

DEPARTMENT OF
ENVIRONMENTAL PROTECTION
GENERAL COUNSEL'S OFFICE
RECEIVED



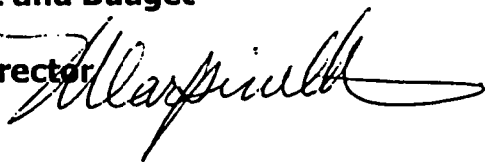
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THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

MEMORANDUM

TO: Agency Heads
Agency Chief Contracting Officers
Agency Chief Financial Officers
Agency General Counsels

FROM: Adam Barsky, Director 
Office of Management and Budget

Michael Carpinello, Director 
Office of Operations

Michael Best, Director 
Mayor's Office of Contracts

SUBJECT: OTPS Review Committee

DATE: October 24, 2001

The OTPS Review Committee (ORC), established pursuant to Executive Order No. 52 (October 9, 2001), which is attached, consists of representatives of the Office of Management and Budget (OMB), the Office of Operations (OPS) and the Mayor's Office of Contracts (MOC). Pursuant to Executive Order No. 52, no agency shall commit OTPS funds in excess of \$50,000 without the approval of the ORC.

Attached are the "OTPS Review Committee (ORC) Protocol", which outlines the functions and process of the ORC and how it will affect the disposition of agency OTPS funding commitments, and the form, "Request for Approval by the OTPS Review Committee (ORC) to Commit Agency OTPS Funds in Excess of \$50,000", which the agency must complete and submit to the ORC prior to making OTPS funding commitments in excess of \$50,000.

Where an agency does not comply with the ORC process, OMB will freeze the agency's entire OTPS budget necessitating ORC approval for all of the agency's OTPS funding commitments, regardless of dollar value. In addition, agency non-compliance will be reported to the appropriate Deputy Mayor. Please note, however, that the ORC has exercised a blanket approval of actions that will commit agency funds for which the source of funding is 100% Capital. Such actions should continue to be processed pursuant to established procedures.

Agencies should be particularly aware of the potential impact of the ORC process on emergency procurements, on other proposed actions the agency may have implemented prior to receiving ORC approval, and on initiating new procurements.

- Emergency procurements to be made pursuant to Charter Section 315 that will utilize OTPS funds in excess of \$50,000 are subject to prior ORC approval. In such cases, however, the agency should, concurrent with seeking initial verbal approval of the Corporation Counsel and the Comptroller (or the Director of the Mayor's Office of Contracts in the case of emergency procurements related to the events of September 11th), contact one of the three ORC members listed below, who will be available 24 hours a day, to likewise request initial verbal approval of the ORC for the proposed action. If the proposed emergency procurement is approved by all the requisite entities, the agency would, prior to submitting the contract and other required documentation to the Comptroller's Office for registration, transmit the requisite form to the ORC to obtain its written approval.

ORC Member	Office Phone #	Cell Phone #	Beeper #
Chuck Brisky (OMB)	646-458-1245	PII	917-401-3022
George Davis III (OPS)	212-442-7999		917-706-4076
Susan Cina (MOC)	212-788-0030		

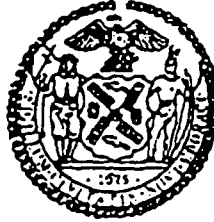
- Agencies must be especially vigilant to not implement proposed actions (e.g., retroactive contracts) prior to receiving ORC approval in order to avoid the possibility of committing the agency to a financial obligation for which the City may not pay.
- Agencies must likewise be vigilant to not initiate new procurements (e.g., issue Requests for Proposals or Invitation for Bids) for which they have not confirmed with OMB that the requisite level of funding is in fact available.

This ORC process is effective immediately. In addition, please note that it supersedes and rescinds the procedures prescribed in Adam Barsky's August 22, 2001 memorandum requiring documentation of OMB approval of proposed procurement actions funded by state and/or federal sources. Review of proposed procurement actions funded by state and/or federal sources will now be incorporated into the ORC process.

If you have any questions or need further information, you may contact one of the ORC members listed above.

Thank you.

