




Department of Transportation

Ydanis Rodriguez, Commissioner

Date: June 10, 2022

To: Ydanis Rodriguez, Commissioner

From: Margaret Forgione, First Deputy Commissioner 

Subject: Post-Employment Retention of Rajesh Naik as Consultant to DOT,
Conflicts of Interest Board Rule Pursuant to Section 1-07(d)(1)

I would like to formally request that you approve DOT's retention of Rajesh Naik, DOT's former Director of the Engineering Audit Bureau. Mr. Naik retired from DOT on April 1, 2022.

Under newly adopted COIB Rule 1-07(d)(1) a public servant may continue to serve as a compensated consultant to the agency he/she was formerly employed by and work on matters he/she was personally and substantially involved with at their former agency so long as the following conditions are met:

- (1) the consulting arrangement is made for the purpose of continuing or completing work left unfinished by the former public servant at the time their City service terminated, or for training their replacement, or for filling a vacancy until a replacement can be hired;
- (2) the duration of the consulting arrangement is no longer than reasonably necessary;
- (3) the former public servant has technical, professional, or other subject-matter expertise or skills not otherwise available among the agency's employees;
- (4) the compensation is comparable to what the former public servant last earned at the agency; and
- (5) within 30 days the written approval of the agency head is disclosed to the Conflicts of Interest Board, which approval will be posted on the Board's website.

It is noted that the only communications with DOT by Mr. Naik within the otherwise forbidden one year period following his departure from DOT in his role as a consultant pursuant to COIB Rule 1-07(d)(1) and for the purposes intended by this rule shall be permitted. Communications within the otherwise prohibited one year period and beyond initiated by DOT to obtain information from Mr. Naik needed for the operations of the agency are also permitted.

For the reasons set forth below I believe that Mr. Naik's critical work for the Engineering Audit Bureau plus DOT's current inability, given the City's current hiring and promotion limitations, to either hire a replacement for him or quickly find a replacement for him with current DOT personnel makes him an ideal candidate who fits the criteria for compliance with this new COIB Rule.



While Mr. Naik was employed by DOT as the Director of the Engineering Audit Bureau, his key duties included the management and oversight of fifteen employees comprised of engineers, accountants, and auditors. The functions performed by the Engineering Audit Bureau are mandated by the City Charter and must be carried out in accordance with the directives and guidelines issued by key external parties such as the New York City Comptroller, Mayor's Office and the Office of Management and Budget. On an average, each year the Engineering Audit Bureau reviews approximately 3,500 payment vouchers with a total amount of \$800M and 100 change orders with a total amount of \$100M. The Engineering Audit Bureau also performs pre-audits of time and material contract work to help minimize potential internal/external post-audit issues. Finally, the Engineering Audit Bureau also performs inspections of the Agency's purchases and thermoplastic markings. Given the time-sensitive nature of the work performed by the Engineering Audit Bureau, it is imperative to maintain qualified individuals performing this process.

Mr. Naik's skillsets and responsibilities that argue for his retention as a consultant until his replacement is found and trained are:

- Mr. Naik is a licensed Professional Engineer with advanced knowledge of the construction and construction-related contract process from registration through the close-out phase.
- Mr. Naik has extensive experience working with various DOT divisions in resolving complex issues related to design and construction work.
- Mr. Naik served as part of the Agency Dispute Resolution Committee along with Legal and the Agency Chief Contracting Officer. In this role, Mr. Naik, along with the aforementioned DOT units, represented the Agency in claim settlement meetings held with the New York City Comptroller.

Mr. Naik's role as a consultant will have five main focuses:

1. Review the scope of work including extra work requests submitted by the contractor for consultant service contracts to confirm that the scope is not part of the original contract. This review also includes, but not limited to, an analysis of:
 - a. Cost proposals to confirm that the overall proposed cost of extra work is fair and reasonable
 - b. Unit bid prices of various items within a contract
 - c. Proposed labor hours/equipment/material cost
 - d. Average unit prices to establish cost reasonableness of the proposed extra work
 - e. Documents related to value engineering
 - f. Modifications of maintenance and protection schemes
 - g. Special contract items such as the implementation of acceleration methods
 - h. The final design and construction support services phases
 - i. Consultant and contractor claims
2. Analyze requests from DOT's Operating Divisions to determine the impact to the original contract, overall costs, and contract schedules. The review will include:
 - a. Changes in stage construction and work zone traffic control schemes



