

MEMORANDUM OF UNDERSTANDING

for

**PERSONAL CARE AIDE TO HOME HEALTH AIDE UPGRADE TRAININGS &
HOME HEALTH AIDE CERTIFICATIONS**

between the

NEW YORK CITY DEPARTMENT OF SMALL BUSINESS SERVICES

and

THE CITY UNIVERSITY OF NEW YORK

(December 3, 2012 - December 2, 2013)

This **MEMORANDUM OF UNDERSTANDING** (hereinafter referred to as an "MOU"), effective December 3, 2012, is made by and between the **CITY OF NEW YORK** (the "City"), acting through its **DEPARTMENT OF SMALL BUSINESS SERVICES** ("SBS") with offices located at 110 William Street, 7th Floor, New York, New York 10038, and **THE CITY UNIVERSITY OF NEW YORK** ("CUNY"), with offices located at 205 East 42nd Street, New York, New York 10017 (collectively, the "**Parties**").

WITNESSETH:

WHEREAS, SBS administers the City's workforce development programs which provide training to the City's workforce and places the trained workers with employers; and

WHEREAS, CUNY, an institution of higher education, administers various healthcare and nursing programs approved and registered by the New York State Education Department ("SED") through Lehman College, located at 2501 Grand Concourse, Bronx, NY 10468 and LaGuardia Community College, located at 31-10 Thompson Avenue, Long Island City, NY 11101; and

WHEREAS, both Lehman College-CUNY on the Concourse, School of Continuing & Professional Studies and LaGuardia Community College, Division of Adult & Continuing Education submitted separate Personal Care Aide ("PCA") to Home Health Aide ("HHA") Upgrade Training & Certification Programs (referred to as the "Lehman Program" and "LaGuardia Program," respectively) to SED for approval and registration; and

WHEREAS, SED approved the Lehman Program on August 20, 2012, for an approval period commencing August 20, 2012 and expiring August 19, 2013 and **approved** the LaGuardia Program on September 12, 2011, for an approval period commencing January 31, 2013 and expiring on January 30, 2016; and

WHEREAS, Pubic Law 112-74 specifically authorizes the use of Workforce Investment Act ("WIA") funds to award contracts to institutions of higher education or other eligible training providers to facilitate training programs in high-demand occupations, provided such trainings do not limit customer choice; and

WHEREAS, SBS desires to provide funding to CUNY to cover the costs and expenses incurred by the provision of the PCA to HHA Upgrade Trainings and HHA Certifications to eligible enrolled Participants through the Lehman and LaGuardia Programs, as more fully described in this MOU; and

WHEREAS, CUNY, through the Research Foundation of CUNY, intends to engage 1199/SEIU Training and Employment Funds (“1199/SEIU”), a union of approximately 440,000 healthcare workers representing the majority of PCAs in the City to assist in the identification, screening and referral of eligible PCAs to SBS and CUNY for enrollment in the PCA to HHA Upgrade Trainings administered through the Lehman and LaGuardia Programs; and

WHEREAS, by Resolution dated November 19, 2012, the Executive Committee of the City’s Workforce Investment Board authorized SBS to award up to \$900,000 in WIA funds to CUNY for PCA to HHA Upgrade Trainings and HHA Certifications to health care workers in jeopardy of losing their jobs in connection with state-level Medicaid reimbursement redesign;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Parties agree as follows:

ARTICLE 1
TERM

The initial term of this MOU shall be for a period of approximately twelve (12) months, commencing on December 3, 2012 and expiring on December 2, 2013 (“Term”) unless extended or sooner terminated pursuant to Article 5 of this MOU.

ARTICLE 2
SCOPE OF SERVICES

A. **Identification, Screening and Referral.** During the Term of this MOU, CUNY will provide the following identification, screening and referral services pertaining to the PCA to HHA Upgrade Trainings pursuant to the Lehman and LaGuardia Programs:

1. Identify PCAs who are currently employed by an employer on the Eligible Employer List, attached hereto as Appendix A;
2. Administer the “Test of Adult Basic Education” (TABE E 9&10) or an equivalent and SBS-approved competency exam to all PCAs identified ; and
3. Refer the identified PCAs who meet the minimum literacy and competency standards, based on their performance on the “Test of Adult Basic Education” (TABE E 9&10) or an equivalent and SBS-approved competency exam, to SBS.
4. Provide any documentation and information required for eligibility determination and tracking, including, but not limited to:
 - a. Documentation of PCA status prior to enrollment;
 - b. Required medical documentation, as defined below, when possible to obtain from workers; and
 - c. Information on employers, earnings and hours worked.

