



DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES  
DIVISION OF CITYWIDE PERSONNEL SERVICES

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April 30, 2009

Richard Ciprioni  
Director of Commission Operations & Municipal Assistance  
New York State Department of Civil Service  
Alfred E. Smith State Office Building  
Albany, New York 12239

Dear Mr. Ciprioni:

I am pleased to forward to you the interim DCAS Progress Report submitted pursuant to the request of the Commission on March 11, 2009. The submission reports on data from the period beginning December 1, 2008 and ending March 31, 2009.

As of March 31, 2009, there were 34,539 provisional employees serving, a decrease of 3,258 from the May 31, 2008 baseline number of 37,797.

Since the submission and approval of our Provisional Reduction Plan, DCAS has been working very closely with City agencies on reducing the number of provisional employees, specifically provisional employees who are serving in titles with viable eligible lists. We have made great strides in accomplishing this goal.

The number of provisionals serving in the face of viable eligible lists decreased significantly from 12,645 as of May 31, 2008 to 4,457 as of March 31, 2009. However, even this number does not fully illustrate our efforts in that this number includes 1,010 provisionals serving in titles for which lists were only recently established. We are pleased that, after a highly focused effort both by DCAS and City agencies, we have reduced the number of provisionals serving in the face of eligible lists by 65%. We also recognize that in certain cases, agencies have experienced unavoidable delays in addressing their provisionals and, in other cases, there are reasonable explanations for the existence of provisionals as noted on the report. Some outstanding issues include:

o Eligibility Specialists in the Human Resources Administration (HRA):

As discussed in our previous report submission, HRA provisionally appointed over 800 individuals to the title of Eligibility Specialist during a period when no civil service list was in existence for this title. As you are aware, in order to comply with legal mandates regarding eligibility determinations for social service benefits, we have requested an extension until October 2009 to completely replace all provisional Eligibility Specialists. We expect to replace these provisionals in several groups in the coming months.

- Child Protective Specialist in the Administration for Children's Services (ACS):  
There are significant operational concerns regarding rapidly replacing employees, who although provisionally appointed, have been trained and have become experienced Child Protective Specialists. In addition, historically, the numbers of names on the eligible lists for this title have been insufficient. However, several exams have been administered for this title (including several at our new Computerized Testing Center) and we expect that this will result in a large decrease in the number of provisionals shortly.
  
- EMS-EMT and EMS-Paramedics in the Fire Department (FDNY):  
The number of provisional employees in these titles continues to be dramatically reduced. As of March 31, 2009, there was a decrease of 347 EMS employees serving provisionally. However, EMS-EMTs and EMS-Paramedics represent particularly challenging titles with respect to compliance with Long Beach. First, the manner in which EMS-EMTs and EMS-Paramedics are investigated and appointed – that is, in periodic academy classes of large numbers of new appointees – renders it difficult and potentially dangerous with respect to public safety for the FDNY to replace all of its provisional employees in these titles within a short period of time, rather than in a phased program tied to the academy class schedule. Additionally, while examinations for these positions are among the most frequently and regularly administered exams by DCAS, it has been difficult to maintain adequate lists which can meet the needs of the FDNY, resulting in the retention of provisional appointments. For example, with respect to the title EMS-Paramedic, while 276 provisional employees remain as of 3/31/09, the six existing eligible lists in total yielded only 261 applicants, and we fully anticipate that the existing lists will be exhausted after the summer academy classes. This illustrates the difficulty in establishing lists which could ever replace all provisional EMS employees, one of the key bases for our Plan proposal to have this title reclassified into the non-competitive class.
  
- Transit Authority (TA) Titles:  
We have notified TA of its provisionals serving in the face of viable eligible lists. However, the speed with which these provisionals are being resolved and the magnitude of the number of provisionals reduced are not what we would deem satisfactory.

In addition, DCAS continues to advance the Plan proposal regarding the divestiture of TA. In a series of preliminary meetings, we discussed with TA the terms and technical issues related to TA's request to use the DCAS databases. We again met with TA to review the agency's proposed targets for the divestiture on March 26, 2009. Two additional meetings occurred in April; one to discuss details of the drafted legislation and the other to assess the budget issues related to the transfer of jurisdiction. The next meeting with TA is scheduled to be held tomorrow, May 1, 2009.

These outstanding issues will continue to be addressed by DCAS in our effort to reduce provisionals while taking into consideration the operational needs of New York City government.