- b. The original contract scope and contract specifications
- 3. Provide recommendations based on the results of the analysis performed
- 4. Attend meetings (audio calls, video calls or in-person) with Agency staff as requested
- 5. Provide administrative assistance/support as needed

Mr. Naik will be retained using micro-purchase method pursuant to Procurement Policy Board (PPB) Rule 3-08(c)(1)(ii). Rajesh Naik will remain at the current pay rate as a DOT employee (\$83.674 per hour; \$152,286 per year) for the duration of the micro-purchase, which may not exceed \$20,000.00. That equates to approximately 468 hours as stated above.

With the current volume of payments and invoices to review, the complex nature of the contractual construction work, and the time sensitive constraints under which the payment review process must be completed, the ability to retain Mr. Naik at a mere 9 hours per week (468 hours, over 12 months) will result in far less strain on existing staff, and ensure continuity of critical technical operations.

If we were not able to retain Mr. Naik as described, the Engineering Audit Unit will struggle to provide the technical services known to the Executive and Operational teams at DOT as we work to fill this void in our team.

For the reasons above I seek your approval for Mr. Naik to be retained as a consultant.

Approved:

Ydanis Rodriguez

Date: 6/13/2022



Department of Transportation

Paul Ochoa, Executive Deputy Commissioner

To: Ydanis Rodriguez
Commissioner

From: Paul Ochoa
Executive Deputy Commissioner

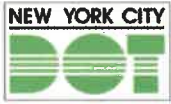
Re: Post-Employment Retention of Frank Schiro as Consultant to DOT
Pursuant to Conflicts of Interest Board Rule
Section 1-07(d)(1)

Date: December 19th, 2022

I would like to formally request that you approve DOT's continued retention of Frank Schiro as a consultant for the Analytics, Performance, and Management Unit (APM) within the Office of the Executive Deputy Commissioner pursuant to Section 1-07(d)(1) of the Rules of the Conflicts of Interest Board. Mr. Schiro's consultancy originally began on 1/1/2022 after he formally departed city service with DOT on 12/26/2021 and DOT originally approved this arrangement memorialized in the attached memo dated December 9, 2021, which was filed with COIB on December 13, 2021, for posting on its website as required by this rule. His current 1-year consulting agreement with DOT is expected to expire on December 31st, 2022. The APM unit at DOT lost an additional Data Analyst/ Application Developer in September of 2022 and was unable to offer him a 1-year consulting retention offer and COIB Rule 1-07(d)(1) because his new employer did not approve of the arrangement. These extenuating circumstances necessitate the extension of the retention of Mr. Schiro as a consultant with APM at DOT. If his retention as a consultant to DOT is approved Mr. Schiro will continue to work for APM while he is employed by Pfizer, which is a pharmaceutical and biotechnology corporation. Mr. Schiro is serving as a Data Scientist at Pfizer and will be responsible for analysis and data engineering.

Under newly adopted COIB Rule 1-07(d)(1) a public servant may continue to serve as a compensated consultant to the agency he/she was formerly employed by and work on matters he/she was personally and substantially involved with at their former agency so long as the following conditions are met:

- (1) the consulting arrangement is made for the purpose of continuing or completing work left unfinished by the former public servant at the time their City service terminated, or for training their replacement, or for filling a vacancy until a replacement can be hired;
- (2) the duration of the consulting arrangement is no longer than reasonably necessary;
- (3) the former public servant has technical, professional, or other subject-matter expertise or skills not otherwise available among the agency's employees;



(4) the compensation is comparable to what the former public servant last earned at the agency; and

(5) within 30 days the written approval of the agency head is disclosed to the Conflicts of Interest Board, which approval will be posted on the Board's website.

It is noted that Mr. Schiro will not be performing his consulting work for DOT as an employee of Pfizer, nor will he communicate with Pfizer about his work for DOT and he will not perform work for Pfizer on DOT projects that he had substantial or personal involvement within violation of Section 2604(d)(4).¹

For the reasons set forth below I believe that Mr. Schiro's continued critical work for APM plus DOT's current inability, given the City's current hiring and promotion limitations, to either hire a replacement for him or quickly find a replacement for him with current DOT personnel makes him an ideal candidate who fits the criteria for compliance with this new COIB Rule. Additionally, the APM unit just lost the other senior Data Analyst and Application Developer, making this retention effort of Mr. Schiro, that much more dire.

