

OSA, 3 OCB2d 33 (BOC 2010)

(Rep) (Docket No. AC-15-04).

Summary of Decision: The Union filed a petition to amend Certification No. 3-88 to add the title Administrative Staff Analyst Levels II and III. The City and NYCHA argued that the title was excluded from collective bargaining as managerial and/or confidential. The Board found that, with certain exceptions, the title was eligible for collective bargaining and appropriately added to the certification. (***Official decision follows.***)

**OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION**

In the Matter of the Certification Proceeding

-between-

ORGANIZATION OF STAFF ANALYSTS,

Petitioner,

-and-

**THE CITY OF NEW YORK and
THE NEW YORK CITY HOUSING AUTHORITY,**

Respondents.

DECISION AND ORDER

On February 10, 2004, the Organization of Staff Analysts (“Union”) filed a petition seeking to add the title Administrative Staff Analyst (“ASA”) Levels II and III (Title Code No. 10026) to Certification No. 3-88. There are approximately 827 ASAs Levels II and III working in a wide variety of in-house titles at over 40 agencies of the City of New York (“City”) and at the New York City Housing Authority (“NYCHA”). The City and NYCHA (collectively “Employers”) argued that the title was managerial and/or confidential and, therefore, excluded from collective bargaining. The Office of Collective Bargaining conducted a survey of the duties and responsibilities of ASAs Levels

II and III and held 74 days of hearing. Based on this extensive record, the Board finds that certain positions are managerial and/or confidential, and the remainder are eligible for collective bargaining. Eligible ASAs Levels II and III are appropriately placed in the Union's bargaining unit, which includes ASAs formerly in managerial Level I.¹ Therefore, with the exception of employees in positions listed on Appendix A (Managerial Designations) or Appendix B (Confidential Designations), employees in Levels II and III of the ASA title are added to Certification No. 3-88.

BACKGROUND

According to the job specification, ASAs perform the following "typical assignments" "[u]nder varying levels of managerial or executive direction, with varying degrees of latitude for independent initiative, judgment and decision":

[M]anages difficult and responsible professional budget work in the preparation and administration of agency budgets and the conduct of highly complex economic research and studies; serves as deputy to the head of a division or unit of professional and other staff engaged in such budgeting work and/or economic research and studies; plans and manages the activities of one or more units or other subdivisions employing professional and other staff engaged in such budgeting work and/or economic research and studies; serves as agency budget officer; or performs assignments equivalent to those described.

[M]anages difficult and responsible professional organizational research work in the conduct of highly difficult and complex surveys and studies of

¹ The Union previously sought to represent managerial Levels I, II, and III of the ASA title in 1994. *See OSA*, 56 OCB 18 (BOC 1995) (ordering a hearing), *reconsideration denied*, *OSA*, 56 OCB 18A (BOC 1995). Following four years of hearing, the parties reached a settlement in which the Union would represent certain ASAs, formerly at managerial Level I, now designated ASA (Non-Managerial) and withdraw its petition to represent ASAs at managerial Levels II and III. *See OSA*, 68 OCB 1, at 2-3 (BOC 2001). The parties agreed that the Union would be prohibited from filing a petition to represent ASAs Levels II and III for three years and that any subsequent proceeding would be reviewed *de novo*. *Id.* at 3. The petition here was filed three years later.

organizational and operating problems of great difficulty and complexity, which may require the use of exceptionally difficult quantitative analysis, cost analysis and other research techniques, and makes recommendations to executive management to obtain optimum efficiency in the utilization of staff, machines, equipment and space; determines the need for contractual services and works with the Agency Chief Contracting Officer to define the scope of such services, and to select and evaluate appropriate vendors; serves as deputy to the head of a division or unit of professional and other staff engaged in organizational research activities; plans and manages the activities of one or more units or other subdivisions employing professional and other staff engaged in organizational research activities and coordinates their activities with those of other major organizational units; may be in full charge of an agency's organizational research activities; establishes and maintains cooperative relationships with executive personnel in City and governmental agencies concerning problems and activities in organizational research analysis; or performs assignments equivalent to those described.

[M]anages difficult and responsible professional personnel work in such areas as personnel relations, recruitment, position classification, compensation, employee selection, employee benefits, management studies, workforce planning, EEO programs, performance evaluation, staff development, labor relations, and other related areas; oversees personnel benefit programs including occupational safety programs, employee blood programs, health insurance programs, unemployment insurance programs, employee orientation programs and related programs; determines the need for contractual services and works with the Agency Chief Contracting Officer to define the scope of such services, and to select and evaluate appropriate vendors; serves as deputy to the head of a division or unit of professional and other staff engaged in personnel administration activities; plans and manages the activities of one or more units or other subdivisions employing professional and other staff engaged in personnel administration activities; serves as agency personnel officer; or performs assignments equivalent to those described.

(City Brief Ex. 1). The position requires a master's degree in certain fields and two years of professional experience or a baccalaureate degree and four years of professional experience. The direct line of promotion is from Associate Staff Analyst, a title that is represented by the Union in Certification No. 3-88. With the exception of certain positions stipulated to be managerial and/or confidential, the Union represents ASAs (Non-Managerial) in this bargaining unit. *See OSA*, 68

OCB 1.

At the first conference in this matter, the City requested that the Office of Collective Bargaining conduct a survey of ASAs Levels II and III. The Union consented, and the Director of Representation granted the request. *See* § 1-02(j)(1) of the Rules of the Office of Collective Bargaining (Rules of the City of New York, Title 61, Chapter 1) (“OCB Rules”) (granting the Board discretion to determine the method of resolving a question concerning representation). NYCHA joined the proceedings subsequently, after the City submitted a list of ASAs indicating that some were employed by NYCHA.

The survey utilized is an 11-page questionnaire issued by the Office of Collective Bargaining that begins by asking the employee to describe their job duties and responsibilities in the last 12 months and identify a percentage of time spent on each. The rest of the questions are divided by topic: labor relations responsibilities, personnel responsibilities, confidential status, budgetary responsibilities, supervisory functions, and role in policy formulation. Specific “yes or no” questions are followed by opened-ended questions seeking descriptions and examples of the nature of the employee’s responsibilities, their role at meetings, the subjects of these meetings, the type of information they have access to, and the type of recommendations and proposals they make. The final page is signed by a department head who affirms that he or she has reviewed and concurs with the employee’s statements and has the opportunity to note any exceptions. The survey requests the attachment of the employee’s tasks and standards, functional job description, or managerial position description and an organizational chart showing the employee’s position. The City, NYCHA, and the Union had the opportunity to comment on the survey questionnaire prior to its distribution, and many questions were revised or added pursuant to their suggestions. The surveys submitted by

employees are part of the record.

The City and the Union used the surveys to identify which positions they could agree were managerial and/or confidential and which were eligible in order to narrow the scope of the hearing to only those employees whose status was not clear from the surveys. In addition, for those ASAs who testified, the City used the surveys to streamline the testimony it offered by focusing on areas of contention and/or changes in duties since the completion of the surveys. NYCHA declined to use them to similarly narrow the scope of the hearing or streamline the testimony.

Certain positions that the parties agreed are managerial and/or confidential are marked by an asterisk on Appendix A (Managerial Designations) and/or Appendix B (Confidential Designations). We focus our discussion on those contested ASA positions that the Employers allege are managerial and/or confidential in their post-hearing briefs.

A. City

As of March 2007, there were 716 ASAs, Levels II and III, employed at over 40 City agencies.² As part of the Board's investigation, 546 City ASAs submitted surveys, and 299 City

² Throughout this decision, the following abbreviations are used to reference City agencies:

ACS	Administration for Children's Services
CFB	Campaign Finance Board
Compt.	Comptroller's Office
DCA	Department of Consumer Affairs
DCAS	Department of Citywide Administrative Services
DCLA	Department of Cultural Affairs
DDC	Department of Design and Construction
DEP	Department of Environmental Protection
DFTA	Department for the Aging
DHS	Department of Homeless Services
DOB	Department of Buildings
DOC	Department of Correction
DOF	Department of Finance

ASAs and three supervisors testified over 50 days of hearing.

Within each City agency, ASAs serve in a wide range of positions and have varying duties and responsibilities. Many oversee a program, department, or unit. Their tasks can be ancillary to the agency's main function, such as relating to personnel, purchasing, technical support, public relations, or security, or can involve activities inherent in the agency's mission. Many are professionals in fields such as accounting, economics, or finance.

DOHMH	Department of Health and Mental Hygiene
DOITT	Department of Information Technology and Telecommunications
DOT	Department of Transportation
DPR	Department of Parks and Recreation
DSNY	Department of Sanitation
DYCD	Department of Youth and Community Development
FISA	Financial Information Services Agency
FDNY	Fire Department
HPD	Department of Housing Preservation and Development
HRA	Human Resources Administration
IBO	Independent Budget Office
Law	Law Department
LPC	Landmarks Preservation Commission
MBPO	Manhattan Borough President's Office
NYCERS	New York City Employees' Retirement System
NYPD	Police Department
OCME	Office of the Chief Medical Examiner
OEM	Office of Emergency Management
OPA	Office of Payroll Administration
PPF	Police Pension Fund
Probation	Department of Probation
RCDA	Richmond County District Attorney's Office
SBS	Department of Small Business Services
TLC	Taxi and Limousine Commission

We note that one ASA, in the position of Director of Administration, was employed at the Office of Collective Bargaining, whose employees were previously found ineligible for collective bargaining. *See DC 37, 14 OCB 75, at 2 (BOC 1974).*

B. NYCHA

As of May 2008, 111 ASAs, Levels II and III, were employed by NYCHA.³ During 24 days of hearing, 40 NYCHA ASAs testified about themselves and 10 other NYCHA ASAs, and 17 supervisors testified about 65 NYCHA ASAs. Concerning 36 ASAs, NYCHA offered testimony from more than one supervisor or from both a supervisor and the ASA. Of the 8,932-page transcript in this case, approximately 3,476 pages were devoted to testimony about NYCHA or its ASAs.

NYCHA is an independent public benefit corporation whose mission is to provide subsidized housing to low and moderate income New Yorkers. It is governed by a Board that sets policy by adopting recommendations and proposals. The Board relies on NYCHA's General Manager, who serves as the Chief Executive Officer and is comparable to the Commissioner of a large agency. Seven Deputy General Managers assist in running NYCHA's day-to-day operations. There are approximately 45 departments, each led by a Director. A Deputy Director is second in command and oversees one or more divisions within a department. Any Deputy Director can be selected to serve as a Step III hearing officer for contract grievances but not for disciplinary grievances. An Assistant Director oversees a unit or division within a department. Larger departments may also have Chief and Assistant Chiefs. Division Chiefs are comparable to Assistant Directors, but for a smaller area of responsibility.

