

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF NEW YORK (ACTING THROUGH ITS
DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
AND
THE NEW YORK CITY TRANSIT AUTHORITY**

The following memorializes the terms of a Memorandum of Understanding (“MOU”) between the City of New York, acting through the Commissioner of its Department of Citywide Administrative Services (“DCAS”) with offices at One Centre Street, 17th Floor, New York, NY 10007, and the New York City Transit Authority (“NYCTA” or “Transit Authority”) with offices at 2 Broadway, New York, NY 10004 (each a “Party” and collectively the “Parties”).

STATEMENT OF PURPOSE

WHEREAS, the Commissioner of DCAS is empowered by New York City Charter section 814 with the powers and duties of a Municipal Civil Service Commission, as that term is defined in the New York State Civil Service Law;

WHEREAS, NYCTA is a public authority created by section 1201 of the New York State Public Authorities Law;

WHEREAS, the New York State Public Authorities Law (“NYS PAL”) provides that the appointment, promotion and continuance of employment of all employees of NYCTA shall be governed by the provisions of the Civil Service Law and the rules of the Municipal Civil Service Commission of the City; to wit, the Personnel Rules and Regulations of the City of New York;

WHEREAS, NYCTA has, over time, worked closely with DCAS in the development of civil service examinations for classified civil service titles unique to the NYCTA;

WHEREAS, NYCTA has experience in developing, administering, and scoring examinations for its subsidiary, the Manhattan and Bronx Surface Transit Operating Authority (“MaBSTOA”), which entity is not a civil service employer;

WHEREAS, NYCTA has taken on greater responsibility with respect to the development, administration, and scoring of civil service examinations for classified competitive class titles unique to NYCTA;

WHEREAS, this MOU is part of the overall effort by DCAS and NYCTA to reduce the number of employees appointed provisionally to competitive class titles in the classified service and the length of time of such provisional appointments;

WHEREAS, Section 814 of the New York City Charter provides for delegating certain civil service responsibilities to other agencies;

WHEREAS, the NYS PAL allows for same; and

WHEREAS, Section 1204 of the NYS PAL provides that NYCTA, with the consent of the City of New York, may use "officers, employees, agents and facilities" of the City and may compensate the City accordingly for such use.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration and of the foregoing recitals, which form a part of this Agreement, DCAS and NYCTA agree as follows:

1. TERM OF MOU

This MOU shall remain in effect until such time as (1) the MOU has been terminated pursuant to Section 2 or (2) any of the provisions of this MOU are nullified or made invalid by statute or duly promulgated regulation. As long as this MOU is in effect, its terms shall be reviewed by the Parties every two (2) years.

2. TERMINATION OF MOU

In the event one of the Parties desires to terminate this MOU (the "terminating Party"), that party shall notify the other Party of the same in writing (the "termination notice"). The termination notice shall contain a description of the reasons the terminating party seeks termination of the MOU. The terminating Party shall schedule and convene an executive-level meeting with the other Party within a reasonable time after sending the termination notice. The Parties shall attempt in good faith to resolve any outstanding disputes or issues relating to the MOU.

In the event the Parties are unable to come to an agreement to continue the MOU, the Parties shall work collaboratively to develop a plan to discontinue the responsibilities set forth in the MOU. The plan shall be memorialized in writing and executed by the Parties utilizing the same formalities as were utilized for the execution of this MOU. The plan shall provide at least one (1) year before final termination of the MOU. At the conclusion of the wind-down plan, each Party shall be deemed restored to its respective status and to have those rights and obligations that existed prior to the effective date of this MOU.

3. RESPONSIBILITIES OF PARTIES

A. NYCTA's Responsibilities

- i. NYCTA shall request examination numbers from DCAS bi-annually at least six (6) weeks prior to the opening of the application period of the earliest exam;
- ii. NYCTA shall develop, administer, and score competitive civil service examinations for the transit-specific (titles only for use by NYCTA)

classified titles as may be necessary in connection with the employment needs of NYCTA;

