	0
TOTAL	\$2,100	\$2,142	\$2,176	\$2,547	\$2,547	\$371
Funding						
City Funds	N/A	N/A	\$2,176	\$2,547	\$2,547	\$371
TOTAL	N/A	N/A	\$2,176	\$2,547	\$2,547	\$371

*The difference of Fiscal 2011 Adopted compared to Fiscal 2012 February Plan funding.

The Fiscal 2012 Preliminary Budget for DCA's Administration is \$371,000 more than the Fiscal 2011 Adopted Budget. This increase is related to the increase in headcount for the agency.

During the first four months of Fiscal 2011, DCA processed nearly half of the consumer complaints within 20 days. The percentage of complaints resolved to the satisfaction of both businesses and consumers is consistent at 53 to 55 percent in the first four months of Fiscal 2010 and 2011, while the number of docketed complaints in the first month of Fiscal 2011 decreased by roughly three percent compared in the same period in Fiscal 2010.

Performance Measures

	FY 08	FY 09	FY10	4-Month Actual FY 10	4-Month Actual FY 11
Complaint processing time-within 0-20 days	26%	44%	48%	50%	45%
-within 21-50 days	42%	51%	46%	45%	47%
-within 51-90 days	21%	5%	4%	4%	8%
Median complaint processing time (days)	35	23	21	21	23
Complaints resolved to the satisfaction of the business and consumer	57%	53%	55%	55%	53%
Total docketed complaints	6,877	5,488	4,704	1,705	1,653
-Home improvement contractor	957	715	585	226	236
-Debt collection agency	N/A	831	646	232	200

SOURCE: Preliminary Mayor's Management Report (PMMR)

Licensing/Enforcement

DCA's Licensing/Enforcement program area oversees the Department's licensing enforcement and consumer services operations. Tasks range from the issuance of licenses to the regulatory and statutory enforcement of 55 different license categories, including the certification of weighing and measuring devices and providing restitution to consumers through the mediation of complaints. This program area includes the following divisions: Licensing, Enforcement, Computer Services, Auditing & Accounting, and Legal & Consumer Services.

<i>Dollars in thousands</i>	2009 Actual	2010 Actual	2011 Adopted	2011 Feb Plan	2012 Feb Plan	*Difference 2011 – 2012
Spending						
Personal Services						
Full-Time Salaried – Civilian	\$9,313	\$9,471	\$10,399	\$11,288	\$11,000	\$601
Other Salaried and Unsalariated	1,368	1,550	809	1,329	919	110
Additional Gross Pay	255	289	215	270	228	13
Fringe Benefits	0	8	16	386	107	91
Overtime – Civilian	756	558	86	86	86	0
Amount to be Scheduled	0	0	0	2	2	2
TOTAL	\$11,692	\$11,876	\$11,525	\$13,361	\$12,342	\$817
Funding						
City Funds	N/A	N/A	10,425	9,980	10,210	(215)
State	N/A	N/A	82	1,737	487	406
Intra-City	N/A	N/A	1,018	1,644	1,644	626
TOTAL	N/A	N/A	\$11,525	\$13,361	\$12,342	\$817

*The difference of Fiscal 2011 Adopted compared to Fiscal 2012 February Plan funding.

There is an increase in the Licensing/Enforcement Program area of \$817,000 in the Fiscal 2012 Preliminary Budget when compared to the Fiscal 2011 Adopted Budget. This increase can be attributed to the following:

- **Process Server Exam Fees:** Pursuant to Administrative Code Int. 0006-2010-A, DCA will spend \$8,000 in Fiscal 2011 and \$94,000 in Fiscal 2012 in exam fees to license process servers. Funding will be for the implementation of testing fees, development of educational materials and regulation of process servers. Revenue will offset the associated costs. The exam fee is \$75, and DCA is estimating 500 licenses will be issued in Fiscal 2011 and 1,500 in Fiscal 2012.
- **CAMIS Replacement Training Expense:** DCA will provide \$320,000 in Fiscal 2012 to train staff for the implementation of a new licensing and permitting system, which will replace CAMIS. The CAMIS replacement program will provide better online services to businesses and consumers by enabling DCA to accept and process new and renewal license applications online and also expand online opportunities to pay fees and fines.
- **Extension of IT Positions:** DCA will provide \$230,000 in Fiscal 2012 for the extension of IT positions for the Business Express/CAMIS replacement projects.

The \$626,000 in Intra-City transfers in administrative services and fees reflects the funding for the 11 DOHMH license processing positions (\$550,000), plus an additional \$76,000 in technical adjustments. DOHMH will generate additional revenue from restaurant permits and will reimburse DCA \$550,000 for expenses related to processing the restaurant licenses.

Revenue PEGs

- **Sidewalk Café Consent Fees:** DCA will collect additional sidewalk café consent fee revenue of \$1.89 million in Fiscal 2012 and in the outyears due to the increase in filing and annual fees associated with sidewalk cafés.

According to the Preliminary Mayor's Management Report (PMMR), DCA collected 84 percent of fines within 45 days of assessment in Fiscal 2010, up from 77 percent from Fiscal 2008. The seven point increase is largely due to the standardization and streamlining of the Department's collection procedures.