It is NYCHA's preference that only managerial employees participate in policy committees, which are frequently formed with the assistance of the Program Assessment and Policy Development Department ("PAPD"). The recommendations of a policy committee are presented to a Deputy

³ There were 163 ASAs employed at NYCHA when this proceeding began. Of these, 157 completed surveys.

General Manager, the General Manager, and if warranted, the Board for approval. A policy committee's final product is often a document called a Standard Procedure.

As part of NYCHA's shift to department-based budgeting in 2004, Directors, Deputy Directors, and Assistant Directors assumed responsibility for their department's other than personnel services ("OTPS") budget. In 2005, they assumed responsibility for their department's personnel services ("PS"), expense, revenue, and capital budgets. Directors, Deputy Directors, and sometimes Assistant Directors will prepare reduction initiatives for approval by their Deputy General Manager, the Budget Department, and ultimately the General Manager.

Starting on August 23, 2006, NYCHA began its case with three witnesses who provided an overview of NYCHA's structure, use of in-house titles, budgetary process, and policy formulation over four days. Subsequent witnesses provided in-depth background regarding the function and significance of the departments and units in which ASAs work. Instead of using surveys to streamline testimony by focusing on changes in duties and/or elaborating on areas of contention, NYCHA chose to disregard the surveys and elicited testimony about ASAs who continued to perform the duties described in their surveys. NYCHA called three ASAs about whom testimony was previously offered by their supervisors and called two supervisors to testify about the same six ASAs. While NYCHA initially presented a full day of testimony on scheduled hearing dates, as the hearing progressed NYCHA frequently presented no more than a half-day of testimony. Although hearing dates were determined months in advance and scheduled at least two weeks apart to give the parties time to schedule witnesses and prepare, NYCHA presented only a few hours of testimony on

six of its first 14 hearing dates.⁴

At the conclusion of the 14th hearing date reserved for the exclusive use of NYCHA, on November 30, 2007, the Director of Representation gave advance notice that she expected that the remaining eight scheduled NYCHA hearing dates “will be used efficiently and that the Housing Authority will conclude its case by the last scheduled date, May 29, 2008,” six months later. (Letter dated December 5, 2007). NYCHA continued to present only three hours of testimony for the next three hearing days. During these hearing dates, NYCHA called a second supervisor to testify about two ASAs previously discussed and one of the ASAs about whom both supervisors had testified.

In April 2008, NYCHA requested one more hearing day, and the Director of Representation granted the request. In addition, “in order to assist the Housing Authority in completing its case prior to May 29, 2008,” the Director of Representation scheduled an additional half-day and shortened lunch breaks to 30 minutes. (Letter dated April 10, 2008). Further, the Director of Representation offered to start hearing days earlier than 10 a.m., end them later than 5:30 p.m., and “schedule additional hearing dates, if needed, to be held prior to May 29, 2008.” (*Id.*). In April and May 2008, NYCHA called a second supervisor who testified about two ASAs previously addressed and three ASAs whose supervisors also testified about their duties. Also on two occasions, NYCHA called supervisors who each testified about only one ASA. NYCHA did not request any further accommodations and concluded its case on May 29.

⁴ NYCHA presented approximately one hour and 50 minutes, two hours and 35 minutes, two hours and 40 minutes, three hours and 30 minutes, two hours and ten minutes, and two hours and 40 minutes on these days.

POSITIONS OF THE PARTIES

Union's Position

The Union seeks to add ASAs Levels II and III to its bargaining unit consisting of Staff Analysts and related titles. The Union argues that, with limited exceptions, the majority of ASAs are eligible for collective bargaining.

The Union notes that the presumption of eligibility for collective bargaining has been codified in the New York City Collective Bargaining Law (New York City Administrative Code, Title 12, Chapter 3) ("NYCCBL") and Civil Service Law Article 14 ("Taylor Law") and that the courts have held that exceptions to the presumption of eligibility should be applied narrowly, with all uncertainties resolved in favor of coverage.

Formulation of policy, as defined in the Taylor Law, is distinct from developing mere procedures. Providing high-level technical or expert advice does not necessarily warrant a managerial designation. Similarly, employees are not policy-makers if their discretion is limited to adhering to statutes, laws, agency regulations. The Union asserts that employees who assist an agency in the development of policy should not be designated managerial if they lack the authority to implement the policy or must seek approval by filtering the proposal up through the chain of command. Further, the Union contends that attendance at high-level meetings is not indicative of managerial status when the subject of the meetings is primarily operational matters or when the employee serves as a resource person, provides analysis to the decision-makers, or only attends if a supervisor is unavailable. The Union recognizes that a small number of employees who lack ultimate authority but have regular, active, and significant participation in the essential process of developing agency policy have been designated managerial. However, the Union notes that this

limited exception for unique employees applies to relatively few individuals. Also, the courts have recognized that all employees who advise the ultimate decision-makers are not automatically considered policy-formulators.

The Union asserts that budgetary discretion must be significant in order to deem employees managerial. Recent Board decisions note that approving routine departmental budget expenditures, performing accounting tasks such as shifting funds between budget lines, and preparing budget reports and analyses of an agency's fiscal health that are submitted for approval do not warrant a managerial designation. The size of the budget does not indicate managerial status if an employee's discretion is confined to approving routine or predictable expenditures.

The Union claims that only those employees who regularly engage in tasks such as the preparation and administration of civil service exams or who routinely participate in layoff discussions meet the criteria of regularly participating in personnel administration. The Union maintains that employees are not disqualified from collective bargaining when access to layoff information is incidental to the employee's primary duties or the employee's role is merely to ensure the accuracy of the employment history of the unit members. Routine supervisory duties are not sufficient to invoke a managerial designation. Also, the number of direct and indirect subordinates alone does not correlate with a managerial designation. Further, assignment to an agency's personnel or human resources unit does not necessarily exempt an employee from Taylor Law coverage. Regarding discipline, the Union asserts that the inquiry is focused on the amount of authority and discretion.

According to the Union, the purpose of the two-pronged test for confidential designations is to determine whether the employee's regular access to information would create a conflict inimical

to the bargaining process and the employer's interest. Unlike involvement in costing out collective bargaining proposals and demands, access to sensitive information within the everyday meaning of confidential, such as social security numbers and medical records, does not create such a conflict and is not within the meaning of the Taylor Law's exemption.

Specifically regarding NYCHA, the Union avers that ASAs Levels II and III are resource people to the Chairman's cabinet. ASAs Levels II and III have an important supervisory role, and some are part of the chain that evaluates proposals. However, the Union claims that true policy formulation is done by the Chairman, members of the Board, and the Deputy General Managers. According to the Union, ASAs II and III are often two or three tiers away from the Deputy General Managers and have very little independent authority. They do not regularly attend the Chairman's cabinet meetings. Further, the Union asserts that the occasional role of Deputy Directors as Step III hearing officers is limited and guided by pre-existing contract interpretations. In addition, the Union maintains that ASAs Levels II and III have little to no independent budgetary discretion and that it is the Deputy General Managers who make the critical budget determinations. Similarly, the Deputy General Managers make the final determinations for reductions in personnel.

In its brief, the Union specifically addressed approximately 225 City ASAs and 95 NYCHA ASAs. Applying Board decisions to the testimony and surveys of the ASAs, the Union concludes that the majority are clearly eligible for inclusion in its bargaining unit. While many are experts in their fields, the Union asserts that they lack the autonomy or regular and active participation in policy-making to qualify for managerial status. Although many have a role in budget, they spend the majority of their time overseeing the day-to-day operations of their unit and lack the discretion to make financial decisions that would impact the mission of the agency. The "confidential"

information to which many ASAs testified they have access was salary information, which is not confidential within the meaning of the Taylor Law. Concerning the few ASAs who are privy to occasional discussions of layoffs, the Union claims that those isolated incidents do not meet the Taylor Law definition of assisting a managerial employee on a regular or significant basis in the area of collective bargaining or labor relations. Accordingly, the Union argues, neither the City nor NYCHA have met their burden of establishing that ASAs are ineligible for placement in the Union's bargaining unit.

City's Position

The City argues that the evidence presented demonstrates that ASAs, Levels II and III, perform managerial and/or confidential duties that preclude their inclusion in the Union's collective bargaining unit. The City contends that inclusion of ASAs would create multiple conflicts of interest and interfere with the City's right to formulate and effectuate its labor relations policies with the assistance of employees who are not represented by the unions with which the City deals. Further, the City asserts, the inclusion of ASAs could significantly disrupt managerial procedures, interfere with the efficient operation of the City in personnel matters, and impede collective bargaining.

According to the City, the hundreds of surveys and thousands of pages of testimony that comprise the record here establish that the vast majority of ASAs meet a variety of the criteria used to determine managerial and/or confidential status. The City argues that all employees in all labor relations units of all City agencies must be deemed to be managerial and/or confidential. Further, the City asserts that most ASAs have active roles in Citywide programs to improve productivity, efficiency, and safety by developing new programs and devising alternative means to carry out established programs. A number of ASAs represent management in contractually-mandated

labor/management meetings and negotiations. ASAs engage in the regular development, initiation, and effectuation of standard operating procedures relating to the agency mission. The City contends that all ASAs regularly participate in the essential process that results in policy proposals and the formulation of methods to fulfill an established mission. Although many ASAs may not possess all of the typical indicia of managerial and/or confidential status, the City claims that each employee need not embody all indicia in order to be found managerial.

The City notes that most ASAs have a high-level of academic achievement and that their duties allow broad discretion in the effectuation of agency missions. According to the City, ASAs have significant managerial and executive discretion and latitude for independent judgment, initiative, and decision-making. The City alleges that both levels of ASAs have been entrusted with policy making authority in a variety of contexts. Further, ASAs participate in labor relations, budget allocation and formulation, personnel administration, and disciplinary matters. ASAs represent their respective agencies in meetings with Commissioners, Deputy Commissioners, Assistant Commissioners, and the public. In addition, the City contends, ASAs should be deemed confidential because they act in confidential capacities to high-level agency officials, executives, and agency heads.