- c. Mayor Rudolph W. Giuliani
- Joseph J. Lhota
- Anthony P. Coles
- Robert M. Harding
- Rudy Washington
- Dennison Young Jr.
- Anthony V. Carbonetti
- Michael Hess
- Howard Altschuler
- Robert Balder
- Chuck Brisky
- Scott Cantone
- Susan Cina
- George Davis III
- Lori Fierstein
- Ed Fitzpatrick
- Randall Fong
- James Gardella
- Gary Geirsbach
- John Graham
- Stuart Klein
- G. Foster Mills
- Dan Muller
- Steve Stein Cushman
- Jeffrey Weinstein



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

EXECUTIVE ORDER NO. 52

October 9, 2001

RESTRICTIONS UPON AGENCY EXPENSE BUDGET ADMINISTRATION

WHEREAS, the terrorist attack of September 11, 2001 has had an impact upon the City's economy; and

WHEREAS, although certain direct costs of such attack will be reimbursed by the federal and State governments, the City must also address the unanticipated expenditures and reduction in City revenues that have resulted from the attack; and

WHEREAS, it is the responsibility of the City, and in particular of the Mayor, under State law and the City Charter, to ensure the maintenance of a balanced budget and sound fiscal practices, and to set aside necessary reserves in furtherance of such responsibility;

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

Section 1. Establishment of necessary reserves. Pursuant to section 106 of the City Charter, it is hereby determined that necessary reserves of \$1,000,000,000 (\$1 billion) shall be set aside from agency allotments in the Fiscal Year 2002 expense budget of the City. The Office of Management and Budget (OMB) shall prepare detailed agency schedules for implementation of such reserves. This section shall apply to all agencies for which units of appropriation for personal services and other than personal services (OTPS) are included in such expense budget.

Section 2. Restriction on agency personnel actions. No mayoral agency shall hire any personnel or fill a vacancy in any position except upon the written approval of OMB. OMB may approve such action only upon written submission by the agency proposing such action and a determination by OMB that such proposed action is either:

(a) Directly related to public health or safety;

(b) Necessary to enhance or maintain the City's revenue base, or to prevent additional City expenditures;

(c) Required by law;

(d) Necessary for continuation of critical agency functions; or

(e) Funded by state, federal, other non-City or capital funds.

OMB shall consult with the Office of the Corporation Counsel as necessary in considering agency submissions pursuant to this section.

Section 3. Restriction on agency other than personal service funding commitments. No mayoral agency shall commit funds in excess of \$50,000 for OTPS except as set forth in this section. Any such commitment shall require approval of an OTPS Review Committee, which shall consist of representatives of the Office of Management and Budget, the Office of Operations and the Mayor's Office of Contracts. Such committee may approve such commitment only upon written submission by the agency proposing such commitment and a determination by such committee that such proposed commitment meets the criteria set forth in paragraphs (a) through (e) of Section 2 of this Order. Such committee shall consult with the Office of the Corporation Counsel as necessary in considering agency submissions pursuant to this section.

Section 4. Agency head implementation. Heads of mayoral agencies shall promptly take all necessary steps to ensure that their agencies are in compliance with the terms of this Order.

Section 5. Rule of construction. References to "agencies" and "agency heads" in this Order shall be deemed to include boards, commissions and other entities where such boards, commissions and entities administer agency budgets.

Section 6. Effective Date. This Order shall take effect immediately.



Rudolph W. Giuliani
Mayor

OTPS Review Committee (ORC) Protocol

What is the ORC?

The ORC, established pursuant to Executive Order No. 52 (October 9, 2001), attached, consists of representatives of the Office of Management and Budget (OMB), the Office of Operations (OPS) and the Mayor's Office of Contracts (MOC).

What Agency actions are subject to prior approval by the ORC?

Any proposed action that will commit agency OTPS funds in excess of \$50,000 is subject to prior approval by the ORC. **Exception:** The ORC has exercised a blanket approval of **all** actions that will commit agency funds for which the source of funding is **100% Capital**. Such actions should continue to be processed pursuant to established procedures.

How is ORC approval obtained?

- The agency must assign a single staff person to serve as the Agency Contact for all submissions to ORC. That person should be at a sufficiently high level to represent the entire agency (e.g., Agency Chief Contracting Officer, Deputy Commissioner, or other comparable title).
- The agency must complete and submit an **original** and **3 copies** of the form entitled "Request for Approval by the OTPS Review Committee (ORC) to Commit Agency OTPS Funds in Excess of \$50,000", attached, signed by the **Agency Head**, to the **Mayor's Office of Contracts, Attention: ORC** at 253 Broadway, 9th Floor, New York, New York 10007. Submissions that are incomplete (e.g., do not include the Agency Contact; do not include an original and 3 copies; are not signed by the Agency Head; do not include an "Agency ORC ID#" and/or other required information) will not be considered and the Agency will be so notified. When the agency subsequently makes a complete submission for the proposed action, the agency should check the box "Re-Submission" in the "Agency ORC ID#" box on the form.
- The ORC will consider the agency's proposed action in terms of the criteria set forth in Executive Order No. 52. If the ORC has questions or requires further information, a staff person will notify the Agency Contact designated on the form. Based on its review, the ORC will either approve or disapprove the proposed action.