- iii. NYCTA will provide DCAS with a preliminary exam schedule at least eight (8) weeks prior to the commencement of the exam schedule period and with a final exam schedule at least six (6) weeks prior to the commencement of the exam schedule period. DCAS will provide feedback as to dates of larger-scale citywide exams to NYCTA while NYCTA is developing their schedule. DCAS will provide a comprehensive review of the proposed schedule and feedback to ensure that titles with high numbers of provisional employees serving and agency needs are reflected in the schedule;
- iv. NYCTA shall comply with all requirements set forth in the Protocol Respecting Examination Procedures, Veterans Preference, Legacy and Eligible Lists ("Protocol") presently required as attached hereto as Exhibit 1, subject to whatever amendments or changes that may be made by DCAS in its examination and recruitment procedures or in the standards or procedures utilized by DCAS in its General Examination Regulations;
- v. No later than 6 weeks prior to the opening of an application period for any examination, NYCTA will provide DCAS with a final draft Notice of Examination ("NOE"), along with the existing title specification, comment sheet, prior NOE, and a cover memo approving the NOE signed by the Director of Personnel Testing, Selection, and Classification. Each NOE will be reviewed by a NYCTA attorney before it is submitted to DCAS to ensure that it conforms to applicable law and to DCAS standards and requirements.
- vi. Within one week of receiving DCAS comments on the final draft of an NOE from the DCAS Examiner, the NYCTA Examination Manager will provide an appropriate response to DCAS.
- vii. NYCTA shall provide DCAS with the Preliminary Applicant File via Secure File Transfer Protocol (SFTP) according to the following schedule: within two months after the close of an application period in which 10,000 or fewer applications have been collected; within 4 months if the number of applications collected is between 10,001 and 15,000 applications; within 6 months if the number of applications collected is between 15,001 and 20,000 and within 8 months if the number of applications collected is over 20,000.

- viii. NYCTA shall, at the time they wish an eligible list to be made public or established, send to DCAS via SFTP a Final Applicant File in a format acceptable to DCAS. The Final Applicant File contain candidate scores, codes, and eligible list numbers for individuals to be named to an eligible list. Along with the Final Applicant File, NYCTA shall submit to DCAS a file that contains DCAS revisions and corrections to the Preliminary Applicant File.
 - a. For Promotional exams, NYCTA shall provide a Passers File, in advance of the Final Applicant File, to DCAS for the purpose of checking eligibility for promotion as well as calculating Performance and Seniority credits
- ix. NYCTA shall provide DCAS with a Final Applicant File, in a format acceptable to DCAS, for each competitive civil service examination that NYCTA has developed, administered, and scored, in accordance with the Protocol and all applicable procedural requirements set forth therein
- x. NYCTA shall provide a written certification with each eligible list provided to DCAS which indicates NYCTA followed all the requirements of this MOU, including the requirements of the Protocol and all applicable procedural requirements set forth therein, in the creation of the eligible list; and
- xi. NYCTA shall, with respect to those responsibilities not delegated to NYCTA by DCAS under this MOU, and with respect to administration of the NYS Civil Service Law, comply with all applicable directives, instructions, guidelines and procedures promulgated by DCAS in its capacity as the Municipal Civil Service Commission.
- xii. In furtherance of satisfying the tasks and timeframes set forth in the DCAS Responsibilities Section of this MOU, NYCTA agrees to fund four (4) positions on the DCAS payroll for this purpose ("MOU Employees"). Staffing for the MOU employees shall consist of three (3) Staff Analyst, Assignment Level 1, funded at the current incumbent minimum of \$54,549 and one (1) Principal Administrative Associate - Assignment Level I position, funded at the current incumbent minimum of \$48,062. One (1) of the Staff Analyst positions will be funded by NYCTA for a period of one (1) year only, beginning on the date that DCAS fills the position. This position will be primarily responsible for the updating of civil service title specifications and title re-structuring. When such tasks are unavailable, this position shall be assigned other NYCTA responsibilities. At the end of the one year period DCAS will continue to update civil service specifications. DCAS will make every reasonable effort to fill all of the positions by April 1, 2018. All four positions will work exclusively on NYCTA

projects and at no time will employees be assigned work for other agencies. These positions will be dedicated to performing all tasks for NYCTA exams including, but not limited to: Notice of Examination Review; update of civil service title specifications; exam number assignments; set-up of exam records within DCAS systems; receiving and processing of the Preliminary Applicant Files, including the research, resolution, and reporting of data discrepancies; perform eligibility checks and calculate seniority scores of promotional applicants; review and process the Final Candidate File, and Passers File, if applicable; work with DCAS Certification Unit to ensure NYCTA eligible lists are established within the time periods proscribed in this MOU. Funding for any or all of these positions may be withheld by NYCTA if DCAS does not fulfill its responsibilities as described in this Agreement.