In its brief, the City addresses in detail approximately 267 ASAs that it claims are representative of the duties performed by ASAs Citywide. The City concludes that it has satisfied its burden of proving that ASAs are managerial and/or confidential employees ineligible for collective bargaining and requests that the Board dismiss the Union's representation petition in its entirety.

As preliminary matters, NYCHA raises the use of surveys in this case, the imposition of a deadline for completing the presentation of its case, and NYCHA's approach to the evidence. NYCHA asserts that it did not participate in the decision to utilize surveys, and most of its input regarding the content of the survey was rejected. Specifically, NYCHA notes that employees completing the survey did not receive definitions of managerial and confidential, an explanation of the importance of the terms, or assistance in completing the surveys. In addition, NYCHA argues that the surveys did not reflect the substantial change in NYCHA's business structure and, accordingly, did not capture the significant budget role many employees assumed.

Further, according to NYCHA, many employees with a strong interest in testifying were denied the opportunity to do so by the imposition of a deadline for NYCHA to complete presenting its case. Therefore, NYCHA requests that the Board not use surveys to judge the positions of those who did not testify. Instead, testimony of NYCHA's witnesses describing the general use of in-house titles should be given greater weight. NYCHA denies the accuracy of certain employee-completed surveys.

NYCHA objects to the Union's request to include NYCHA's first two levels of managerial positions in its bargaining unit without having to present a showing of interest on the part of these employees and without regard to the preferences of these employees.

NYCHA asserts that in order to present its case that all the positions at issue are managerial and/or confidential it was necessary to present evidence from the employees at issue and their supervisors. It notes that the Union frequently objected to NYCHA's witnesses on the grounds that NYCHA should not be permitted more than a few minutes of testimony on each employee and, in

many cases, should be limited to only one witness. Consequently, NYCHA asserts that it was directed to conclude its case by May 29, 2008, and was instructed that no more evidence would be taken after that date regardless of whether NYCHA was finished and prepared to rest its case. NYCHA alleges that because this deadline was imposed it was denied the opportunity to present some of its necessary testimony. It was forced to not present many employees, shorten the testimony of many who did testify, provide only cursory descriptions of the work at issue, and deny its employees their only opportunity to have a voice in this proceeding. Accordingly, NYCHA requests that this Board “not draw any conclusions based upon an employee’s failure to appear.” (NYCHA Brief at 4).

Addressing its approach to the evidence, NYCHA argues that the general testimony of two Deputy General Managers, two Budget Directors, and the Deputy Director of the PAPD provide sufficient evidence to conclude that all Directors, Deputy Directors, Assistant Directors, and employees in managerial Level III are managerial. NYCHA asserts that the testimony of the Deputy Director of the PAPD shows that every employee in this case assigned to a policy committee is managerial. In the same way, the budget descriptions are applicable to every employee affected by the case and demonstrate that they are managerial. While NYCHA would have preferred to rest on these general descriptions, it was informed that individual review of each position was necessary given the employees’ wide variety of professional disciplines.

Similarly, NYCHA asserts that the in-house titles of Director and Deputy Director have a uniform and well-defined meaning within NYCHA’s managerial structure. NYCHA maintains that Directors and Deputy Directors determine the policies of their department and have a substantial role in NYCHA-wide policy development through participation in policy committees organized by the

PAPD. Directors have the final word in the department, but Deputies are equally critical. Deputies fill in for Directors, assume management of a portion of the department, share responsibility for the department budget, and participate in all personnel decisions, including the selection of candidates and the decision to fill or eliminate, via lay offs or attrition, a position. NYCHA notes that all ASA Directors and Deputy Directors had prior managerial positions and that, although they keep their supervisors informed, they do not need prior permission for their actions.

NYCHA argues that every employee who participates in policy committees under the auspices of the PAPD is managerial. NYCHA contends union-represented employees are not permitted to be members of policy committees because much of the information discussed is highly confidential and may have implications for the overall structure of NYCHA and the workload of certain departments. Level II managers are commonly included on policy committees with higher level employees, and NYCHA asserts that all participants in a policy committee are considered to have an equal role regardless of their managerial level. The final product of a policy committee is often a Standard Procedure, which NYCHA argues is a misnomer because it contains a policy statement on a particular subject as well as implementation procedures. According to NYCHA, policies also take the form of manuals and General Memoranda from either the General Manager or an Assistant Deputy General Manager. Further, NYCHA maintains that all the committees discussed on the record are policy development committees and that policy is also formed at the department level without involvement by the PAPD. NYCHA contends that if an employee on a policy committee is declassified as a managerial employee, NYCHA will have to remove that employee from the policy committee or restructure its governance, neither of which is tenable. NYCHA argues that such a determination is contrary to the purposes of the NYCCBL because it would improperly

interfere with NYCHA's right to determine the methods and means through which NYCHA conducts its operations.

NYCHA also argues that direct participation in policy formulation is not essential to a managerial designation if the employee plays a role in the overall functioning of a department, division, or unit. NYCHA argues that all ASAs, especially those at Level III, are managerial because they have authority to select among options within their units and often beyond them, as part of a committee that implements proposed policies. Each ASA also has a scope of authority that goes to the heart of their department's operations. Further, many have budgetary responsibilities; but those with limited budget responsibility have a greater role in policy or other areas. NYCHA asserts that it has diligently applied the NYCCBL in classifying positions within the managerial class and that this designation is entitled to deference. NYCHA argues that a Board finding that any ASA position is eligible for collective bargaining would diverge from the DCAS job specification, which indicates that the ASA title is within the management class.

NYCHA emphasizes that Directors, Deputy Directors, and Assistant Directors have enormous budget responsibilities as a result of NYCHA's shift to department-based budgeting. They have greater flexibility and discretion in whether to spend or save, give a promotion, and enter or extend a contract for services. Unlike eligible employees, Directors, Deputy Directors, and certain Assistant Directors can transfer funds between departmental accounts. NYCHA contends that the need for approval to move funds between departments is a fiscal safeguard that does not diminish managerial authority. When staff reductions are necessary, Directors, Deputy Directors, and Assistant Directors identify employees in their department to be laid off, which is not any easier because their recommendations must be approved by a Deputy General Manager and the General

Manager. According to NYCHA, “[i]f declassified as managerial employees,” NYCHA will have to have to “remove their budget responsibilities and their participation in policy development, particularly in the policy committees.” (NYCHA Brief at 42).

NYCHA claims that its Budget Department is modeled on the City’s Office of Management and Budget. Further, NYCHA contends that the time limitations precluded it from calling as witnesses certain ASAs in the Budget Department about whom the Budget Directors testified and introducing evidence concerning the purpose served by budget safeguards.

NYCHA asserts that ASAs’ budget authority is tied to personnel administration given their freedom to reconfigure the staffing structure of their departments. Regardless of budget authority, almost all ASA positions conduct evaluations and decide whether to fire, hire, or initiate discipline. According to NYCHA, such duties coupled with budgetary responsibility are sufficient for a managerial designation.

NYCHA notes that it makes efforts to identify managers who show promise for assuming executive-level positions in the future and provide them with advanced managerial training. NYCHA alleges that the Union mocked its succession planning efforts and that identification of those who graduated from such programs was precluded. Selection and successful participation in an advanced managerial program for future executives is not specifically indicated as an indicia of managerial status. However, it is recognition by executive staff of a managerial employee’s valuable contribution and likelihood to assume a higher level of authority. Accordingly, NYCHA argues that selection into such a program should be considered at least as persuasive as participation on a regular basis in meetings with executives.

NYCHA acknowledges that some ASAs Level II might be eligible for collective bargaining because they are in entry-level managerial positions overseeing the smallest units. However, if Directors, Deputy Directors, and many Assistant Directors are not performing at a level that warrants exclusion from collective bargaining, NYCHA argues that it is due to that individual's inability to perform at an appropriate level.⁵ As a result, NYCHA requests that this Board exclude all Director and Deputy Director positions based on NYCHA's expectations for those in-house titles even if not all employees are meeting those requirements and standards. Even a single eligibility determination for one Deputy Director would, according to NYCHA, undermine its managerial structure and disrupt its classification system. While some Assistant Director positions may need to be renamed to reflect a non-managerial level, NYCHA argues that a substantial number of Assistant Managers are clearly managerial.

NYCHA seeks a determination that all ASAs Level II and III are managerial and/or confidential and not eligible for the rights provided by the NYCCBL. In support of this argument, NYCHA specifically addresses 65 ASAs in its brief.

DISCUSSION

In granting public employees the right to bargain collectively, the NYCCBL provides a limited exception for those employees whom this Board finds to be managerial and or confidential:

Public employees shall have the right to self-organization, to form, join or assist public employee organizations, to bargain collectively through certified employee organization of their own choosing and shall have the right to refrain from any or all such activities. However, neither managerial nor confidential employees shall constitute or be included in any bargaining unit,

⁵ NYCHA identifies one employee who was demoted after testimony regarding his position because he failed to meet the position's high standards.

nor shall they have the right to bargain collectively; provided, however, that *public employees shall be presumed eligible for the rights set forth in this section*, and no employee shall be deprived of these rights unless, as to such employee, a determination of managerial and confidential status has been rendered by the board of certification

NYCCBL § 12-305 (emphasis added). The definitions of managerial and confidential are set forth in § 201.7(a) of the Civil Service Law. *See* NYCCBL § 12-309(b)(4). Accordingly, when evaluating a public employer's assertion that employees should be excluded from collective bargaining as managerial or confidential, the Board applies the following statutory standard:

Employees may be designated as managerial only if they are persons (i) who formulate policy or (ii) who may reasonably be required on behalf of the public employer to assist directly in the preparation for and conduct of collective negotiations or to have a major role in the administration of agreements or in personnel administration provided that such role is not of a routine or clerical nature and requires the exercise of independent judgment. Employees may be designated as confidential only if they are persons who assist and act in a confidential capacity to managerial employees described in clause (ii).

