

THE COUNCIL OF THE CITY OF NEW YORK

Speaker of the Council
Christine C. Quinn



Hon. Daniel Garodnick, Chair, Consumer Affairs Committee

Hearing on the Mayor's Fiscal 2013 Preliminary Budget & the Fiscal 2012 Preliminary Mayor's Management Report

Department of Consumer Affairs

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Agency Overview

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.

This report provides a review of DCA's Preliminary Budget for Fiscal 2013. In the first section, the highlights of the Fiscal 2013 expense budget are presented. The report then presents the Department's Financial Summary, Revenue Budget, budget by Program Areas, and reviews relevant sections of the Preliminary Mayor's Management Report for Fiscal 2012. Finally, the appendices highlight the Budget Actions in the November and February Plans, the Contract Budget, and the reconciliation of Program Areas to Units of Appropriation.

Fiscal 2013 Preliminary Plan Highlights

<i>Dollars in Thousands</i>	2011 Actual	2012 Adopted	2012 Feb. Plan	2013 Feb. Plan	*Difference 2012 - 2013
Personal Services	\$16,305	\$19,788	\$20,434	\$17,547	(\$2,241)
Other Than Personal Services	5,514	8,471	10,009	8,010	(461)
Agency Total	\$21,819	\$28,258	\$30,442	\$25,557	(\$2,701)

**The difference of Fiscal 2012 Adopted compared to Fiscal 2013 February Plan funding.*

DCA's Fiscal 2013 Preliminary Budget reflects a \$2.7 million, or 9.6 percent, decrease when compared to the Fiscal 2012 Adopted Budget. This decrease is mainly attributable to the Fiscal 2012 State Funds, which are not reflected in the Fiscal 2013 Preliminary Budget (see page 2).

There is a technical adjustment of 37 positions between the Fiscal 2012 Adopted Budget and the Fiscal 2013 Preliminary Budget for DCA (see page 2).

DCA also has \$1.69 million in Fiscal 2013 and \$1.74 million in Fiscal 2014 in Revenue PEGs (Program to Eliminate the Gap), which allow an agency to reduce its City tax-levy budget in anticipation of additional revenue (see pages 3-4).

Department of Consumer Affairs Financial Summary

<i>Dollars in Thousands</i>	2011 Actual	2012 Adopted	2012 Feb. Plan	2013 Feb. Plan	*Difference 2012 - 2013
Budget by Program Area					
Adjudication	\$1,991	\$2,905	\$2,905	\$2,905	\$0
Administration	2,482	2,547	2,547	2,547	0
Licensing/Enforcement	11,832	14,336	14,982	12,095	(2,241)
Other Than Personal Services	5,514	8,471	10,009	8,010	(461)
TOTAL	\$21,819	\$28,258	\$30,442	\$25,557	(\$2,701)
Funding					
City Funds	N/A	\$25,718	\$25,942	\$23,527	(\$2,191)
Other Categorical	N/A	0	50	0	0
State	N/A	619	2,431	109	(510)
Intra City	N/A	1,921	2,019	1,921	0
TOTAL	N/A	\$28,258	\$30,442	\$25,557	(\$2,701)
Positions					
TOTAL	245	344	355	307	(37)

**The difference of Fiscal 2012 Adopted compared to Fiscal 2013 February Plan funding.*

DCA's Fiscal 2013 Preliminary Budget reflects a \$2.7 million, or 9.6 percent, decrease when compared to the Fiscal 2012 Adopted Budget. Roughly 67 percent of this decrease is the result of the \$1.81 million in Fiscal 2012 State Funding adjustments, including \$1.46 million in State Funds for tobacco prevention, \$330,000 in State cost of living adjustments (COLA), and \$75,000 in State Technical Grant. The remaining funding decrease is attributed to Other Adjustments including \$270,000 in Fiscal 2012 and \$540,000 in Fiscal 2013 in Lease Adjustment and \$97,000 in Fiscal 2012 for DCA-YMI (Young Men's Initiative) Campaign (see Appendix A).

There is a technical adjustment of 37 positions between the Fiscal 2012 Adopted Budget and the Fiscal 2013 Preliminary Budget for DCA as a result of the following: 26 positions from the Business Acceleration Initiative and 11 positions from the Fiscal 2012 State funded Youth Tobacco Enforcement program. These positions are not baselined, and, are, therefore, not reflected in the Fiscal 2013 Preliminary Budget.