xiii. Payment for MOU Employees:

- a. NYCTA shall provide, and DCAS shall accept, one lump sum payment of three hundred and thirty-three thousand and seventy two (\$333,072) for the first year of the agreement, and annual payments of two hundred and forty-seven thousand and twenty seven dollars (\$247,027) in each subsequent year of the agreement, to cover the cost of providing the MOU Employees as set forth in this Agreement (the "Payments"). Each annual Payment shall be deemed to be payment in full for twelve (12) months of MOU Employee Services, per position. Periods of time in which any MOU Employee position(s) are, for any reason, vacant do not count towards this 12-month time period.
- b. Prior to the second annual payments, and for each Payment thereafter, DCAS shall provide NYCTA with an accounting of the total period of time each of the MOU Employee positions were vacant during the prior year. The amount of each Payment, beginning with the second year of the MOU, will be pro-rated based on such accounting.
- c. The Parties agree that the payments are based on a reasonable assessment of the full cost of providing the MOU Employees, and are inclusive of all overhead charges, fringe benefits, differential benefits, reasonably expected wage rates, an allowance for wage escalation, and an allowance for overtime and all overtime benefit costs.

- d. The parties agree that the annual payments will increase based on increases in the contractual wage rates for the Staff Analyst and Principal Administrative Associate titles. Provisions will be made for the MOU Employees to be considered for step-up or promotion and appropriate salary increase, if warranted by good performance and subject to agreement by both Parties.

B. DCAS' Responsibilities

- i. Within one week of receipt of request for examination numbers, DCAS will add appropriate exam numbers to DCAS systems and return file to NYCTA with all exam numbers included;
- ii. The Human Capital unit of the DCAS Office of General Counsel will provide such initial and ongoing training to the NYCTA attorney(s) designated to review NOEs pursuant to paragraph A(v) of Section 3 of this MOU as is reasonably necessary for the attorney to ensure that NOEs conform to DCAS standards and requirements. DCAS shall ensure an individual is available to respond to queries from NYCTA regarding NOE standards and requirements.
- iii. DCAS will review each NOE and respond to NYCTA with any questions or issues within two weeks of receiving the NOE. The DCAS Examiner will be responsible for forwarding the NOE to Civil Service Administration, Classification and Compensation and List Management and Audit for their review, collecting and coordinating comments from all DCAS parties, and providing the complete set of DCAS comments to the NYCTA Examination Manager. The DCAS Office of General Counsel may make additional comments upon a final review within one (1) week of receiving a response from the NYCTA Examination Manager to the initial DCAS comments. The DCAS Office of General Counsel will communicate any additional comments simultaneously to the NYCTA Examination Manager and the NYCTA attorney designated to review NOEs pursuant to paragraph A (V) of Section 3 at any point in the review process, as it deems necessary.
- iv. Upon receipt of the Preliminary Applicant File, DCAS will resolve mismatched applicant data and provide an updated File to NYCTA. DCAS will provide an updated file within six (6) weeks for files containing 3,000 or fewer records and within eight weeks for files containing more than 3,000 records.
- v. DCAS will check eligibility and calculate seniority scores and return lists of passers with eligibility data and seniority scores to NYCTA within four weeks from the date NYCTA submits the list of passers to DCAS.