Taylor Law § 201.7(a); *see, e.g., DC 37*, 78 OCB 7, at 39 (BOC 2006), *aff'd sub nom. Matter of City of New York v. NYC Bd. of Cert.*, No. 404461/06 (Sup. Ct. N.Y. Co. Sept. 19, 2007); *see also Shelofsky v. Helsby*, 32 N.Y.2d 54, 58 (1973) (finding that the statutory criteria for managerial and confidential designations are not unconstitutionally vague). Significantly, “the exclusions for managerial and confidential employees are an exception to the Taylor Law’s strong policy of extending coverage to all public employees and are to be read narrowly, with all uncertainties resolved in favor of coverage.” *Lippman v. Pub. Empl. Rel. Bd.*, 263 A.D.2d 891, 904 (3d Dept. 1999); *Matter of NYC Health & Hosps. Corp. v. Board of Cert. of the City of New York*, 2007 N.Y. Slip. Op 30921(U) (Sup. Ct. N.Y. Co. Apr. 23, 2007) (Tolub, J.).

Only two types of managers are excluded from collective bargaining. The first is a manager

“who formulate[s] policy.” Taylor Law § 201.7(a)(i). The second is one “who may reasonably be required on behalf of the public employer to assist directly in the preparation for and conduct of collective negotiations or to have a major role in the administration of agreements or in personnel administration provided that such role is not of a routine or clerical nature and requires the exercise of independent judgment.” Taylor Law § 201.7(a)(ii). A employee is excluded from collective bargaining as confidential only if he or she “assist[s] and act[s] in a confidential capacity to” the second type of manager. Taylor Law §201.7(a).

While the vast majority of ASAs Level II are eligible for collective bargaining, approximately 59% of the ASAs Level III about whom evidence was submitted meet the statutory criteria for a managerial and/or confidential designation. As previously stated, those positions that the parties agreed are managerial and/or confidential are marked by an asterisk on Appendix A (Managerial Designations) and Appendix B (Confidential Designations). We focus our discussion on the contested positions.

I. Managers Who Formulate Policy

The first type of manager excluded from collective bargaining is one “who formulate[s] policy.” Taylor Law § 201.7(a)(i). Policy has been defined as “the development of the particular objectives of a government or agency thereof in the fulfillment of its mission and the methods, means and extent of achieving such objectives.” *State of New York*, 5 PERB ¶ 3001, at 3005 (1972); *see EMS Superior Officers Assn.*, 68 OCB 10, at 21 (BOC 2001); *Unif. Sanitation Chiefs Assn.*, 66 OCB 4, at 26 (BOC 2000). Employees who formulate policy “include not only a person who has the authority or responsibility to select among options and to put a proposed policy into effect, but also a person who participates with regularity in the essential process which results in a policy

proposal and the decision to put such proposal into effect.” *State of New York*, 5 PERB ¶ 3001, at 3005; *see OSA*, 78 OCB 1, at 7 (BOC 2006).

The Board has held that “[p]articipation in the formulation of policy must be ‘regular,’ ‘active,’ and ‘significant’ to support a finding of managerial status.” *CWA*, 78 OCB 3, at 11 (BOC 2006) (citing *UFOA, L. 854*, 50 OCB 15, at 20 (BOC 1992)). The definition of policy formulation is limited to “those relatively few individuals who directly assist the ultimate decision-makers in reaching the decisions necessary to the conduct of the business of the governmental agency.” *State of New York (Dept. of Env'tl. Conservation)*, 36 PERB ¶ 3029, at 3083 (2003) (finding managerial an employee who initiated a regulatory change proposal with “significant statewide implications,” formulated the long-term policy for the direction of the New York State Nursery program, and in response to a shortage of funds, decided to reallocate funding from efficiency studies to promoting trade shows). For example, this Board has designated positions managerial when the employees formulated policy by deciding how to protect the water supply system and planning DOHMH’s response to emergencies. *See CWA*, 2 OCB2d 13, at 16-21 (BOC 2009).

Similarly, the evidence concerning the following positions establishes that they are appropriately designated managerial because they formulate policy. The employees listed below performed tasks such as revising the drought emergency rules, expanding the scope of emergency medical technicians’s duties to include administration of asthma medication, deciding the subjects of public health campaigns, and recommending the expansion of agency services to include delivery of frozen meals to seniors twice a week. Since the evidence as a whole demonstrates that the following employees formulate policy as defined within the meaning of the Taylor Law and the

NYCCBL, these positions are designated managerial:⁶

MANAGERS WHO FORMULATE POLICY

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Applebaum, Jed	Assistant Commissioner (II)	Safety and Emissions Division	TLC	Survey ⁷
Banks, Jill	Assistant Commissioner of Finance (III)	Fiscal Operations	DHS	Survey
Berkowitz, Sherry	Assistant Deputy Commissioner of Disbursement and Grant Accounting (III)	Finance Office	HRA	Survey
Betro, Gina	Chief Operations Officer (III)	Operations	DOB	Survey
Bettridge, Thomas	Director of Risk Management (III)	Bureau of Asset Management	Compt.	Tr. 6295-6312 City 273
Borakove, Ellen	Director (II)	Public Affairs	OCME	Tr. 734-754 City 46

⁶ In light of the number of personnel changes that have occurred since surveys were completed and employees testified, as well as evidence that many of these positions were subsequently filled by ASAs II or III, we make our determination on all the positions before the Board. As this Board has previously noted, “[t]o the extent that employees no longer hold the positions about which they testified, our decision runs to the position, not the individual, and applies to their successors who perform substantially the same duties and functions.” *CWA*, 2 OCB2d 13, at 117 n. 70 (citing *DC 37*, 34 OCB 16, at 3 (BOC 1984)).

⁷ All completed surveys are part of the record. Only the surveys of individuals who testified or about whom another witness testified were assigned an exhibit number. Surveys and other exhibits introduced by the City are abbreviated as “City.” Exhibits introduced by NYCHA are abbreviated as “HA,” and NYCHA Surveys are abbreviated as “NS.” “Tr.” refers to citations to the hearing transcript.

MANAGERS WHO FORMULATE POLICY

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Brooks, Douglas	Special Assistant to the Deputy Commissioner/ Director of Special Projects (II)	Division of Policy and Planning	ACS	Survey
Budhai-Robinson, Millicent	Director of Corporate Governance (II)	Bureau of Asset Management	Compt.	Tr. 6198-6226 City 270
Canepa, Jorge	Borough Commissioner (III)	Staten Island Borough Office	DOB	Survey
Chang, Christina	Chief of Staff (III)	Commissioner's Office	DOHMH	Tr. 1544-1547 City 99
Chin, Susan	Assistant Commissioner (III)	Capital Projects Unit	DCLA	Tr. 7126-7156 City 297 City 298
Chong, Tzylai Yunn	Assistant Commissioner (III)	Capacity Building	DYCD	Survey
Chu, Janice	Deputy Assistant Commissioner (III)	Bureau of Long Term Care and Active Aging	DFTA	Tr. 5597-5627 City 247
Clair, John	Assistant Commissioner for Emergency Medicine (III)	Office of Medical Affairs	FDNY	Tr. 74-100 City 5
Colter, Cindy	Assistant Commissioner (III)	Community Development Operations	DYCD	Tr. 856-868, 874-880 City 54
Cortes, Carlos	Assistant Commissioner (III)	Discretionary Awards	DYCD	Tr. 890-897 City 57

MANAGERS WHO FORMULATE POLICY

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Crawford, Casey	Senior Director of Management Analysis and Deputy Assistant Commissioner for the Payment Operations Division (II)	Executive	DOF	Tr. 1461-1470 City 95
Cruz, Alison	Deputy Director (II)	Mayor's Pension Fund Unit	DOF	Tr. 1331-1340 City 88
deFoe, Werner	Deputy Borough Commissioner (III)	Bronx Borough Office	DOB	Tr. 1146-1167 City 77
Dresler, Evelyn	Director of Contracts (III)	Bureau of Asset Management	Compt.	Tr. 6129-6152 City 268
Dynia, Paul	Director of Substance Abuse Policy, Planning, and Monitoring (II)	Customized Assistance Services	HRA	Survey Organizational Chart
Evangelista, John	Assistant Commissioner (III)	Management Analysis and Planning	Probation	Survey
Fariello, Thomas	Deputy Borough Commissioner (II)	Brooklyn Borough Office	DOB	Tr. 1210-1227 City 81
Fish, Richard	Special Advisor (III)	Community Development	DYCD	Tr. 881-889 City 56
Fitzgerald, Lisa	Assistant Deputy Commissioner of the Office of Procedures (III)	Family Independence Administration	HRA	Tr. 3902-3923 City 177
Fleming, Adrienne	Regional Manager (III)	Family Independence Administration	HRA	Survey
Frye, Celeste	Executive Director of NYC Business Solutions Hiring and Training (III)	Division of Workforce Development	SBS	Tr. 3237-3246

MANAGERS WHO FORMULATE POLICY

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Gaul, Laura	Chief of Staff (II)	Commissioner's Office	DPR	Survey
Giampietro, Donald	Executive Director (II)	Business Incentives	SBS	Survey
Golub, Daniel	Deputy Director of Land Use/ Senior Policy Advisor (II)	Land Use, Planning, and Development	MBPO	Testimony City 237
Grippio, Vincent	Chief of Staff (II)	Commissioner's Office	DOITT	Tr. 7549-7579 City 305
Grossman, Barbara	Director of Citywide Organizational and Executive Development (II)	Division of Citywide Personnel Services	DCAS	Tr. 5174-5178 City 228
Gulick, Lisa	Assistant Commissioner (III)	Planning, Research and Program Development	DYCD	Tr. 869-880 City 55
Hendon, Kay	Assistant Deputy Commissioner of the Office of Childcare (III)	Family Independence Administration	HRA	Survey
Hennefield, Susan	Director of Information Technology Services (III)	Administration	OPA	Tr. 7109-7125
Hernandez, Kim	Deputy Assistant Commissioner (III)	Bureau of Community Outreach and Emergency Preparedness	DFTA	MPE ⁸
Hinkson, Susan	Borough Commissioner (III)	Brooklyn Borough Office	DOB	Survey

⁸ MPE refers to Managerial Performance Evaluations Forms.