B. **Eligibility Determinations.** CUNY will work with SBS to ensure that all individuals who complete the program satisfy the minimum eligibility requirements set forth below. Such individuals who are eligible and enroll in either the Lehman or LaGuardia Programs are “Participants.” CUNY must maintain, and submit to SBS upon request, documentation that each Participant satisfied the minimum eligibility requirements defined in B. 1 through 5 below. Unless otherwise approved by SBS, CUNY will not receive a performance payment for Participants where such documentation cannot be provided. Each candidate for certification must meet the following specific minimum eligibility requirements):

1. Current employment by an entity listed in Appendix A (“Eligible Employer List”) (as verified by SBS and communicated to CUNY prior to commencement of the applicable Training Cohort).
2. Satisfaction of the minimum literacy and competency standards;
3. WIA eligible (as determined by SBS and communicated by SBS to CUNY prior to commencement of the applicable Training Cohort);
4. Current certification/registration as a PCA in the “New York State Nurse Aide Registry” maintained by the New York State Department of Health (“DOH”) and
5. Verification by a health professional that the candidate is in good physical health as set forth in Title 10 of the New York State Codes, Rules and Regulations.

C. Service Delivery.

1. Overview. Unless otherwise agreed to in writing by the Parties, CUNY shall provide approximately 1,500 Participants with PCA to HHA Upgrade Trainings and HHA Certifications based on the SED-approved Program. The PCA to HHA Upgrade Trainings will be delivered to Participants through a series of approximately 75 Training Cohorts (with approximately 20 Participants per Training Cohort).
2. Minimum Training Requirements. Each Training Cohort provided by CUNY through its Lehman or LaGuardia Programs shall be consistent with the Program curriculum and minimum training requirements required by applicable rules and regulations for CUNY's delivery of the PCA to HHA Upgrade Trainings and Certification Programs set forth above.
3. Testing. During the Training, CUNY shall administer a competency assessment that is aligned with SED requirements regarding competency assessment.
4. HHA Certification. Upon the successful completion of either the Lehman or LaGuardia Program, CUNY shall issue a HHA Certificate to the respective Participants and enter the Participant's name into the *Home Care Registry* maintained by DOH.
5. Central Office Coordinator. During the Term of this MOU, CUNY shall designate a CUNY-Central Office Coordinator to act as a liaison with SBS, attend regular management meetings with SBS, and provide reporting to SBS as set forth in this MOU.
6. Recordkeeping. CUNY will be responsible for maintaining, for a period of six years (6) from the end of the Term, all records relating to the Lehman Program, LaGuardia Program, enrolled Participants, HHA-certified Participants as well as any other document, report, evaluation, etc. related to the provision of PCA to HHA Upgrade Trainings and HHA Certification under this MOU.

ARTICLE 3

COMPENSATION & PAYMENT SCHEDULE

A. **Total Budget for Services.** The total budget for all Services provided during the Term of this MOU by CUNY, either directly or through an approved subcontractor or consultant, shall not exceed Eight Hundred Ninety-Nine Thousand and Nine Hundred and Eighty-Six Dollars (**\$899,986**) ("Maximum Reimbursable Amount"). All payments shall be made in accordance with the "Program Budget," attached hereto as Appendix B, SBS' *Fiscal Manual* and the terms and conditions set forth below.