Revenue Budget

Revenue and Expense Summary						
REVENUE (Dollars in thousands)	2009 Actual	2010 Actual	2011 Adopted	2012 Adopted	2013 Prelim	*Difference 2012-2013
Licenses and Franchises	\$16,103	\$19,250	\$15,235	\$14,897	\$14,945	\$48
Charges for Services	968	980	1,000	1,094	1,166	72
Fines	6,810	6,810	8,219	10,246	11,137	891
State Grants	179	3,281	2,434	619	109	(510)
Other Categorical	0	36	50	50	215	165
TOTAL	\$24,060	\$30,357	\$26,938	\$26,906	\$27,572	\$666
EXPENSE						
TOTAL	\$21,540	\$22,340	\$20,725	\$28,258	\$25,557	(\$2,701)

**The difference of Fiscal 2012 Adopted compared to Fiscal 2013 February Plan funding.*

DCA is a revenue-generating agency. Between Fiscal 2009 and Fiscal 2012, DCA generated, on average, \$27.17 million in revenue and had an expense budget of \$18.57 million, thus generating \$3.1 million more in revenue than its expenditures. Approximately 60 percent of the revenue comes from licenses and franchises, which are predominantly from sidewalk cafes. Roughly 30 percent of the revenue comes from DCA fines.

Also included in the Fiscal 2013 Preliminary Budget is the following Revenue PEGs (Program to Eliminate the Gap), which totals \$1.69 million in Fiscal 2013 and \$1.74 million in Fiscal 2014. A Revenue PEG allows an agency to reduce its City tax-levy budget in anticipation of additional revenue.

- **Consumer Protection Late Fees:** DCA will collect an additional \$165,000 in Fiscal 2013 by implementing late fees for businesses that do not pay their fines and scale fees on time. New fines will be \$50 for fees not paid between 1-30 days and \$100 for greater than 30 days.
- **Home Improvement Contractor Trust Fund:** DCA will collect an additional \$323,000 in Fiscal 2013 by modifying its procedures for the drawdown of funds from the Home Improvement Contractor Trust Fund. If a home contractor does not perform the contract or the work is unsatisfactory, the homeowner can go to DCA for arbitration and negotiate a settlement/restitution.
- **Home Improvement Salesperson Exam Fees:** DCA will collect an additional \$115,000 in Fiscal 2013 by implementing a \$50 fee for the Home Improvement Salesperson exam.
- **Establish Tow Truck Fees:** DCA will collect an additional \$43,000 in Fiscal 2013 by implementing fees for tow truck inspections and for towing companies that participate in the Direct Accident Response Program (DARP), which is a program that allows tow trucks to impound cars and trucks. Tow truck inspections fee is \$50 and the DARP is \$300.
- **Additional Consumer Affairs Fine Revenue:** DCA will generate greater than anticipated consumer protection fine revenue, totaling \$568,000 in Fiscal 2013, due to an increase in collection rates.

- **Expand Laundry License Universe:** DCA will collect an additional \$471,000 in Fiscal 2013 by expanding the laundry license. As proposed by the Mayor's Regulatory Review Panel, DCA will combine the existing Laundry and Laundry Jobber licenses, and clarify the DCA rules that prevent some dry cleaners from being covered by the law. This would require Council vote for the combined Laundry and Laundry Jobbers licenses and for dry cleaners to be covered by law.

Program Areas

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>	2011 Actual	2012 Adopted	2012 Feb. Plan	2013 Feb. Plan	*Difference 2012 - 2013
Spending					
Full-Time Salaried - Civilian	\$9,625	\$12,994	\$13,379	\$10,967	(\$2,027)
Other Salaried and Unsalariated	1,599	919	919	809	(110)
Additional Gross Pay	315	228	239	215	(13)
Fringe Benefits	0	107	356	16	(91)
Overtime - Civilian	293	86	86	86	0
Amounts to be Scheduled	0	2	2	2	0
TOTAL	\$11,832	\$14,336	\$14,982	\$12,095	(\$2,241)
Funding					
City Funds	N/A	\$12,304	\$12,154	\$10,469	(\$1,835)
State	N/A	487	1,284	82	(406)
Intra-City	N/A	1,544	1,544	1,544	0
TOTAL	N/A	\$14,336	\$14,982	\$12,095	(\$2,241)

*The difference of Fiscal 2012 Adopted compared to Fiscal 2013 February Plan Funding.

There is a decrease of \$2.24 million in the Licensing/Enforcement Program Area in Fiscal 2013 Preliminary Budget when compared to the Fiscal 2012 Adopted Budget. This decrease is mainly attributable to the \$1.81 million in Fiscal 2012 State funding adjustments, including \$1.46 million in State Funds for tobacco prevention, \$330,000 in State cost of living adjustments (COLA), and \$75,000 in State Technical Grant (see Appendix A).