MANAGERS WHO FORMULATE POLICY

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Howard, Keith	Assistant Commissioner (II)	Sidewalks and Inspection Management Division	DOT	Tr. 4703-4711 City 203
Iulo, Robert	Assistant Commissioner (III)	Safety and Emergency Operations	DOB	Tr. 1277-1292 City 84
Jelin, Marjorie	Director of the Public Service Corps (II)	Division of Citywide Personnel Services	DCAS	Tr. 5189-5191 City 232
Joseph, Frances	Director of Real Property Tax Exemptions and Policy (III)	Office of Legal Affairs	DOF	Tr. 1548-1576 City 100
Joyce, V. Serena	Assistant Commissioner for Family Affairs (III)	Bureau of Intergovernmental Affairs	FDNY	Tr. 294-309 City 17
Kaminer, Marshall	Borough Commissioner (III)	Bronx Borough Office	DOB	Survey
Kilgannon, Kery	Director of Finance (II)	Administration	Law	Survey
Korn, Evan	Assistant Commissioner for Special Events (III)	Sidewalks and Inspection Management	DOT	Survey
Krause- Friedberg, C. Gordon	Assistant Deputy Commissioner of Audit (III)	Finance Office	HRA	Tr. 4144-4158 City 182
Kretz, Caroline	Associate Commissioner for Intergovernmental Affairs (III)	Intergovernmental Affairs and Management Initiatives	FDNY	Tr. 116-142 City 7
Laiserin, Rachel	Chief of Staff (III)	Executive Division	DDC	Survey

MANAGERS WHO FORMULATE POLICY

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Lee, Ellen	Director of Operations at the Citywide Training Center (II)	Division of Citywide Personnel Services	DCAS	Tr. 5182-5186 City 230
Leighton, Jessica	Assistant Commissioner of the Bureau of Environmental Disease Protection (III)	Division of Environmental Health	DOHMH	Survey
Levy, Joslyn	Director of Clinical Systems Improvement (II)	Bureau of Chronic Disease Prevention and Control	DOHMH	Tr. 1865-1890 City 115
Lewis, Edward	Assistant Commissioner (III)	Community Relations	DPR	Tr. 648-669 City 40
Liebold, Warren	Chief of the Technical Services/Conservation Division (II)	Bureau of Customer Services	DEP	Tr. 398-422 City 24
Lipsetz, David	Director (III)	Strategic Planning and Change Management	NYCHA	Tr. 8183-8220
Londono-Valle, Janet	Special Assistant to the Chief Investment Officer (II)	Bureau of Asset Management	Compt.	Tr. 6793-6815 City 289
McLeish, Leasa	Assistant Commissioner of Programs Administration and Discharge Planning (III)	Strategic Planning and Programs	DOC	Tr. 1064-1086
Merseberg, John	Senior Investment Officer for U.S. Equities (III)	Bureau of Asset Management	Compt.	Tr. 6465-6488 City 276

MANAGERS WHO FORMULATE POLICY

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Messana, Catherine	Assistant Commissioner of Customer Service (II)	First Deputy Commissioner's Office	DOT	Tr. 4873-4884 City 206
Mewborn, Virginia	Director of Training and Exercises (II)	Operations Division	OEM	Tr. 7157-7184 City 299
Mouzon, Barbara	First Deputy Regional Manager (III)	Family Independence Administration	HRA	Survey
Nelson, Troy	Assistant Commissioner of Operations (III)	Licensing, Collections and Consumer Services	DCA	Tr. 787-794, 5117-5133 City 223
Nelson, Yvonne	Senior Investment Officer for Real Estate (III)	Bureau of Asset Management	Compt.	Tr. 6341-6360 City 275
Nesterczuk, Christopher	Senior Investment Officer for Real Estate (III)	Bureau of Asset Management	Compt.	Survey
Nicklas, Eric	Assistant Commissioner of Research and Evaluation (II)	Division of Policy and Planning	ACS	Tr. 3341-3374 City 163
O'Brien, Kenneth	Director of Systems Administration (II)	Systems Administration	CFB	Tr. 5628-5647 City 248
Ovadia, Neil	Director of Contract Services (III)	Customized Assistance Services	HRA	Tr. 4160-4182 City 183
Padgett, Willa	Assistant Commissioner (II)	Division of Alternative Management Programs	HPD	Tr. 3384-3404 City 164

MANAGERS WHO FORMULATE POLICY

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Park, Jan Carl	Deputy Assistant Commissioner and Executive Director of the Bureau of HIV/AIDS Services (II)	Division of Disease Control	DOHMH	Survey
Pares, Moraima	Senior Investment Officer for U.S. Equities (III)	Bureau of Asset Management	Compt.	Tr. 6255-6294 City 272
Penzi, Mario	Assistant Commissioner (III)	Model Code Program	DOB	Survey
Pico, Alba	Deputy Commissioner of Operations (III)	Commissioner's Office	DCA	Tr. 5121-5125, 5131-5133 City 222
Prud'homme, Jeanine	Assistant Commissioner of the Bureau of Environmental Science and Engineering (III)	Division of Environmental Health	DOHMH	Tr. 1840-1864 City 114
Puritz, Sascha	Director of Intergovernmental Affairs (III)	Intergovernmental Affairs	MBPO	Tr. 5276-5277, 5280-5281, 5306-5337 City 242
Raphael, Marisa	Assistant Commissioner of the Bureau of Emergency Management (II)	Division of Disease Control	DOHMH	Tr. 1913-1924 City 117
Reid, Merrick	Assistant Commissioner (III)	Division of Fiscal Affairs	HPD	Survey
Rubin, Joshua	Chief Policy Officer (III)	Division of Mental Hygiene	DOHMH	Tr. 1782-1803 City 112

MANAGERS WHO FORMULATE POLICY

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Russ, Regina	Assistant Deputy Commissioner of Training Operations (III)	Family Independence Administration	HRA	Tr. 3948-3980 City 180
Salgado, Carol Ann	Director of Operations Field Coordination (III)	Division of Anti- Abandonment	HPD	Tr. 2706-2720 City 145
Santulli, Christopher	Deputy Borough Commissioner (III)	Manhattan Borough Office	DOB	Tr. 1189-1204 City 81
Schechter, Barbara	Deputy Commissioner (II)	Licensing Division	TLC	Tr. 986-998
Schlain, Karen	Director of Research (III)	Office of Tax Policy	DOF	Tr. 1471-1481 City 96
Schmid, Karl	Assistant Commissioner (III)	Central Inspections and Quality Assurance	DOB	Tr. 1171-1188 City 79
Scotland, Trevor	Director of Business Development and Operations (II)	NYC Media Group	DOITT	Tr. 7520-7548 City 304
Shor, Stanley	Assistant Commissioner (III)	Franchise Administration	DOITT	Tr. 7471-7518 City 303
Simmons, Barbara	Director of Fellowship Programs (II)	Division of Citywide Personnel Services	DCAS	Tr. 5178-5181 City 229
Sloman, Gary	Director of Operations (II)	Division of Housing Supervision	HPD	Tr. 2225-2249 City 135
Solomon, Michael	Director of Client Services at the Citywide Training Center (II)	Division of Citywide Personnel Services	DCAS	Tr. 5186-5189 City 231
Tamis, Laurie	Chief of Staff (II)	Office of Development	HPD	Tr. 3375-3383

MANAGERS WHO FORMULATE POLICY

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Tamler, Cary	Assistant Commissioner (III)	Internal Audit and Restitution	Probation	Survey
Tobkes, Alex	Deputy Regional Manager ⁹ (III)	Family Independence Administration	HRA	Tr. 6527-6555 City 279
Tollin, Matthew	Director of External Affairs (II)	NYC Media Group	DOITT	Tr. 7831-7865 City 294
Torian, Lucia	Director of HIV Surveillance and Epidemiology Program (II)	Bureau of HIV/AIDS Services	DOHMH	Tr. 1892-1912 City 116
Troob, Charles	Assistant Commissioner of Business Systems Improvement (III)	Bureau of Policy, Planning, Quality and Development	DOHMH	Tr. 1682-1707 City 107
Tumminelli, Peter	Assistant Commissioner (II)	Adjudications Division	TLC	Tr. 943-951 City 62
Turkewitz, Barbara	Deputy Director (II)	Strategic Planning and Change Management	NYCHA	Tr. 8188-8195, 8197-8198, 8202-8203, 8207-8210, 8216-8217
Vickers, Susannah	Director of Budget and Grants (III)	Capital Budget and Grants	MBPO	Tr. 5338-5357 City 243
Warren, Alexandra	Director of Budget, Policy, and Special Programs (II)	Division of Tenant Resources	HPD	Tr. 3484-3504 City 169
Welsh, Thomas	Assistant Commissioner of Audit Services (III)	Division of Financial Services	ACS	Tr. 3247-3279 City 158

⁹ See *CWA, L. 1180*, 76 OCB 4, at 26 (BOC 2005) (finding managerial Administrative Job Opportunity Specialists in the position of Deputy Regional Manager in HRA's Family Independence Administration).

MANAGERS WHO FORMULATE POLICY

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Wilt, Susan	Assistant Commissioner of the Bureau of Injury Epidemiology (III)	Division of Epidemiology	DOHMH	Survey
Zimmerman, Regina	Assistant Commissioner of the Bureau of Public Health Training (III)	Division of Epidemiology	DOHMH	Survey

II. Managers Involved in Labor Relations/Personnel Administration

The second type of manager excluded from collective bargaining is one “who may reasonably be required on behalf of the public employer to assist directly in the preparation for and conduct of collective negotiations or to have a major role in the administration of agreements or in personnel administration provided that such role is not of a routine or clerical nature and requires the exercise of independent judgment.” Taylor Law § 201.7(a)(ii). To fall within this definition, an employee must be “a direct participant in the preparation of the employer’s proposals and positions in collective negotiations and an active participant in the negotiating process itself, . . . have the authority to exercise independent judgment in the employer’s procedures or methods of operation as necessitated by the implementation of [collective bargaining] agreements,” or, concerning personnel administration, “exercise independent judgment and fundamental control over the direction and scope of the employer’s mission.” *County of Rockland*, 28 PERB ¶ 3063, at 3141-3142 (1995) (quoting *City of Binghamton*, 12 PERB ¶ 4022, at 4035, *aff’d*, 12 PERB ¶ 3099 (1979)).

This Board has found managerial employees with duties such as participating in a panel to review and recommend changes to the civil service examination regulations, determining whether to approve requests for leave under the Family and Medical Leave Act, and serving as the agency’s

Director of Human Resources or Director of Labor Relations. *See CWA*, 2 OCB2d 13, at 66-80.