B. Payment for Services During the Term

1. CUNY. SBS shall pay to CUNY, subject to and in accordance with the procedures and restrictions set forth in this MOU, an aggregate amount not to exceed Eight Hundred Ninety-Nine Thousand and Nine Hundred and Eighty-Six Dollars (**\$899,986**) in consideration for the PCA to HHA Upgrade Trainings and HHA Certifications provided by CUNY through the Lehman Program and LaGuardia Program during the Term, as reported to, verified and approved by SBS ("Maximum Reimbursable Amount"). Compensation to CUNY shall be made as follows:
 - a. Cost Reimbursement. During the Term, SBS shall reimburse CUNY for its expenses in an amount not to exceed Eighty Percent (80%) of the total Maximum Reimbursable Amount, up to a maximum of Seven Hundred Nineteen Thousand Nine Hundred and Eighty-Nine Dollars (**\$719,989**) ("Maximum Cost Reimbursement").
 - b. Performance Payment. After CUNY has reached the Maximum Cost Reimbursement, SBS shall reimburse CUNY for its expenses in an amount not to exceed twenty percent (20%) of the total Maximum Reimbursable Amount, related to the achievement of the Compensation-Based Performance Goals set forth below, up to a "Maximum Performance Payment" of One Hundred Seventy-Nine Thousand Nine Hundred Ninety-Seven Dollars (**\$179,997**). Achievement of the CUNY Performance Payment is governed by the following terms and conditions:
 - i. Total HHA Certifications Achieved During the Term. Subject to the terms and conditions set forth in Section (B)(2)(b)(ii) below, CUNY shall be reimbursed **\$141.17** for each SBS-verified HHA Certification achieved during the Term, up to a Maximum Performance

Payment of One Hundred Seventy-Nine Thousand Nine Hundred Ninety-Seven Dollars (\$179,997).

- ii. Required Participant Documentation. Any and all Performance Payments made to CUNY pursuant to this Article 3 shall be subject to CUNY's monthly submission of the documents listed under "Reporting Requirements." In addition, CUNY is required to maintain "Required Participant Documentation" described below which is intended to evidence each Participant's successful completion of the PCA to HHA Upgrade Training; receipt of HHA Certification; and verification that the Lehman Program and/or LaGuardia Program administered by CUNY currently maintains and/or continues to maintain SED-approved PCA to HHA Upgrade Training Programs. In addition to the monthly "Required Participant Documentation" submission, SBS reserves the discretion to request additional documents reasonably related to the Participant's enrollment, attendance and completion of the PCA to HHA Upgrade Training and receipt of HHA Certification. The "Required Participant Documentation" shall include, but not be limited to:

- A. Proof of attendance at a PCA to HHA Upgrade Training at either the Lehman or LaGuardia Programs (e.g., completed attendance/sign-in sheets maintained by CUNY);
- B. Documentation verifying that each enrolled Participant satisfied all applicable minimum eligibility requirements for enrollment in the PCA to HHA Upgrade Training; and
- C. Documentation of each Participant's HHA Certification, as evidenced through a copy of the HHA Certificate issued by the school or verification with the "New York State Nurse Aide Registry" maintained DOH.

- C. The Parties acknowledge that pursuant to a certain Agreement dated October 20, 1983 between The Research Foundation of the City University of New York (the "RF") and CUNY, the RF will act as CUNY's fiscal agent to accept payment amounts from SBS. Each Intra-City invoice shall be signed by the RF Director of Grants and Contracts, and shall include the following language: "I hereby certify that this invoice is for articles received, services rendered or amounts expended on behalf of the City of New York, that it is correct as to price and amount, that is necessary for the proper transaction of the business of SBS, that it was incurred solely for the benefit of the City of New York, that no part of the amount claimed herein has been previously certified, and that the amount is solely for the operation of said Program described in this invoice."

ARTICLE 4 **REPORTING REQUIREMENTS**

- A. During the Term of this MOU CUNY shall submit a monthly report to SBS containing the PCA to HHA Upgrade Training and HHA Certification information listed below. Each monthly report must clearly identify the period in question and should be submitted to SBS no later than the 10th day of the month following the reporting period at issue.
1. Total number of PCA to HHA Upgrade Training Cohorts provided by CUNY, disaggregated by Program/campus (Lehman College and LaGuardia College);
 - a. Number of students in classroom training
 - b. Number of students completing clinical training
 - c. SBS People IDs of Participants who successfully completed a PCA to HHA Upgrade Training Cohort and are listed in the *Home Care Registry* maintained by DOH;
 2. For each enrolled Participant that successfully completes a Training Cohort and receives HHA Certification-
 - a. Identification of the Participant's employer prior to enrollment in the PCA to HHA Upgrade Training; and
 - b. Job retention, number of clients, hours worked and earnings based on data collected.
 - c. Identification of the Participant's employer following the successful completion of the PCA to HHA Upgrade Training and receipt of HHA Certification.