- vi. Upon receipt of the Final Applicant File from NYCTA, meeting the standards set forth in Paragraph 3.A. iii including the written certification that NYCTA followed all the requirements of this MOU as set forth in Paragraph 3.A.IIIDCAS shall establish said list in accordance with standard establishment procedures within sixty (60) days. This includes reconciliation of data discrepancies that may have occurred between the processing of the Preliminary Applicant File and the Final Applicant File.
- vii. Upon establishment, it shall remain the sole responsibility of DCAS to administer the use of such eligible list in accordance with the Civil Service Law and the Personnel Rules and Regulations of the City of New York.
- viii. In addition to the staffing and services indicated above, DCAS shall remain responsible for performing and carrying out all duties and functions provided to the Commissioner of Citywide Administrative Services pursuant to section 814 of the New York City Charter, except as expressly delegated in the MOU to NYCTA.
- ix. DCAS shall notify NYCTA in writing of any revisions made to its requirements or processes set forth in the Protocol Respecting Examination Procedures, Veterans/Legacy Preference, and Eligibility Lists, DCAS examination and recruitment standards or procedures utilized by DCAS in its General Examination Regulations.
- x. DCAS will be responsible for updating the official civil service title specifications for Transit specific titles to reflect any revisions that have been made or are made in the future to job descriptions, qualification requirements, et cetera, contained in the most recent Notices of Examination for those titles, as well as any revisions requested and justified by NYCTA based on organizational or operational changes within NYCTA. DCAS will officially record such revisions in published title specifications, DCAS calendar actions, and elsewhere as appropriate. DCAS shall make best efforts to calendar civil service title specification amendments for review within a reasonable timeframe.

4. MODIFICATION

The Parties may only modify the terms of this MOU in writing, signed by both of the Parties.

5. REVIEW AND RETENTION OF RECORDS

Any city, state, or federal auditors, or other investigative authority, who may be entitled to review records pursuant to local, state or federal law, rule or regulation shall have full access to and the right to examine any related financial records and/or reports during the term of this MOU. All records must be retained in compliance with applicable record retention requirements.

6. COMPLIANCE WITH LAWS

Each party shall comply with all applicable city, state and federal laws, rules and regulations with respect to this Agreement and the services to be provided hereunder including, but not limited to, the requirements of the Freedom of Information Law (NYS Public Officers Law § 87 *et seq.*)

7. ENTIRE UNDERSTANDING

This MOU contains all the terms and conditions agreed upon by the Parties hereto, and no other agreement, oral or otherwise, regarding the subject matter of this MOU shall be deemed to exist or to bind any of the Parties hereto, or to vary any of the terms contained herein. The Parties, however, agree that this MOU does not affect any other delegations which DCAS has made to NYCTA (e.g., the medical examinations provided for pursuant to Sections 71, 72 and 73 of the Civil Service Law). This MOU supersedes any prior agreements or understandings relating to the subject matter herein.

8. FILING/APPLICATION FEES

In furtherance of satisfying the requirements of Civil Service Law Section 50(5)(d), NYCTA and DCAS agree to the following process for handling filing/application fees. NYCTA shall accept filing/application fees for all of the examinations it conducts pursuant to this MOU. NYCTA shall then make payment to DCAS on a quarterly basis in the amount of all of the filing/application fees that NYCTA collected during that quarter. Within 30 days of receiving the payment from NYCTA, DCAS shall deposit the payment into the City's general fund to meet its obligation under Civil Service Law 50(5)(d) and then issue a refund payment to NYCTA in the same amount.

NYCTA shall comply with all of the requirements set forth in Title 55, Section 11-01 of the Rules of the City of New York entitled "General Examination Regulations," including, but not limited to, the fee schedule set forth therein, the terms and conditions for receipt, and the acceptance of waivers.

9. NO OTHER PAYMENTS

The a.) annual Payments for the provision of MOU Employees by DCAS and b.) the process for handling filing/application fees set forth in Section 8 above shall constitute the sole exchanges of funds between the Parties for services rendered pursuant to this MOU.

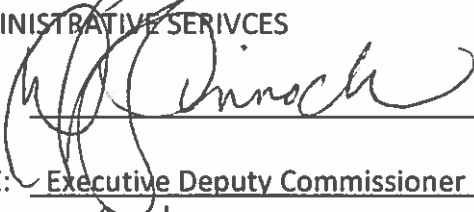
10. EFFECTIVE DATE

This Memorandum shall take effect immediately upon execution; however, newly-established responsibilities of each Party, as set forth herein, shall apply only on a prospective basis (i.e., as of such date of execution) and not to any pending matters, unless specifically agreed to in writing by both parties.

IN WITNESS WHEREOF, the Parties have executed this MOU on the dates appearing immediately under the signatures of their respective representatives.

THE CITY OF NEW YORK
DEPARTMENT OF CITYWIDE
ADMINISTRATIVE SERVICES

BY:



TITLE: Executive Deputy Commissioner

DATE:

5/2/18

THE NEW YORK CITY TRANSIT AUTHORITY

BY:



TITLE: Executive Vice President

DATE:

30 April 2018