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>	2011 Actual	2012 Adopted	2012 Feb. Plan	2013 Feb. Plan	*Difference 2012 - 2013
Spending					
Supplies and Materials	\$843	\$888	\$866	\$683	(\$205)
Property and Equipment	69	101	447	130	29
Other Services and Charges	4,284	6,946	7,925	6,662	(284)
Contractual Services	318	534	771	534	0
Fixed and Misc. Charges	1	1	1	1	0
TOTAL	\$5,514	\$8,471	\$10,009	\$8,010	(\$461)
Funding					
City Funds	N/A	\$7,962	\$8,337	\$7,606	(\$356)
Administrative Services/ Fees	N/A	375	375	375	0
Other Services/ Fees	N/A	2	99	2	0
Malvese Equipment Co, Inc.	N/A	0	50	0	0
Gasoline Inspections	N/A	27	27	27	0
Local Government Records Management	N/A	0	75	0	0
Tobacco Youth Enforcement	N/A	105	1,045	0	(105)
TOTAL	N/A	\$8,471	\$10,009	\$8,010	(\$461)

**The difference of Fiscal 2012 Adopted compared to Fiscal 2013 February Plan Funding.*

There is a decrease of \$461,000 in the OTPS program area in Fiscal 2013 Preliminary Budget when compared to the Fiscal 2012 Adopted Budget, which is attributable to the OTPS portion of the Fiscal 2012 State Funded tobacco prevention.

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>	2011 Actual	2012 Adopted	2012 Feb. Plan	2013 Feb. Plan	*Difference 2012 - 2013
Spending					
Full-Time Salaried - Civilian	\$2,139	\$2,478	\$2,478	\$2,478	\$0
Other Salaried and Unsalariied	246	38	38	38	0
Overtime - Civilian	55	5	5	5	0
P.S. Other	1	0	0	0	0
Additional Gross Pay	40	26	26	26	0
TOTAL	\$2,482	\$2,547	\$2,547	\$2,547	\$0
Funding					
City Funds	N/A	\$2,547	\$2,547	\$2,547	\$0
TOTAL	\$0	\$2,547	\$2,547	\$2,547	\$0

**The difference of Fiscal 2012 Adopted compared to Fiscal 2013 February Plan Funding.*

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>	2011 Actual	2012 Adopted	2012 Feb. Plan	2013 Feb. Plan	*Difference 2012 - 2013
Spending					
Full-Time Salaried - Civilian	\$1,795	\$2,757	\$2,757	\$2,757	\$0
Other Salaried and Unsalariated	0	70	70	70	0
Overtime - Civilian	77	36	36	36	0
Additional Gross Pay	118	42	42	42	0
TOTAL	\$1,991	\$2,905	\$2,905	\$2,905	\$0
Funding					
City Funds	N/A	\$2,905	\$2,905	\$2,905	\$0
TOTAL	N/A	\$2,905	\$2,905	\$2,905	\$0

**The difference of Fiscal 2012 Adopted compared to Fiscal 2013 February Plan Funding.*

Fiscal 2012 Mayor’s Management Report Performance Measures

During the first four months of Fiscal 2012, DCA processed nearly 70 percent of the consumer complaints within 20 days. The percentage of complaints resolved to the satisfaction of both businesses and consumers is consistent at 55 percent between Fiscal 2009 and 2011, while the number of docketed complaints during the same fiscal years has been roughly 4,900 complaints.

Administration

	FY 09	FY10	FY 11	4-Month Actual FY 12	Target FY 13
Complaint processing time-within 0-20 days	44%	48%	64%	69%	40%
-within 21-50 days	51%	46%	32%	31%	50%
-within 51-90 days	5%	4%	3%	0%	5%
Median complaint processing time (days)	23	21	15	15	*
Complaints resolved to the satisfaction of the business and consumer	53%	55%	56%	54%	55%
Total docketed complaints	5,488	4,704	4,580	1,675	*
-Home improvement contractor	715	585	592	282	*
-Debt collection agency	831	646	627	182	*

SOURCE: Preliminary Mayor’s Management Report (PMMR)

Between Fiscal 2009 and 2011, License Law Compliance Rate has remained steady at 90 percent, which is above the DCA’s Fiscal 2013 Target of 87 percent. During the same time period, Consumer Protection Law Refund and Receipt Compliance Rate is 93 percent, well above DCA’s Fiscal 2013 Target of 90 percent.