It is also critical to emphasize we are succeeding in changing the culture of the City with respect to the civil service. For example, 13,968 applicants filed for the Clerical Associate exam in January 2008, compared against 8,182 applicants who filed for the same exam in March 2001. While that 71% increase may not be entirely due to our efforts with respect to Long Beach, we are convinced that the biggest share of that increase is. We also know, through our own efforts at reducing provisionals at DCAS and through our agency

directives, that agencies are strongly encouraging their employees to file for civil service examinations. We are committed to continuing this cultural change which will encourage more provisionals to become permanent civil servants. An increase in the number of applicants will better ensure lists that can satisfy the needs of the City.

We have also made progress in our continued efforts to resolve provisional appointments through classification actions. On December 16, 2008, DCAS held its first jurisdictional classification hearing on the titles of Executive Program Specialist, Strategic Initiative Specialist, and Confidential Strategy Planner. Documentation on this hearing and these titles was sent to the State Civil Service Commission on February 12, 2009 and we are eagerly awaiting your reply. On April 6, 2009, we held another hearing to reclassify 16 Information Technology titles into the non-competitive class and two more hearings for four titles are scheduled for May. We have also recently completed several classification actions. The details of these actions will be reported later in the calendar year as they are implemented. These actions, which consolidated several title series, will have the dual effect of reducing the number of examinations we will need to give in the future and reducing the number of provisionals.

I turn now to the specific issues raised in your March 11, 2009 letter.

**Summary of Recommended Changes and Actions Needed for Full Compliance, Recommended Changes #1:**

- *DCAS should provide a complete listing of all examinations planned for the upcoming year on an annual basis every July.*

DCAS agrees to provide a complete listing of all examinations planned for the upcoming fiscal year on an annual basis in July.

**Summary of Recommended Changes and Actions Needed for Full Compliance, Recommended Changes #2:**

Titles with Provisionals Serving

- *Termination of provisional appointments in four titles for which a mandatory eligible list has been certified, but in which provisionals continued to serve;*

For the title of Eligibility Specialist, the delay in termination of provisional appointments is outlined earlier in this letter.

For the titles of Child Protective Specialist and Traffic Enforcement Agent, the agencies exhausted the eligible lists prior to March 31, 2009, but the lists have recently returned to viable status due to restorations. The agencies are using the remaining eligibles on the lists to reduce provisionals in these titles.

Hiring pools were held for the title of Caseworker in March and early April; the agency will use the eligible list to replace provisionals.

- *Certification of 78 mandatory open-competitive eligible lists in existence for titles in which provisionals are serving regarding which no action has yet been reported;*
- *Certification of the 13 mandatory promotion eligible lists for titles in which provisionals are serving regarding which no action has yet been reported;*
- *Certification of any of the eligible lists for "Titles With Three or More Eligibles on Combined Certification of Open-Competitive & Promotion Lists" that are mandatory; and*

- *Provide an explanation regarding any circumstances which led to non-compliance with any of the above-required actions.*

In the submission we provided to the State on August 8, 2008, we included *Appendix F: Provisionals Serving in Titles with Viable Eligible Lists*. The titles in which eligible lists exist are constantly changing as provisionals are replaced, new eligible lists are established, existing eligible lists become nonviable (and become viable again due to restorations), or eligible lists expire. We have noted the differences between the August 2008 and April 2009 submissions in *Appendix F: Provisionals Serving in Titles with Viable Eligible Lists Annotated* report attached.

When there are provisionals serving in titles with viable civil service lists, DCAS certifies eligible lists to agencies with provisionals serving in those titles. As you know, pursuant to our Rules, agencies have 30 days to take action on the certification, and may request another 30-day extension, if needed. At the end of the 60 days, the disposition actions are returned to DCAS for review and audit. This cycle may occur more than once, and, therefore, the end result of removing all provisionals in that title is not achieved by a one-time certification. It is an ongoing process and DCAS works very closely with agencies to ensure that civil service rules and regulations are being followed.

Please note that the remaining 78 open competitive lists have been certified to City agencies. You may have noted a discrepancy where, although there were 82 titles reported in the open competitive section of *Appendix F: Provisionals Serving in Titles with Viable Eligible Lists*, only four of those titles were noted in our Progress Report. This does not mean actions were not taken on the remaining 78 open competitive titles. The Progress Report is limited to titles where designated actions (i.e., an exam was held, a list was published or a list was established) were taken within a specific six-month period. Therefore, titles with viable eligible lists may not always appear on the Progress Report. This is also true of the 13 promotion lists and the remaining eligible lists that are both open competitive and promotional.