Mr. Schiro's current duties in APM (Analytics, Performance, and Management Unit) as a consultant include the upkeep and modernization of several key applications including applications responsible for hiring and promotions data management, the agency org chart, contract analytics and performance metrics management. In this role, Mr. Schiro has worked to stabilize our current applications infrastructure and ensure our analytics applications experience minimal downtime. These operations include the data intensive, monthly submissions of "PARs" to OMB for approval, as well as the supply of key Performance Indicators and Statistics which guide daily meetings and briefs.

Mr. Schiro's skillsets and responsibilities that argue for his retention as a consultant until his replacement is found and trained are:

- Mr. Schiro is the only individual on the team with advanced knowledge of R and PHP (both are coding languages), upon which several of the unit's Front-End applications are built.
- Mr. Schiro has greatly contributed to the analytics platform upon which the unit depends, and he is needed to transfer sufficient levels of knowledge to others in the group, as well as sophisticated massive amounts of code such that others can add to and maintain the unit's systems.

¹ The one-year prohibition against former City employees communicating with their former City agency as set forth 2604(d)(2) of the City Charter, will no longer apply to Mr. Schiro since this extended consulting arrangement with DOT will commence on January 1, 2023, and as noted above, his last day of City service was 12/26/21. It should be noted that Mr. Schiro does not anticipate communicating with DOT on behalf of Pfizer which only appears to have one business dealing with DOT according to the NYC Checkbook website, which is a revocable consent agreement that Mr. Schiro would have not any involvement with as part of his duties for Pfizer.



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Paul Ochoa, Executive Deputy Commissioner

- Mr. Schiro's intricate contextual knowledge of DOT's Human Resources, Budgetary and Contracting data make him impossible to quickly replace.
- The systems that Mr. Schiro manages and maintains are used by executive level staff at the agency daily and cannot experience malfunctions without major ramifications to daily operations.

Mr. Schiro's role as a consultant will have four main focuses:

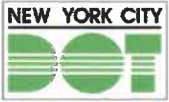
- 1) Continue to transition APM's applications to more stable physical infrastructure and reduce application downtime
- 2) Organize and sophisticate all existing code base so that the replacement candidate will be able to efficiently step in
- 3) Assist and advise in assessing backfill candidates for the role
- 4) Train the selected replacement in the following realms:
 - a. How the unit's applications are built, managed, and hosted
 - b. How to develop new applications and modules on the unit's platform
 - c. How the Unit's business intelligence reporting platform works and is managed
 - d. Understanding of relationship between IT&Telecom and APM

The duration of the micro-purchase is to be approximately 316 hours over a 12-month period.

Mr. Schiro will be retained using micro-purchase method pursuant to Procurement Policy Board (PPB) Rule 3-08(c)(1)(ii). Frank Schiro will earn \$63.14 per hour as a DOT consultant for the duration of the micro-purchase, which may not exceed \$20,000.00. That equates to approximately 316 hours as stated above.

With the combination of ad-hoc data reporting demands for the new Mayoral Administration, as well as the large portfolio of existing operating applications, the APM team is working at capacity. Given the existing pressures on the team in terms of the large, technically advanced workload, coupled with the difficult hiring climate in the city, the team anticipates being stretched quite thin over the next year. The ability to retain Mr. Schiro at a mere 6 hours per week (316 hours over 12 months) will result in far less strain on existing staff and ensure continuity of critical technical operations.

If we were not able to retain Mr. Schiro as described, the APM team will struggle to provide the technical services known to the Executive and Operational teams at DOT as we work to fill this void in our team.



Department of Transportation

Paul Ochoa, Executive Deputy Commissioner

For the reasons above I seek your approval for Mr. Schiro to be retained as a consultant pursuant to Section 1-07(d)(1) of COIB's rules.

Approved:

A handwritten signature in blue ink, appearing to read "Ydanis Rodriguez", is written over a horizontal line.

Ydanis Rodriguez

Date:

A handwritten date "12/19/22" in blue ink is written over a horizontal line.

cc. M. Siegel, J. Turetsky, F. Schiro