Licensing/Enforcement

	FY 09	FY 10	FY 11	4-Month Actual FY 12	Target FY 13
License law compliance rate	89%	90%	92%	88%	87%
Consumer Protection Law refund and receipt compliance rate	94%	93%	91%	91%	90%
Weights & Measures Law compliance rates-gasoline pumps	98%	97%	96%	95%	98%
-Fuel trucks	80%	82%	70%	72%	80%
Inspected stores complying with tobacco regulations	88%	87%	90%	87%	86%
Compliance on a follow-up inspection after a previous tobacco violation	89%	88%	86%	82%	85%
Licensing Center wait time (minutes)	18	14	11	15	15
Basic license application-average processing time (days)	3	4	3	4	*
Fines collected within 45 days of assessment	80%	82%	84%	81%	75%
Current number of legally operating sidewalk cafes	956	1,126	1,163	1,091	*
Current number of licensed home improvement contractors	12,620	12,626	13,958	11,299	*

SOURCE: Preliminary Mayor's Management Report (PMMR)

In Fiscal 2011 DCA collected 84 percent of fines within 45 days of assessment, up from 80 percent from Fiscal 2009. The increase is largely due to the standardization and streamlining of the Department's collection procedures. The number of legally operating sidewalk cafes continues to grow, up by 22 percent when comparing Fiscal 2011 with Fiscal 2009, thus creating greater revenues for DCA. Finally, despite the current housing market conditions, the number of current licensed home improvement contractors continues to grow, up by 11 percent in Fiscal 2011 from Fiscal 2009.

Appendix A: Budget Actions in the November and February Plans

<i>Dollars in Thousands</i>	FY 2012			FY 2013		
	City	Non-City	Total	City	Non-City	Total
Agency Budget as of June 2011 Plan	\$25,718	\$2,540	\$28,258	\$22,987	\$2,030	\$25,017
Revenue Program to Eliminate the Gap (Revenue PEGs)						
Consumer Protection Late Fees	(\$116)	0	(\$116)	(\$165)	0	(\$165)
Home Improvement Contractor Trust Fund	(323)	0	(323)	(323)	0	(323)
New Business Acceleration Track (BAT) OTPS Savings	(45)	0	(45)	0	0	0
Home Improvement Salesperson Exam Fees	(56)	0	(56)	(115)	0	(115)
Establish Tow Truck Fees	(101)	0	(101)	(43)	0	(43)
Additional Consumer Affairs Fine Revenue	0	0	0	(568)	0	(568)
Expand Laundry License Universe	0	0	0	(471)	0	(471)
TOTAL Revenue PEGs	(\$641)	\$0	(\$641)	(\$1,685)	\$0	(\$1,685)
Less PEG Program Reflected in Revenue Budget						
	\$596	\$0	\$596	\$1,685	\$0	\$1,685
TOTAL Less PEG Program Reflected in Revenue Budget	\$596	\$0	\$596	\$1,685	\$0	\$1,685
Other Adjustments						
Tobacco Roll	\$0	\$286	\$286	\$0	\$0	\$0
Additional Tobacco Roll	0	62	62	0	0	0
Tobacco Year 2014 extension	0	938	938	0	0	0
Technical Grant Fiscal 2012	0	75	75	0	0	0
FY12 COLA Money	0	163	163	0	0	0
COLA check for Year 2014	0	167	167	0	0	0
OTPS roll	0	170	170	0	0	0
Lease Adjustments	270	0	270	540	0	540
DCA-YMI Campaign	0	97	97	0	0	0
TOTAL Other Adjustments	\$270	\$1,959	\$2,229	\$540	\$0	\$540
TOTAL All Changes	\$225	\$1,959	\$2,184	\$540	\$0	\$540
Agency Budget as of February 2012 Plan	\$25,943	\$4,499	\$30,442	\$23,527	\$2,030	\$25,557

Appendix B: 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	Budgeted	Percentage of DCA Total
Contract Services General	1	\$97,000	18.16%
Maintenance & Repair, General	2	2,640	0.49%
Office Equipment Maintenance	11	58,140	10.88%
Data Processing Equipment	1	1,800	0.34%
Printing Contracts	1	6,000	1.12%
Security Services	3	59,429	11.13%
Training Programs for City Employees	1	271,185	50.77%
Professional Services: Legal Services	1	3,000	0.56%
Professional Services: Computer Services	3	7,200	1.35%
Professional Services: Other	2	27,776	5.20%
Preliminary Budget	26	\$534,170	100.00%

Appendix C: Reconciliation of Program Areas to Units of Appropriation

<i>Dollars in Thousands</i>	Personal Services			Other Than Personal Services	Grand Total
	001	002	004	003	
Administration	\$2,547				\$2,547
Licensing/Enforcement		12,095			12,095
Other Than Personal Services				8,010	8,010
Adjudication			2,905		2,905
Grand Total	\$2,547	\$12,095	\$2,905	\$8,010	\$25,557