#### 160 Remaining Titles

- *DCAS should submit its plans regarding the actions planned to permanently fill each of the 160 titles in which provisionals are serving, which DCAS indicates now will be addressed in the fifth year of the Plan using a mixture of permanent competitive class appointments and classification actions as the plans for these titles are developed during the course of the Plan.*

DCAS is working diligently to achieve substantial compliance under Section 65(5)(b) of the New York State Civil Service Law, where the City must reduce the number of provisional appointees to no more than 5% of those serving in competitive class titles within five years of October 22, 2008. DCAS will continue to address the issue of provisionals in City service through a continuation of the efforts noted in the Plan and in accordance with the number of provisionals serving at the time. We also recognize that, in order to fully address these provisionals, interim steps should be taken now.

DCAS is seeking proposals from appropriately qualified contractors to conduct job analyses and develop and administer Civil Service examinations. The selected contractor, expected to be in place by the end of this calendar year, will be required to adhere to the requirements of the Uniform Guidelines on Employee Selection Procedures (1978), and to professional standards as described in the AERA, APA and NCME Standards for Educational and Psychological Testing (1999), and the

SIOP Principles for the Validation and Use of Personnel Selection Procedures (2003).

The goals and objectives of this Request for Proposal (“RFP”) are:

- To have a sound research basis for the title classification actions (broadbanding, consolidation or reclassification from competitive to non-competitive class) on job titles for which DCAS proposes job classification actions in its Five-Year Provisional Reduction Plan; and
- To establish eligible lists based on validated examinations for job titles in which provisional employees are serving, but for which no job classification action or civil service examination has been proposed by DCAS in its Five-Year Provisional Reduction Plan.

**Summary of Recommended Changes and Actions Needed for Full Compliance, Recommended Changes #3:**

- *In accordance with the process described in the Plan for the publication and establishment of eligible lists for titles examined during the course of the Plan shall be established within 90 days of the completion of the subject examination. Mandatory eligible lists established during the course of the Plan shall be used to replace provisional appointments with permanent competitive appointments in accordance with CSL section 65(3).*

As outlined in the August 8, 2008 submission, DCAS defines a completed examination as an examination in which all of the component parts have been completed. Below is an annotated *Appendix G: Completed Examinations with no Eligible Lists Established*, which shows the status of titles where there were provisionals serving.

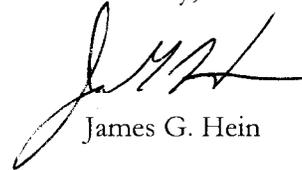
<b>Exam Title</b>	<b>Test Date</b>	<b>Comments</b>
Light Maintainer	06/05/07	Established 5/7/08, 45 provisionals serving in TA
Bus Maintainer - Group B	05/03/07	Established 5/7/08, eligible list is nonviable
Associate Education Analyst	05/05/07	Established 8/6/08, eligible list is nonviable
Associate Staff Analyst	05/18/07	Established 8/6/08, eligible list is nonviable
Associate Transit Management Analyst	05/06/07	Established 8/6/08, eligible list is nonviable
Associate Transit Management Analyst (Operations)	05/05/07	Established 8/6/08, eligible list is nonviable
Caseworker	06/23/07	Established 7/9/08, agency is holding hiring pools
Electronic Equipment Maintainer	06/02/07	Established 2/6/08, provisional was replaced but was not updated in the personnel system
Marine Engineer (Uniformed-Fire Department)	11/09/07	Established 8/8/08, no provisionals serving
Radio Repair Mechanic	11/17/07	Established 9/17/08, eligible list is nonviable

Finally, we have made a number of changes to the Performance Targets tab on the Progress Report, as outlined below. These changes were intended to make certain elements of the Progress Report clearer. They were:

- The heading for the spreadsheet has been renamed “DCAS Six-Month Performance Targets and Numbers of Provisional Appointments to be Eliminated”;
- Competitive Appointments from Eligible Lists” has been renamed “Competitive Appointments to be made from Eligible Lists”;
- “Total Number of Provisionals Reduced” has been renamed “Target Number of Provisionals To Be Reduced”;
- “Current” has been removed from the total counts and “as of 5/31/2008” has been added. The rows are now named “Total # of Competitive Class Employees as of 5/31/2008” and “Total # of Provisional Employees as of 5/31/2008.”

As always, we look forward to continuing to work with you throughout the course of our Five Year Plan. If you have any questions, please call me at 212-669-2244.

Sincerely,



James G. Hein

- C: Nancy G. Groenwegen, President, New York State Civil Service Commission  
Stella Chen Harding, Director, Commission Operations

Edward Skyler, Deputy Mayor for Operations  
Martha K. Hirst, Commissioner, Department of Citywide Administrative Services  
Michael A. Cardozo, Corporation Counsel  
James F. Hanley, Commissioner of Labor Relations  
Mark Page, Director, Office of Management and Budget  
Michelle L. Goldstein, Director, Office of State Legislative Affairs