Performance Measures

	FY 08	FY 09	FY 10	Target Updated FY 11	Target FY 11
License law compliance rate	88%	89%	90%	82%	93%
Consumer Protection Law refund and receipt compliance rate	90%	94%	93%	90%	92%
Weights & Measures Law compliance rates-gasoline pumps	98%	98%	97%	98%	96%
-Fuel trucks	73%	80%	82%	80%	69%
Inspected stores complying with tobacco regulations	86%	88%	87%	86%	90%
Compliance on a follow-up inspection after a previous tobacco violation	89%	89%	88%	85%	84%
Licensing Center wait time (minutes)	13	18	14	15	10
Basic license application-average processing time (days)	5	3	4	*	5
Fines collected within 45 days of assessment	77%	80%	82%	75%	84%
Current number of legally operating sidewalk cafes	871	956	1,126	*	1,059
Current number of licensed home improvement contractors	11,095	12,620	12,626	*	13,109

SOURCE: Preliminary Mayor's Management Report (PMMR)

Adjudication

DCA's Adjudication program area conducts hearings, levies fines, and collects penalties resulting from violations of laws and regulations over which the Department has jurisdiction.

<i>Dollars in thousands</i>	2009 Actual	2010 Actual	2011 Adopted	2011 Feb Plan	2012 Feb Plan	*Difference 2011 – 2012
Spending						
Personal Services						
Other Than Personal Services	\$1,781	\$1,925	\$2,155	\$2,155	\$2,155	\$0
Contractual Services	0	0	70	70	70	0
Other Than Personal Services	117	64	36	36	36	0
Contractual Services	110	120	42	42	42	0
TOTAL	\$2,008	\$2,110	\$2,303	\$2,303	\$2,303	\$0
Funding						
City Funds	N/A	N/A	\$2,303	\$2,303	\$2,303	\$0
TOTAL	N/A	N/A	\$2,303	\$2,303	\$2,303	\$0

**The difference of Fiscal 2011 Adopted compared to Fiscal 2012 February Plan funding.*

Performance Measures

	FY 08	FY 09	FY 10	Target Updated FY 10	4-Month Actual FY 11
Restitution awarded (000's)	\$8,367	\$9,858	\$11,728	\$4,500	\$2,433
Settlements by Legal Division-Total settlement amount (000's)	\$5,266	\$4,192	\$4,625	*	\$2,038

SOURCE: Preliminary Mayor's Management Report (PMMR)

Other than Personal Services (OTPS)

DCA's OTPS program area is for the purchasing of supplies, materials and other services required to support the Department's operations.

<i>Dollars in thousands</i>	2009 Actual	2010 Actual	2011 Adopted	2011 Feb Plan	2012 Feb Plan	*Difference 2011 – 2012
Spending						
Other Than Personal Services						
Supplies and Materials	\$630	\$783	\$618	\$881	\$618	\$0
Property and Equipment	65	31	101	55	101	0
Other Services and Charges	4,847	5,006	3,808	4,254	4,325	517
Contractual Services	176	391	194	255	194	0
Fixed and Misc. Charges	21	1	1	1	1	0
TOTAL	\$5,740	\$6,212	\$4,722	\$5,447	\$5,238	\$517
Funding						
City Funds	N/A	N/A	\$4,417	\$4,423	\$4,829	\$412
State	N/A	N/A	27	697	132	105
Intra City	N/A	N/A	277	277	277	0
Other Categorical	N/A	N/A	0	50	0	0
TOTAL	N/A	N/A	\$4,722	\$5,447	\$5,238	\$517

**The difference of Fiscal 2011 Adopted compared to Fiscal 2012 February Plan funding.*

The Department's OTPS budget increases by \$517,000 in the Fiscal 2012 Preliminary Budget when compared to the Fiscal 2011 Adopted Budget. This is primarily the result of the New York State Department of Health funding increase for Tobacco Youth Enforcement. With this funding, DCA will perform the following:

- Maintain an up-to-date inventory for registered and unregistered tobacco dealers;
- Complete at least one compliance check with a minor;
- Verify that all tobacco retail dealers and vendors are registered with the New York State Department of Taxation and Finance, post required signage, and display and store tobacco and herbal cigarettes in a locked container or behind the counter;
- Verify that vending machines are supervised; and
- Report tobacco dealers and vendors without a valid registration and take the appropriate enforcement action against dealers found in violation, etc.

Appendix A: Budget Actions in the November and February Plans

<i>Dollars in thousands</i>	FY 2011			FY 2012		
	City	Non-City	Total	City	Non-City	Total
Agency Budget as of June 2010 Plan	\$19,321	\$1,405	\$20,726	\$19,321	\$2,540	\$21,861
Program to Eliminate the Gap (PEGs)						
Sidewalk Café Consent Fees	(\$1,258)	\$0	(\$1,258)	(\$1,890)	\$0	(\$1,890)
Total PEGs	(\$1,258)	\$0	(\$1,258)	(\$1,890)	\$0	(\$1,890)
Less PEG Program Reflected in Revenue Budget						
Sidewalk Café Consent Fees	\$1,258	\$0	\$1,258	\$1,890	\$0	\$1,890
Total Less PEG Program Reflected in Revenue Budget	\$1,258	\$0	\$1,258	\$1,890	\$0	\$1,890
New Needs						
CAMIS Replacement Training Expense	\$0	\$0	\$0	\$320	\$0	\$320
Extension of IT Positions	0	0	0	230	0	230
Process Server Exam Fees	\$8	\$0	8	\$94	\$0	94
Total New Needs	\$8	\$0	8	\$644	\$0	\$644
Other Adjustments						
Intra-City Technical Adjustment	(\$76)	\$0	(\$76)	(\$76)	\$0	(\$76)
Total Other Adjustments	(\$76)	\$0	(\$76)	(\$76)	\$0	(\$76)
Agency Budget as of February 2011 Plan	\$19,253	\$1,405	\$20,658	\$19,889	\$2,540	\$22,429