



DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES  
DIVISION OF CITYWIDE PERSONNEL SERVICES

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**Martha K. Hirst**  
*Commissioner*

**James G. Hein**  
*Deputy Commissioner*

**MEMORANDUM**

**To:** James G. Hein

**From:** Sherry Schultz  
Director of Classification and Compensation

**Date:** April 20, 2009

**Subject:** Recommendation to schedule a public hearing on May 26, 2009, at 10:00 AM in the Pre-Bid Room, 18<sup>th</sup> Floor North, One Centre Street, New York, New York 10007, on a proposal to amend the classification of the Classified Service of the City of New York by including for use by the New York City Police Department (PD), under Part I: the titles of Chief of Staff – PD, Deputy Commissioner (Counterterrorism) – PD, Deputy Commissioner (Intelligence) – PD, Director of Internal Affairs – PD, Director of Organized Crime Control – PD, Secretary to the First Deputy Commissioner – PD, each with one position authorized, in the Exempt Class; the managerial titles of Civilianization Manager – PD, Director for Equal Employment Opportunity – PD, Director of Photographic Services – PD, Director of Support Services – PD, Director of Technology Development – PD, each with one position authorized and Intelligence Research Manager – PD (25 positions), in the Non-Competitive Class; and the non-managerial titles of Assistant Advocate – PD (with 3 Assignment Levels) (50 positions), Assistant Counsel – PD (10 positions), and Intelligence Research Specialist – PD (with 3 Assignment Levels) (125 positions), in the Non-Competitive Class; all under the Rules indicated herein.

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As part of the Department of Citywide Administrative Services five-year plan to reduce the number of provisional employees, we are proposing to classify the above listed titles for use by the PD. These titles currently exist as temporary titles for use by the NYPD.

We propose to classify the managerial titles of Chief of Staff - PD, Deputy Commissioner (Counterterrorism) - PD, Deputy Commissioner (Intelligence) – PD, Director of Internal Affairs - PD and Director of Organized Crime Control - PD, each with one position, in the Exempt Class, subject to Rule X. Employees in these initiatives or programs further specific public safety goals, under the direction of the Police Commissioner, and will require the personal confidence of and serve at the pleasure of the Commissioner.

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The Police Commissioner needs the flexibility to select individuals for each of these managerial positions who possess the skills and experience that will further his/her managerial goals and initiatives. Since the focus of departmental programs and activities will vary over time and since the positions will create, direct and administer Police Department policy that the Commissioner will change over time, Exempt Classification without a fixed set of qualification requirements is appropriate for these positions.

It is not practicable to test competitively or non-competitively for these managerial level positions because those selected to fill the positions must have a close confidential relationship with the Police Commissioner. In addition, Exempt classification is appropriate for these positions because it gives the Police Commissioner the option to select candidates for these positions who are experienced incumbents in competitive class uniformed force Police titles. Section 821 of the New York City Charter allows Competitive Class employees who serve in Exempt Class positions to retain the rights and benefits of their Competitive Class positions. Thus, a Competitive Class employee in the Police Service could be selected to fill one of these positions without giving up the Police Service benefits. As Exempt Class employees these individuals would be permitted to continue their contributions to the NYC Police Pension Fund and retire directly from these managerial positions. This benefit is permitted only for those serving in Exempt Class positions and is not authorized for competitive employees accepting non-competitive positions.

Additionally, we propose to classify, in the Exempt Class, under Rule X, the sub-managerial title of Secretary to the First Deputy Commissioner – PD, with one position for the Police Department. This individual serving in this secretary position must have a close working relationship with the First Deputy Police Commissioner. Therefore, exempt classification is appropriate.

We propose to classify the following managerial titles in the Non-Competitive Class, under Rule X, Part I for the Police Department: Civilianization Manager – PD; Director for Equal Employment Opportunity – PD; Director of Photographic Services – PD; Director of Support Services – PD; and Director of Technology Development – PD, each with one authorized position; and Intelligence Research Manager – PD, 25 positions authorized. Each of these positions will be responsible for developing or directing a critical agency operation or program and making recommendations for improvements to existing city programs or policy areas. Due to the specialized experience and skill required for each position, along with the policy influencing nature of the work they perform, it would not be possible to fill these positions through competitive examinations.

Finally, we propose to classify the following sub-managerial titles in the Non-Competitive Class, under Rule XI, Part I: Assistant Advocate – PD (with 3 Assignment Levels), 50 positions authorized, Assistant Counsel – PD, 10 positions authorized, and Intelligence Research Specialist – PD (with 3 Assignment Levels), 125 positions authorized.

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All of the City's attorney positions requiring admission to the bar are classified in the Non-Competitive Class and the non-managerial titles are represented by a union. These two unique non-managerial legal titles exist as temporary titles and are not represented by a union. Because the work performed in these titles requires strong identification with management and dealing with personnel and labor relations matters, we have proposed that these unique NYPD legal positions be classified as distinct, PD only, non-union represented, non-competitive titles. Assistant Advocates represent department management, performing disciplinary investigations and prosecutions of uniformed and civilian employees for violation of departmental and citywide rules and regulations. Assistant Counsels have confidential knowledge of the department's position in critical legal matters directing and coordinating staff attorneys involved in the research and litigation of the NYPD's civil and criminal justice functions and assists executive level staff in the resolving sensitive and complex problems which bridge legal and departmental policy issues.

Intelligence Research Specialists perform intelligence and counterterrorism work covering an ever-changing, wide range of specialties affecting public safety. Each Intelligence Research Specialist position, or small group of positions, requires specialized background and experience. The Police Department's areas of focus and interest change frequently based on local, national and international events. Thus, it is impracticable to test competitively for these positions and non-competitive classification is justified.

Both the managerial and sub-managerial groups of non-competitive positions are confidential or policy influencing pursuant to Section 42.2-a, and therefore, will be classified under Part I of the Non-Competitive Class, which excludes the incumbents from Civil Service Law Section 75 disciplinary procedures. Employees selected to fill these positions will have the personal confidence of the Police Commissioner and other executives of the NYPD. We believe that these titles should be classified in the Non-Competitive Class because it is not practicable to test competitively for the unique combination of knowledge, skills and experience required for the positions or for the personal confidence of higher level executives, required for each position. The minimum qualification requirements are set forth in the enclosed class specification for each position. However, it is essential that these positions be classified in the non-competitive class so they can be filled at the executive's discretion to further the mission of the agency.

We feel that there is merit to the above proposals and recommend that a public hearing be held as the first step to formally classify these titles in the Exempt and Non-Competitive Classes.

If you approve this proposal, please forward the enclosed calendar item to the Commissioner for approval, the enclosed calendar item scheduling the public hearing to be held on May 26, 2009, at One Centre Street, Pre-Bid Room, 18<sup>th</sup> Floor North, New York, NY 10007. Copies of the proposal memorandum, the proposed classification resolution, the duties statements and the proposed class specifications for the above titles can be viewed on the DCAS Website at: [www.nyc.gov/dcas](http://www.nyc.gov/dcas).

Enclosures

c: Thomas J. Patitucci