ARTICLE 5
TERMINATION AND MODIFICATION

- A. **Termination.** This MOU may be terminated by SBS or CUNY at any time upon thirty (30) days written notice to the other Party. In the event of termination, SBS shall not incur or pay any further obligation pursuant to this MOU for services provided beyond the termination date. Any obligations necessarily incurred by CUNY prior to receipt of the applicable notice of termination and falling due after such date of receipt shall be paid by SBS in accordance with the terms of this MOU.
- B. **Modification.** This MOU may only be amended by the mutual written consent of SBS and CUNY.

ARTICLE 6
MISCELLANEOUS

- A. All notices required by this MOU shall be delivered by messenger or overnight delivery service to the following:

To SBS:

110 William Street, 7th Floor
New York, NY 10038

Attn: Workforce Development Division Deputy Commissioner

With copy to

110 William Street, 7th Floor
New York, NY 10038

Attn: Office of the General Counsel

To CUNY:

For programmatic matters:

The Office of Academic Affairs
The City University of New York
205 East 42nd Street
New York, NY 10017

Attn: Suri Duitch

For legal matters:

The Office of General Counsel
The City University of New York
205 East 42nd Street
New York, NY 10017

Attn: SBS-CUNY PCA HHA MOU

For fiscal matters:

Director of Grants and Contracts
The Research Foundation of CUNY
230 W. 41st Street
New York, NY 10036

Attn: James Suarez


- B. If any provision contained in this MOU is held to be unenforceable by a court of law or equity, this MOU will be construed as if such provision did not exist and the non-enforceability of such provision will not be held to render any other provision or provisions of this MOU unenforceable.

- C. The Services provided under this MOU shall be performed in accordance with all applicable provisions of Federal, State, and Local Laws.
- D. This MOU contains all the terms and conditions agreed upon by the Parties, and no other agreement, oral or otherwise, regarding the subject matter of this MOU shall be deemed to exist or to bind either of the Parties, nor to vary any of its terms.
- E. No Party will be deemed to be in violation of this MOU if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event, the intervening cause must not be through the fault of the party asserting such an excuse, and the excused Party or Parties is obligated to promptly perform in accordance with the terms of the MOU after the intervening cause ceases.
- F. No Party will assign, transfer or delegate any rights, obligations or duties under this MOU without the prior written consent of the other Parties. Such prior written approval will not be unreasonably withheld, delayed, or conditioned.
- G. The Parties hereto represent and warrant that the person executing this MOU on behalf of each Party has full power and authority to enter into this MOU and that the Parties are authorized by law to perform the Services set forth in the MOU.

IN WITNESS WHEREOF, this MOU shall be effective as of the date first above written.


By:

CITY OF NEW YORK
DEPARTMENT OF SMALL BUSINESS SERVICES

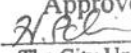

By: Andrew Schwartz
Title: First Deputy Commissioner

By:

THE CITY UNIVERSITY OF
NEW YORK


By: Frederick Schaffer
Title: General Counsel & Senior Vice Chancellor for
Legal Affairs

Dated: July 1, 2013

Approved As To Form

The City University of New York
Office of the General Counsel
Date: 06-25-2013

APPENDIX A
ELIGIBLE EMPLOYER LIST*

AGENCY CODE	ELIGIBLE EMPLOYER NAME
050101	Alliance Home Services. Inc.
050656	BHRAGS Home Care Corporation
050181	Bronx Jewish Community Council
050757	Bushwick Stuyvesant Heights
050606	CIDNY Independent Living
050919	Hanac Home Services Systems Inc
050323	Home Attendant Service of Hyde Park
050363	Jewish Community Council
050434	PSC Community Services
050044	Richmond Home Needs Services
050242	Rockaway Home Attendant
050565	School Settlement Home
050545	Social Concerns
050171	Fegs Home Attendant Services
050616	First Chinese Presbyterian Community Home
050222	Home Health Management Service
050464	New York Foundation For Senior Citizens
050939	Rain Home Attendant Services
050949	Saint Nicholas Human Support
050070	Stella Orton Home Care Agency
050969	United Jewish Council