Similarly, the following employees perform duties such as representing the agency in disciplinary proceedings before the New York City Office of Labor Relations, deciding whether to outsource work, recommending a cap on the accrual of compensatory time, establishing criteria for excused time due to transportation delays, and recommending that disciplinary hearing officer decisions be overruled. The evidence concerning the following positions establish that they satisfy the criteria for a managerial designation based on labor relations/personnel administration duties:

MANAGERS INVOLVED IN LABOR RELATIONS/PERSONNEL ADMINISTRATION

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Alraimouny, Lyn	Director of Administration (III)	Medical Insurance and Community Services Administration	HRA	Tr. 3933-3946 City 179
Arroyo, Enrique	Executive Director of FIA Personnel and Head Count Administration (III)	Family Independence Administration	HRA	Tr. 3924-3932 City 178
Bechtold, Marta	NYCAPS Central Benefits Lead (II)	Special Projects	DOITT	Tr. 4940-4954 City 215
Benson, Rodney	Deputy Director (II)	Personnel Division	DOC	Tr. 1088-1100 City 73
Berlinerman, Paula	Deputy Director (II)	Employee Management Division	NYPD	Survey
Blair-Johnson, Lorraine	Director of Compensation and Benefits (II)	Human Resources	HPD	Tr. 3447-3459 City 166
Borak, Denise	Budget Director (II)	Division of Financial Services	ACS	Survey

MANAGERS INVOLVED IN LABOR RELATIONS/PERSONNEL ADMINISTRATION

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Brunet, Andrew	Director of Executive Services (III)	Division of Citywide Personnel Services	DCAS	Tr. 5159-5165 Tr. 225
Carcana, Candida	Assistant Deputy Commissioner of Personnel Operations/ Program Personnel Officer (III)	Office of Staff Resources	HRA	Tr. 4358-4377 City 189
Clark Jr., Avery	Assistant Deputy Commissioner of Autotime/ Timekeeping/Payroll Administration (III)	Office of Staff Resources	HRA	Tr. 4202-4207 City 186 Organizational Chart
Crowe, Carri-Ann	Director of Fiscal Services (III)	Office Management Services Division	FISA	Tr. 8114-8171 City 309
Doka, Frank	Assistant Commissioner (III)	Financial Management Division	NYPD	Survey
Donahue, John	Compliance Manager and Agency Advocate (II)	Office of Legal Affairs	DYCD	Tr. 795-812 City 51
Gin, Man Wai	Director of Administrative Services (II)	Administration	CFB	Tr. 5774-5807 City 256
Hebert, Amy	Director of Training and Professional Development (III)	Administration and Security	DCAS	Tr. 5206-5226 City 234
Holloway, Helene	Deputy Director of Personnel (II)	Human Resources	DOT	Tr. 5808-5832 City 257
Jackson, Donald	Executive Director of Human Resources (III)	Agency Development	SBS	Survey
James, Nakia	Director of Operations (III)	Operations	MBPO	Tr. 5235-5253 City 235

MANAGERS INVOLVED IN LABOR RELATIONS/PERSONNEL ADMINISTRATION

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Kavaler, Sherry	Assistant Commissioner (III)	Bureau of Personnel Resources	FDNY	Survey
Mattera, Patricia	Director of Budget and Financial Services (III)	Executive/Budget and Financial Services	DOF	Survey
Minikes, Stewart	Chief of Classification (II)	Human Resources	NYCHA	Tr. 2429-2434, 4075-4139 NS 7
Morillo, Helen	Special Assistant to the Chairman (III)	Executive	NYCHA	Tr. 2352-2361, 2509-2522 NS 1
Murphy, Nicole	Assistant Commissioner (III)	Human Resources	OCME	Survey
Novello, Fred	Director of Budget Services (III)	Bureau of Budget Services	FDNY	Tr. 36-55 City 3
Pemberton, Audwin	Director of Payroll, Time Management, and Benefits Compensation (II)	Administration	DDC	Tr. 953-966 City 63
Provenzano, Anthony	Director of Labor Relations/ Director of Human Resources (III)	Human Resources	Probation	Survey
Reichard, Richard	Deputy Director of Human Resources (III)	Administration	DOF	City 307
Roberson, Carol Ann	Assistant Commissioner (II)	Training	NYPD	Survey
Rosenstein, Irving	Commanding Officer of the Administrative Operations Unit (II)	School Safety Division	NYPD	Tr. 758-777 City 48
Roth, Sherri	Director of Human Resources (II)	Office Management Services Division	FISA	Survey

MANAGERS INVOLVED IN LABOR RELATIONS/PERSONNEL ADMINISTRATION

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Siegel, Allison	Director of Management, Systems Support, and Central Administration (II)	Division of Fiscal Affairs	HPD	Tr. 2667-2686 City 144
Sutton, Carol	Chief Fiscal and Budget Officer (III)	Administration	OPA	Tr. 7084-7108
Wallace, Arrie	Administrative Staff Analyst (II)	Exam Support Group	DCAS	Tr. 5171-5174 City 227
Wilson-Glover, Lorryne	Executive Assistant to the Vice-Chairman (II)	Executive	NYCHA	Tr. 2361-2365, 2522-2525 NS 2
Winston, Irita	Assistant Deputy Commissioner of Budget Administration (II)	Finance Office	HRA	Survey
Wright, Dorothy	Director of EEO (II)	Division of Administrative Services	DOHMH	Survey

III. Confidential Employees

“Employees may be designated as confidential only if they are persons who assist and act in a confidential capacity to managerial employees described in clause (ii).”¹⁰ Taylor Law § 201.7(a). This definition has “a two-pronged test, both prongs of which must be satisfied for designation: (1) the employee to be designated must assist a Civil Service Law § 201(7)(a)(ii) manager in the delivery of labor relations[/personnel administration] duties described in that subdivision—a duty oriented

¹⁰ Managerial employees described in clause (ii) are those “who may reasonably be required on behalf of the public employer to assist directly in the preparation for and conduct of collective negotiations or to have a major role in the administration of agreements or in personnel administration provided that such role is not of a routine or clerical nature and requires the exercise of independent judgment.” Taylor Law § 201.7(a)(ii).

analysis; and (2) the employee assisting the [§] 201(7)(a)(ii) manager must be acting in a confidential capacity to that manager—a relationship oriented evaluation.” *Lippman*, 263 A.D.2d at 902; *see DC 37*, 78 OCB 7, at 43.

Regarding the duty oriented prong, it is “the employee’s involvement in collective negotiations, the administration of collective bargaining agreements, or personnel administration makes him or her ineligible for inclusion in collective bargaining.” *OSA*, 78 OCB 5, at 41 (BOC 2006), *aff’d sub nom. Matter of NYC Health & Hosps. Corp. v. Bd. of Cert. of the City of New York*, 2007 N.Y. Slip. Op 30921(U) (Sup. Ct. N.Y. Co. Apr. 23, 2007) (Tolub, J.); *Town of Dewitt*, 32 PERB ¶ 3001, at 3003 (1999) (noting that designations have been based on personnel functions with exposure “to information which has a direct relationship to and impact upon collective negotiations and the administration of collective bargaining agreements”). Thus, the Board has found that employees who assist negotiators by calculating the cost of collective bargaining proposals and union demands are confidential. *See OSA*, 78 OCB 1, at 9-12; *see also Town of Ulster*, 36 PERB ¶ 3001, at 3002 (2003) (finding the duty prong satisfied by knowledge of possible personnel reductions and calculation of the cost of a wage proposal before it was made at negotiations). Similarly, employees who provide confidential assistance to managers in Human Resources Departments have been found confidential. *See CWA, L. 1180*, 78 OCB 3, at 12-13.

Regarding the relationship oriented prong, an employee “must be serving in a position the nature of which is one of trust and confidence, vis-a-vis the § 201.7(a)(ii) manager.” *Town of Ulster*, 36 PERB ¶ 3001, at 3002 (finding the relationship prong satisfied when the manager relies upon the employee’s input in preparation of the town’s budget and negotiating proposals).

To explain the reasoning behind the statutory exceptions from collective bargaining, this

Board has stated that its analysis is done “to determine whether the employee regularly has ‘access to confidential information concerning labor relations and/or personnel matters to such an extent that their inclusion in collective bargaining would lead to conflicts of interest inimical to the bargaining process and the full and fair representation of the employer’s interests.’” *OSA*, 78 OCB 5, at 41 (citing *DC 37*, 62 OCB 4, at 13-14 (BOC 1998)). In *CWA*, we noted that “this language was offered merely by way of explanation. Such remarks do not create a standard or test apart from that set forth in the statute. Indeed, the courts have repeatedly rejected efforts to use this language to expand the statute’s limited definition of confidential status.” 2 OCB2d 13, at 101 (citing *Matter of NYC Health & Hosps. Corp.*, 2007 N.Y. Slip. Op 30921(U) and *City of New York v. NYC Bd. of Cert.*, No. 404461/06 (Sup. Ct. N.Y. Co. Sept. 19, 2007)).

We have designated confidential employees with duties such as performing a cost analysis of a salary increase proposed during collective bargaining, assisting the Commissioner with confidential Equal Employment Opportunity investigations, and preparing confidential correspondence concerning labor relations for the Borough President. *See id.* at 101-106.

