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Dear Chair Benjamin:

Thank you for asking IBO to comment on suggested changes to the City Charter that the Commission has received thus far. We have had a chance to review the proposals put forward by the Commission, the City Council, the Comptroller and others. We hope our comments on these proposals will be helpful to the commissioners as they go through the process of narrowing down and then fully developing specific amendments to the city's Charter to be placed on the ballot for the city's voters to consider in November.

At the outset, we should make clear that IBO as an institution relies on the availability of information on the city's budget and fiscal condition and the operations of city agencies in order to fulfill our Charter mandate of providing non-partisan information to the city's elected officials and citizens. Our ability to meet this mandate is directly related to both access to information and also the quality of the data available. As our mission makes us especially sensitive to transparency issues, we are in favor of any change to the Charter that will improve the openness of the city's budget. Transparency and accountability would also be enhanced by increasing IBO's and other oversight agencies' access to information from city-affiliated entities, such as the New York City Housing Authority, New York City Transit, the Economic Development Corporation, and Health + Hospitals.

Although the Charter provision allowing IBO access to budget information is strongly worded, it does not explicitly extend to these city-affiliated entities. As a result, our ability to get information from organizations that fall into this category is limited. One exception to this limitation is IBO's access to information from the Department of Education (DOE). The authority to access DOE data and other information was granted by the 2009 state law extending Mayoral control of the school system. As a result of this law, IBO has the ability to analyze and report on a broad scope of education funding and programs. The Commission could consider whether broader information access authority for some of the other city-affiliated entities could be granted through changes to the Charter. You have heard testimony from elected officials, including Council Member Kallos, regarding the need for increased oversight of these agencies—IBO is clearly not the only governmental institution that would benefit from more information from this group of organizations. We would encourage you to keep this in mind as you look to make changes to the Charter that improve the ability of elected officials and the public to fully assess the city's budget and fiscal condition.

In light of our support for any Charter amendment that improves the transparency of the city's budget and budget process, we will focus our comments here on a handful of proposals that have been put forward by the Council's Committee on Governmental Operations, individual Council Members, the Comptroller's Office and others that we believe would do the most to improve opportunities for oversight and increase accountability.

Unit of Appropriation Structure

As the Commission, the Comptroller, and others have noted, the Charter provision governing the unit of appropriation structure for the city's budget calls for far more clarity about the city's funding choices than is actually provided in practice. Units of appropriation often do not represent the funding for a "particular program," as the Charter requires. As the budget is presented and administered, funding for many programs is often contained in a single unit of appropriation, while at other times components of a program are spread among many different units of appropriation. In either case, analysis and oversight of spending is more difficult. A possible solution to this would be to expand use of OMB's Budget Function Analysis, an alternative presentation of the operating budget that provides a more programmatic view of the budgets of selected agencies. This would require extending the Budget Function Analysis to cover all agencies and linking it to budget administration. In short, budget appropriations need to be tied to distinct programs, whether by aligning the units of appropriation to programs, extending the Budget Function Analysis or some other means. IBO would support any effort to move in this direction.

Revenue Estimate

Like the Charter provision currently governing unit of appropriation structure, the provision dictating the revenue estimate process as it relates to budget adoption is not working as intended. As a result, the Council has no opportunity to negotiate the final revenue estimate, and no choice but to accept it. The Council has proposed an alternative that would require the Mayor to submit an estimate earlier in the budget negotiating process. Borough President Brewer has also noted this issue in her testimony to the Commission. Under the Council's proposal, the budget process would be revised so that the Mayor and the Council must agree on a revenue estimate through negotiation and the Mayor would be required to submit their agreed-upon estimate to the Council by May 25. The Council would then be required to approve the estimate—without amendment—no later than June 5. In the event that this does not happen, the binding revenue estimate for budget adoption would be an estimate provided by IBO on June 6.

IBO is the only City agency other than the Mayor's office required by Charter to produce a revenue estimate. Currently, IBO produces this estimate as a part of our Charter-mandated report issued in response to the Mayor's Executive Budget sometime in May. An alternative to the Council's proposal would be to require IBO to update the revenue forecast contained in this May report in the event that the Mayor and the Council do not agree on a revenue number by May 25. Realistically, this process would require at least five days. It would have the advantage of allowing IBO to update its forecast to

reflect changes in tax collections. As the Council noted in its recommendation, it would also diminish the ability of the Mayor's office to politicize the revenue estimate, and encourage more responsible forecasting practices.

Rainy Day Fund

In their recommendations to the Charter Commission, the Council has suggested that the city establish a true rainy day fund. The Council proposal recognizes that this will not be possible in advance of the full expiration of the Financial Emergency Act in 2033. Nevertheless, we agree that Charter revision presents an opportunity to plan for this eventuality, and to begin to reevaluate how the city manages its reserve funds and mechanisms used to "roll" excess revenue from the current fiscal year to the next while adhering to Generally Accepted Accounting Principles (GAAP) mandates in the Financial Emergency Act and the Charter.

Implementing a true rainy day fund would require appropriate rules for mandating deposits during economic expansions and allowing for withdrawals when the economy contracts. The Charter Commission might consider an amendment to the Charter now that would require the Mayor and the Council to devise some of these rules through local law for portions of the existing mechanisms the city uses now to "roll" excess revenue. For example, rules could be devised to apply to withdrawals from and deposits to the Retiree Health Benefits Trust (RHBT) that would more closely align with traditional rainy day fund objectives and could be tied to the city's fiscal health in general, not just the cost of providing health benefits for retirees in the current year. This change would likely require amendments to the local law authorizing the RHBT and also the trust document. But it would be a first step in changing the way elected officials and other budget stakeholders think about the allocation of surplus revenues.

Capital Budget Transparency

As with the city's expense budget and unit of appropriation structure, the transparency of the city's capital budget process suffers from a disconnect between the Charter's requirements and budget practice. IBO recently testified before the City Council on several proposed local laws designed to address this disconnect and improve access to information on the city's capital planning and budgeting, including information on ongoing capital projects. Because we often receive questions about the history of changes to the city's capital projects, their status and original estimated costs, we are particularly attuned to the deficiency of information on project delays and cost overruns.

In our testimony at the joint Finance and Subcommittee on Capital Budget hearing on February 12th, we suggested that the Council might consider expanding an existing tool that tracks Parks Department capital projects—the online Capital Project Tracker—to cover additional agencies. The Commission could look to this existing tool to promote capital budget transparency and accountability. Providing more detailed information on the current status of the city's capital projects is essential to reforming and improving the city's long-term capital planning process.

There are multiple additional topics on the Commission's list that we believe would enhance the transparency of city government, and the ability of oversight organizations, like IBO, to provide a fuller picture of how the city uses its budget resources. We would propose also considering changes to the Charter provision delineating the powers and duties of the Financial Information Services Agency (FISA). Although charged with providing information to "officers, employees, or agencies of the city responsible for organizing, compiling, coordinating and reporting upon the city's central financial records, data and other related information" which clearly includes IBO and the City Council, the current make-up of FISA's board leaves such agencies at a disadvantage when seeking information and new reports from FISA. IBO's experience when requesting new reports or access to restricted information maintained by FISA is that our requests are subject to approval by OMB and not infrequently rejected. Adding two additional members to the FISA board, one appointed by IBO and one appointed by the City Council, would address this situation by giving these agencies a voice in the management of FISA and ensure that their requests are treated appropriately.

We would be happy to discuss these topics with you in more detail. Thank you for asking us to participate in this important process.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ronnie Lowenstein". The signature is fluid and cursive, with a long horizontal stroke at the end.

Ronnie Lowenstein