**Modifications made by SBS to the above "Eligible Employer's List" will be communicated to CUNY in writing.*

**APPENDIX B
PROGRAM BUDGET**

HHA Certification Training (1500 students) Project Period - Dec 3, 2012 to December 2, 2013	Total Program Budget (12/12-12/13)	Projected FY13 Budget	Projected FY14 Budget
PS:			
Central office coordination			
Coordination	\$40,000	\$27,000	\$3,000
Evaluation	\$ 10,000	\$6,305	\$3,695
Fiscal management	\$5,000		\$5,000
Admin/oversight staff Lehman			
Project director	\$62,400	\$31,333	\$31,067
Data entry/intake specialist	\$45,000	\$22,425	\$22,575
Data assistant	\$24,960	\$10,206	\$14,754
Fiscal and Data Manager	\$15,000	\$15,000	
Facility Manager	\$15,000	\$15,000	
Instructor salaries LEHMAN	\$199,440	\$70,982	\$128,458
Admin/oversight staff LaGuardia			
Project Director	\$17,709	\$3,733	\$13,976
Coordinator/ECM	\$31,387	\$6,261	\$25,126
Administrative Support	\$2,100	\$1,513	\$587
Data Manager	\$1,430	\$1,142	\$288
Instructor salaries LAGUARDIA	\$49,860	\$13,296	\$36,564
<i>Subtotal</i>	\$519,286	\$224,196	\$295,090
FT fringe @38%	\$66,087	\$27,801	\$38,285
FT fringe @33%	\$22,344	\$17,732	\$4,612
PT fringe @9.5%	\$26,378	\$9,244	\$17,135
MTA tax @.34%	\$1,766	\$762	\$1,003
Total Fringe	\$116,574	\$55,539	\$61,035
Total PS	\$635,860	\$279,735	\$356,125
OTPS:			
Postage	\$3,760	\$600	\$3,160
Laboratory/classroom supplies	\$20,175	\$10,643	\$9,532
Books & printing	\$37,500	\$23,098	\$14,402
Student supplies	\$28,830	\$5,000	\$23,830
After-hours security/cleaning	\$5,000	\$5,000	
Insurance for clinical placements	\$6,500	\$4,376	\$2,124
Subcontract to 1199	\$88,050		\$88,050

		-	
Total OTPS	\$189,815	\$48,716	\$141,099
Total Direct Costs	\$825,675	\$328,451	\$497,224
Indirect @ 9%	\$74,311	\$29,561	\$44,750
Total	\$899,986	\$358,012	\$541,974



205 East 42nd Street, 11th Floor
Tel: 646-664-9218
Fax: 646-664-2946
heather.parlier@cuny.edu

Via Overnight Mail

June 27, 2013

Sara Schlossberg
Executive Director
NYC Department of Small Business Services
110 William Street, 7th Floor
New York, NY 10038

Dear Ms. Schlossberg:

Enclosed, please find three (3) originals of the Memorandum of Understanding (“MOU”) for Personal Care Aide to Home Health Aide Upgrade Trainings & Home Health Aide Certifications between the New York City Department of Small Business Services (“SBS”) and the City University of New York (“CUNY”). The MOU has been signed on behalf of CUNY by Frederick P. Schaffer, General Counsel and Senior Vice Chancellor for Legal Affairs.

Once the originals have been signed on behalf of SBS, please return one original to my attention. Contact me if you have questions or need further information.

Sincerely,

A handwritten signature in black ink, appearing to read 'H. Parlier', is written over a light blue horizontal line.

Heather Parlier

Enclosures

cc: Shayne Spaulding, CUNY Director of Workforce Development (via electronic mail)
Kyung Hur, Research Foundation of CUNY (via electronic mail)