The totality of the evidence regarding employees in the following positions indicates that they similarly satisfy both prongs of the confidential test. They assist managers involved in labor relations or personnel administration in a confidential capacity by performing duties such as conducting a cost analysis of collective bargaining proposals, determining bureaus’ head count reduction targets, informing the District Attorney whether the agency can sustain a reduction, and preparing EEO reports for the Commissioner. Accordingly, the following are appropriately excluded from collective bargaining as confidential employees:

CONFIDENTIAL EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Berg, Allan	Deputy Chief of Budget (III)	Budget Division	DPR	Tr. 550-564 City 33
Brannigan, Sean	Chief Fiscal Officer (II)	Administration Bureau	RCDA	Tr. 7027-7039 City 295 City 296
Brunet, Andrew	Director of Executive Services (III)	Division of Citywide Personnel Services	DCAS	Tr. 5159-5165 Tr. 225
Brutus-Larios, Yvrose	Deputy Director of Budget and Financial Services (II)	Executive/Budget and Financial Services	DOF	Tr. 1670-1680 City 106
Cunningham, Richard	Director of Special Projects (II)	Division of Citywide Personnel Services	DCAS	Tr. 5165-5171 City 226
Doka, Frank	Assistant Commissioner (III)	Financial Management Division	NYPD	Survey
Fiorentino, Teresa	Deputy Budget Director (II)	Bureau of Budget Services	FDNY	Tr. 57-73 City 4
Fishman, Alexandra	Budget Director (III)	Bureau of Management and Budget	DFTA	Tr. 5393-5438 City 246
Heveran, Peggy	Executive Assistant to the Deputy General Manager (II)	Finance	NYCHA	Tr. 8222-8250 NS 60
Laiserin, Rachel	Chief of Staff (III)	Executive Division	DDC	Survey
Massena, Ramona	Deputy Budget Director (II)	Bureau of Management and Budget	DFTA	Tr. 5385-5403 City 245
Mattera, Patricia	Director of Budget and Financial Services (III)	Executive/Budget and Financial Services	DOF	Survey

CONFIDENTIAL EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Merante, Carl	Director of Payroll, Timekeeping, and Employee Affairs (II)	Human Resources	DOF	City 308 City 310
Morillo, Helen	Special Assistant to the Chairman (III)	Executive	NYCHA	Tr. 2352-2361, 2509-2522 NS 1
Reilly, Nancy	Deputy Director (II)	Human Resources	DSNY	Survey
Rozza, Assunta	Director of Budget (III)	Division of Financial and Strategic Management	DOHMH	Tr. 1709-1719 City 108
Ward, George	Deputy Director of the Payroll Division (II)	Human Resources	DSNY	Survey
Whing, Stanley	EEO Officer (III)	Office of Administration	HPD	Tr. 3293-3303 City 161
Wilson-Glover, Lorraine	Executive Assistant to the Vice-Chairman (II)	Executive	NYCHA	Tr. 2361-2365, 2522-2525 NS 2
Winters, Lucretia	Coordinator of Financial Analysis and Special Projects (II)	Office of the Deputy Commissioner of Management and Budget	NYPD	Survey

IV. Eligible Employees

While we have reviewed and made a determination on every ASA position in the record, we address here only those eligible positions specifically asserted to be managerial and/or confidential by the Employers in their post-hearing briefs.¹¹ These positions are eligible for collective bargaining

¹¹ ASA positions found eligible that were not specifically discussed in the Employers' briefs are listed in Appendix C.

because they do not meet the statutory definitions for a managerial and/or confidential designation: they do not formulate policy, do not have significant involvement in labor relations or personnel administration, and do not assist, in a confidential capacity, a manager who has significant involvement in labor relations or personnel administration. In order to further clarify our reasoning, we organize our analysis by the arguments asserted by the Employers and explain why the positions do not warrant the requested designation and are, in fact, eligible for collective bargaining.¹²

As a preliminary matter, we note that “budgetary duties are not dispositive of managerial status.” *CWA*, 2 OCB2d 13, at 14. In applying the Taylor Law definitions, this Board has considered several factors as indicia of manageriality: number of subordinate employees; area of authority; involvement with labor relations; preparation of budget and allocation of funds; and involvement in personnel administration. *See, e.g., OSA*, 78 OCB 1; *see also Civ. Serv. Tech. Guild, Local 375, DC 37, AFSCME v. Anderson*, 55 N.Y.2d 618 (1981) (upholding the Board’s use of indicia of manageriality, when considered together, as aids in construing the NYCCBL). “These factors are not a substitute for or an expansion of the statutory definitions and do not create any additional exclusions from collective bargaining.” *CWA*, 2 OCB2d 13, at 14; *see Civ. Serv. Tech. Guild, Local 375, DC 37, AFSCME v. Anderson*, 79 A.D.2d 541 (1st Dept. 1980) (dissenting opinion, relied upon by the Court of Appeals, noted that the Board used the guidelines “not slavishly, nor without reviewing the evidence as a whole, nor without constant reference to the statutory criteria and its goals”). Accordingly, those employees with budgetary duties who do not formulate policy or have a significant involvement in labor relations or personnel administration are not excluded from collective bargaining as managerial. *See CWA*, 2 OCB2d 13, at 15, 22, 50-51 (finding eligible

¹² Those employees for whom the Employers have raised multiple arguments for a managerial and/or confidential designation are addressed below in more than one section.

employees with significant fiscal responsibility and duties such as preparing budget proposals, overseeing unit budgets, and implementing budget reductions); *see also CWA*, 78 OCB 3, at 39, 45, 51 (finding employees who manage the department budget, approve bills for payment, monitor the OTPS budget, and assist in preparing the PS and OTPS budgets to be eligible for collective bargaining); *OSA*, 78 OCB 1, at 21, 25-26, 34, 36 (finding employees who prepare grant budgets, participate in allocating grant funds between facilities, allocate departmental expenses, prepare capital budget proposals, make need-based recommendations for the departmental budget, and make recommendations for the allocations of funds to be eligible for collective bargaining); *Village of Suffern*, 38 PERB ¶ 3016, at 3057 (2005) (finding eligible Department of Public Works' unit heads who make departmental budget recommendations); *County of Putnam*, 20 PERB ¶ 3059, at 3128 (1987) (finding eligible a member of the Office for the Aging's "management team" who drafts grant proposals and prepares the office budget).

A. Eligible Employees Who Do Not Formulate Policy

An employee who participates in the policy making process in an advisory role, as a resource person, or in a clerical capacity does not formulate policy. *See, e.g., OSA*, 78 OCB 1, at 19, 27 (finding eligible employees who gather and analyze data for use by upper management and employees who provide technical advice); *Local 1180, CWA*, 46 OCB 3, at 10 (BOC 1990) (finding eligible employees who are informed of new objectives, are asked to prepare procedures for achieving them, and attend conferences for the purpose of providing technical advice); *County of Rockland*, 28 PERB ¶ 3063, at 3144 (finding eligible a "high level supervisor with a great degree of technical skill" who evaluated current and future traffic safety policies and made recommendations). In interpreting policy formulation, the courts have noted that "all employees who advise the ultimate

decision makers are not automatically policy formulators to be designated managerial.” *Lippman*, 263 A.D.2d at 900-901 (finding that employees “in important and fairly-high level informational, advisory and implementer roles” did not formulate policy); see *County of Nassau v. Nassau Co. Pub. Empl. Rel. Bd.*, 283 A.D.2d 428, 428-429 (2d Dept. 2001) (finding that “supervisors are not involved in policy formulation merely because they attend monthly meetings at which, based upon their field experience and technical expertise, they make suggestions on how to improve upon the methods by which mental health services are presented”).

The Employers argue that the following positions should be designated managerial because they formulate policy. However, we find that these positions are eligible to participate in collective bargaining because they are resource people rather than decision makers. See *CWA*, 2 OCB2d 13, at 44-45, 47 (finding eligible employees performed tasks such as preparing a report on Mitchell-Lama housing for the Comptroller and memoranda advising the Borough President on environmental and transportation issues). They perform duties such as collecting data for reports and recommending a change in indicators; presenting options of water tax rates to the Water Board, which makes the decision; creating financial models of loan programs for others to select from; making technical recommendations such as which credit cards taxis should accept; and analyzing whether it would be economically advantageous from the real estate finance perspective to convert unfunded developments to the Section 8 voucher program. Although individuals in these positions may be highly skilled and function at high levels of the Employers’ administration, the individuals provide information upon which others make policy determinations. Accordingly, we find these positions eligible for collective bargaining.

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Bahchieva, Raisa	Research Director (II)	Division of Strategic Planning	HPD	Tr. 3304-3310
Bosse, Jon	Executive Director of Code Development and Implementation (III)	Technical Affairs	DOB	Tr. 1314-1320 City 86
Chin, Joyce	Director of Planning and Policy Analysis (II)	Office of Management and Planning	DFTA	Tr. 778-785 City 49
DiStefano, William	Director of Planning, Development, and Grants (III)	Policy and Planning	DHS	Tr. 711-720 City 44
Emilio, Carmelo	Deputy Treasurer (II)	NYC Water Board	DEP	Tr. 505-518 City 30
Flynn, Peter	Assistant Bureau Chief (II)	Bureau of Fiscal and Budget Studies	Compt.	Tr. 5733-5752 City 254
French, Richard	Deputy Director of Finance and Legal (III)	Development	NYCHA	Tr. 8705-8761 NS 65
Goebel, Laura	Director (II)	Operations and Management Planning Division	DPR	Tr. 565-578 City 34
Idiaquez, Aida	Director of Planning and Fiscal Management (II)	Planning and Administration Unit in the Division of Family Services	DHS	Tr. 689-710 City 43
Koslow, Michael	Senior Advisor (Management Policy and External Audits) (II)	Office of the First Deputy Commissioner	DOF	Tr. 1418-1439 City 92
Kwan, Manny	Assistant Bureau Chief/Project Manager (III)	Bureau of Fiscal and Budget Studies	Compt.	Tr. 5708-5732 City 253

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Marrero, Louis	Director of Headcount Control and Analysis (II)	Family Independence Administration	HRA	Tr. 4378-4387 City 190
Moise, Claire	Director of Management Planning and Analysis (II)	Division of Healthcare Access and Improvement	DOHMH	Tr. 1964-1979 City 122
Montesano, Roger	Director of Community Affairs (II)	Office of Intergovernmental Affairs	FDNY	Tr. 215-238 City 13
Montgomery, Christopher	Deputy Director for the Enhancements Project (II)	Service Improvement	TLC	City 932-941 City 61
Murphy, Marcia	Principal Revenue Economist (II)	Bureau of Fiscal and Budget Studies	Compt.	Tr. 5683-5707 City 252
Prager, Dorothy	Director of Grants Management (II)	Financial Management	DYCD	Tr. 832-847 City 53
Ross, Arlene	Director of Planning Initiatives (III)	Planning, Research and Program Development	DYCD	Tr. 898-909 City 58
Udell, Barbara	Director of Underwriting and Financial Analysis (II)	Housing Finance Department	HPD	Tr. 2279-2294 City 137

Employees who perform the work essential to carrying out the mission of the employer and implement policies are eligible for collective bargaining. *See CWA*, 2 OCB2d 13, at 23-24, 27-28 (finding that tasks such as implementation of programs and compliance with state and federal regulations did not warrant a managerial designation based on policy formulation). Exercising a high level of expertise and professional and technical skill in performing one's duties does not warrant excluding an employee from collective bargaining.

The following employees do not formulate policy, as alleged by the Employers, but rather primarily implement it and/or comply with regulations. They perform tasks such as overseeing the unit that processes pay phone applications, ensuring that direct care bureaus comply with state law, developing mechanisms to improve the processing of claims for remittance and refunds, participating on a committee to improve communications between the divisions of the agency, and ensuring that federal Housing and Urban Development procurement regulations are followed. Accordingly, we find these positions eligible for collective bargaining.