What happens after ORC approval has been obtained?

- The approved ORC form serves as the agency's "ticket" for further processing of the proposed action, pursuant to established procedures. In particular:
 - **Proposed Procurement Action Subject to Approval by MOC** – MOC's approval will be contingent on its receipt of the original approved ORC form for the proposed procurement action.
 - **Proposed Procurement or Other Action Subject to Registration by the Comptroller** - Registration will be contingent on inclusion of the original approved ORC form in the registration package for the proposed action. Covered submissions to the Comptroller's Office that do not include the approved ORC form will be returned to the agency without being registered and will be deemed withdrawn by the agency.

What happens if ORC approval is not obtained?

- OMB will run daily reports from FMS to monitor agency compliance with the ORC approval process. Where an agency has not complied with that process, OMB will freeze the agency's entire OTPS budget necessitating ORC approval for **all** of the agency's OTPS funding commitments, regardless of dollar value. In addition, agency non-compliance will be reported to the appropriate Deputy Mayor.

Agency _____	Agency ORC ID# _____ * *Agency 3/4 letter abbreviation + 4 digit sequential Agency tracking # ☐ Re-Submission	Date Received ____/____/____ (ORC Use ONLY)
Agency Contact Name _____ Title _____ Location _____ Phone (____) _____ Fax (____) _____ e-Mail _____		

Request for Approval by the OTPS Review Committee (ORC)
to Commit Agency OTPS Funds in Excess of \$50,000

• **Type of Proposed Action**

- ☐ Procurement - Contract (PIN _____) (Contract # _____)
 ___ New Award(s) ___ Renewal Award ___ Amendment/Change Order ___ Encumbrance
- ☐ Procurement - Purchase Order (PO# _____)
 ___ IT Small Purchase ___ Requirements Contract (___ DCAS ___ NYS) ___ Other (Specify _____)
- ☐ Voucher for Miscellaneous Expenditure (VME# _____)
- ☐ Real Property Lease or License
- ☐ Utilities or Phone Service
- ☐ Other (Specify _____)

- **Description of Proposed Action** (Include purpose, scope, parties and the term of the contract or other agreement; if an Emergency Procurement pursuant to Charter Section 315, so indicate.)

☐ ___ additional page(s) attached

• **Justification for Proposed Action (Check all that apply)**

- ☐ Directly related to public health or safety
- ☐ Necessary to enhance or maintain the City's revenue base, or to prevent additional City expenditures
- ☐ Required by law
- ☐ Necessary for continuation of critical agency functions
- ☐ Funded by state, federal, other non-City or capital funds

- **Explain the basis of each justification cited above.** (Include any adverse consequences of not implementing the proposed action.)

☐ ___ additional page(s) attached

• **Dollar Amount of Proposed Action** \$ _____

Unit(s) of Appropriation: _____ Budget Code(s): _____ Object Code(s): _____
 Cost (Amounts in 000s)

Funding Source	FY '01	FY '02	FY '03	FY '04	FY '05 - '	Total
Capital	\$	\$	\$	\$	\$	\$ (%)
Expense						
- City	\$	\$	\$	\$	\$	\$ (%)
- State (Specify)	\$	\$	\$	\$	\$	\$ (%)
- Federal (Specify)	\$	\$	\$	\$	\$	\$ (%)
Other (Specify)	\$	\$	\$	\$	\$	\$ (%)
Total	\$	\$	\$	\$	\$	\$ (100%)

• **How Proposed Action Will be Funded**

- ☐ Uncommitted OTPS Funds
- ☐ De-encumbrance of (Specify _____)

This is to certify that this proposed action complies with the criteria set forth in Executive Order No. 52 (October 9, 2001) and that I approve this proposed action.

Agency Head Signature _____ **Date** ____/____/____

ORC Disposition ☐ Approved ☐ Disapproved **Initials** _____ **Date** ____/____/____