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Alexander, Barbara	Director of the Financial Information Unit (II)	Real Estate Services	DCAS	Tr. 5198-5205 City 233
Anderson, Hector	Director of Salary Administration (II)	Office of Staff Resources	HRA	Tr. 4388-4399 City 191
Andino, Yvette	Assistant Director for Administration and Special Projects (II)	Research and Management Analysis	NYCHA	Tr. 7312-7361 NS 48
Baez, Lucy	Executive Director of Specialized Training (II)	Family Independence Administration	HRA	Tr. 3982-4004 City 181
Bailey, Letitia	Director (II)	Financial Services Division	DOC	Tr. 1101-1114 City 74
Barry, Janet	Deputy Director of Budget and Finance (III)	Leased Housing	NYCHA	Tr. 3552-3604, 3611, 3641-3642, 3646-3669 NS 28
Belkin, David	Senior Economist (II)		IBO	Tr. 5914-5944 City 261

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Birdsong, Eugenie	Assistant Director of the Office of Program Review and Evaluation (II)	Bureau of Planning, Evaluation and Quality Improvement	DOHMH	Tr. 1925-1937 City 118
Blanc, Jean	Deputy Agency Chief Contracting Officer (II)	Office of the Agency Chief Contracting Officer	DOITT	Tr. 4917-4918 City 211
Brooks, Carol	Director of Refunds and Remittance (II)	Bureau of Customer Services	DEP	Tr. 424-442 City 25
Brown, Lester	Director of Accounts Payable (II)	Fiscal Affairs	HPD	Survey
Buccellato, Frank	Chief Compliance Officer (III)	Bureau of Compliance	FDNY	Tr. 246-265 City 14
Burgos-Tabulsi, Damaris	Assistant Director of Housing Opportunities (II)	Equal Opportunity	NYCHA	Tr. 3852-3894 HA 20, HA 21 NS 31
Butler, John	Director of the Division of Administrative Support Services (III)	Management Information Systems	ACS	Tr. 3083-3092 City 154
Cai, Alex	Deputy Director of Cost Recover (II)	Financial Services	DOITT	Tr. 7452-7470 City 302
Canavaciol, Dolores	Assistant Director of Budget and Finance (II)	Leased Housing	NYCHA	Tr. 3552-3604, 3611, 3646-3669 NS 29
Castro, Claudia	Deputy Director (III)	Office of Contract Administration	Compt.	Tr. 6489-6513 City 277
Castro, Raoul	Chief Space Planner (II)	Facility Planning and Administration	NYCHA	Tr. 2456-2460, 8453-8470 NS 9

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Chew, David	Deputy Director of Technology (III)	Supply Chain Operations	NYCHA	Tr. 2460-2462, 2583-2587, 8304-8321, 8344-8345 NS 16
Cuzzo, Maria Lisa	Chief of Measurement and Verification (II)	Energy	NYCHA	Tr. 8905-8914, 8918-8919, 8922-8927 NS 73
Davis, Glenn	Information Security Officer (II)	Office of the CIO/ Deputy General Manager for Information Technology	NYCHA	Tr. 4559-4579, 4739-4746 HA 33, HA 34 HA 35, Survey
Delgado, Arsenia	Program Management Officer/Grant Administrator (II)	Bureau of Emergency Management	DOHMH	Tr. 2055-2064 City 126
Devine, Theresa	Senior Economist (II)		IBO	Tr. 6054-6067 City 267
Edelstein, Zachary	Director of Training and Professional Development (II)	Bureau of Human Resources	DOHMH	Tr. 1486-1517 City 97
Eisenstat, Kenneth	Administrator of the Closeout Task Force (II)	Capital Project Technical Support	NYCHA	Tr. 7954-7981
Eskowitz, Jerry	Director of Franchise Enforcement (II)	Franchise Administration	DOITT	Tr. 4937-4940 City 214
Farrell, Margaret	Assistant Director of Grants Accounting (II)	Accounting and Fiscal Services	NYCHA	Tr. 8581-8593
Feldman, Edward	Chief of Staff for Management and Budget (III)	Budget Division	DPR	Tr. 579-596 City 35
Feller, Michael	Chief Naturalist (II)	Natural Resources Group	DPR	Tr. 632-641 City 39

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Fiorino, Leela	Director of Business and Community Outreach (II)	Customer Relations	DOF	Tr. 1616-1627 City 103
Fortuno, Carlos	Administrator (III)	Bronx District Public Health Office	DOHMH	Tr. 1957-1963 City 121
Freeman, Denice	Director of Management and Personnel Services (II)	Finance Office	HRA	Tr. 4338-4357 City 188
Friedman, Daniel	Assistant Director of Financial Compliance (II)	Claiming and Revenue	ACS	Tr. 3028-3044 City 149
Gayle, Sandra	Operations Risk Manager (II)	Bureau of Asset Management	Compt.	Tr. 6313-6340 City 274
Gonzalez, Roberta	Program Management Officer for the Homeland Security Grant (II)	Bureau of Emergency Management	DOHMH	Tr. 2205-2223 City 134
Gramigna, Victor	Director of Contract Services (III)	Family Independence Administration	HRA	Tr. 5134-5144 City 224
Guillo, Gloria	Procurement Administrator (II)	Capital Projects Administration	NYCHA	Tr. 7733-7784 NS 53
Hanlon, James	Budget Administrator for Business Services (II)	Queens-Staten Island Management	NYCHA	Tr. 7365-7398, 8506-8508
Headley, Tennyson	Director of Occupational Safety and Health (III)	Bureau of Technology and Support Services	FDNY	Tr. 202-207 City 11
Herbert, Victor	Dean of Instruction (II)	Bureau of Training	FDNY	Tr. 280-288 City 16
Hoppa, Jennifer	Deputy Director (II)	Planning Division	DPR	Tr. 616-632 City 38

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Horodniceano, Bat-Sheva	Deputy Director of Administration (III)	IT Infrastructure	NYCHA	Tr. 4581-4584, 4729-4731, 4746-4748, 8851-8873 NS 71
Ibanez, Julie	Deputy Director of Program Monitoring (II)	Family Independence Administration	HRA	Tr. 4434-4440
Jackson, Yvette	Special Assistant to the Executive Deputy Comptroller (II)	External Relations	Compt.	Tr. 6687-6703 City 282 City 283
Jones, John	Controller (II)	Bureau of Fiscal Management	DFTA	Tr. 5362-5383 City 244
Krantz, Jason	Coordinator for Environmental Health and Safety (II)	Technical Services	NYCHA	Tr. 7398-7446, 8540, 8545, 8560, 8564-8571 HA 51
Kuch, Ronald	Director of Compliance and Statewide Services Payment System (II)	Office of Quality Improvement	ACS	Tr. 2634-2652 City 141
Lee, Sue Eng	Director of Contract Analysis and Evaluation (II)	Division of Workforce Development	SBS	Tr. 3209-3235 City 156
LeMonier, Robin	Deputy Director for External Affairs (III)	Capital Projects	NYCHA	Tr. 8054-8107
Leon, Burton	Deputy Director of Planning (III)	Development	NYCHA	Tr. 8705, 8710, 8713-8727, 8732, 8741-8749, 8755-8758 NS 66

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Levin, Melanie	Director of the Accountability Review Panel (II)	Legal and Adoption Services	ACS	Tr. 3006-3023 City 147
Lewis, Lisa	Director of Customer Service (II)	Strategic Planning and Implementation	DOB	Tr.1259-1276 City 83
Lewis, Timi	Director of Corporate Affairs and Strategic Planning (II)	NYC Media Group	DOITT	Tr. 6907-6924 City 293
Lightner, Charlotte	Director of the Welfare to Work Programs (II)	Family Independence Administration	HRA	Tr. 4598-4605 City 196
Lopatto, Paul	Assistant Deputy Director (II)		IBO	Tr. 6018-6027 City 265
Maluf, Lisa	Senior Director for Customer Relations (III)	Communications and Customer Service	DOF	Tr. 1586-1615 City 102
Martell, Elsie	Executive Director of Authorized Parking and Permits (II)	Parking Bureau	DOT	Tr. 4683-4689 City 201
Mazon, Gilbert	Manager of Management and Professional Development Training (II)	Staff Development	NYCHA	Tr. 2439, 2444-2446, 4964-4975, 4982-4987, 4995-5006, 5464-5470, 5490, 5501-5503, 5507-5508, 5514-5525, 5546-5547 NS 10
McClary, Robin	Special Assistant for Youth Employment Initiatives (II)	Community Development	DYCD	Tr. 814-831 City 52

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Mercurio, Linda	Director of Audits and Compliance (II)	Audits and Compliance	DOITT	Tr. 6876-6884 City 291
Milne, Victoria	Director of Creative Services (II)	Architecture and Engineering	DDC	Tr. 967-983 City 64
Molloy, Thomas	Director of Financial Management Systems (II)	Bureau of Information Systems	Compt.	Tr. 6703-6719 City 284
Moore-Brown, Vivian	Director (II)	Office of Quality Improvement	DOHMH	Tr. 1577-1582 City 101
Morcos, Manal	Human Resources Administrator (II)	Capital Projects Administration	NYCHA	Tr. 7642, 7647-7655, 7659-7664, 7667-7679, 7698, 7707-7708, 7712-7713, 7719-7720, 7722, 7804 NS 52
Muley, Elba	Manager of Child Protection Services Case Records (II)	Office of Quality Improvement	ACS	Tr. 3024-3027 City 148
Murano, Roxane	Vendor Manager/Assistant Director of Operations (II)	311 Citizen Service Center	DOITT	Tr. 4914-4916 City 210
Nagin, Deborah	Director (II)	Lead Poisoning Prevention Program	DOHMH	Tr. 1643-1664 City 105
Nelkin, James	Director of Planning (II)	Investigation, Revenue, and Enforcement Administration	HRA	Tr. 4427-4432 City 193

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Nibbs, Laurette	Deputy Director Administration (III)	Brooklyn Management	NYCHA	Tr. 8480-8499, 8506, 8509-8523
Nicu, Simona	Assistant Director of the Control Section of Accounts Payable (II)	Accounting and Fiscal Services	NYCHA	Tr. 8275, 8287-8299
Nussbaum, David	Emergency Management Officer (II)	Safety and Emergency Operations	DOB	Tr. 1228-1258 City 82
Orr, JoAnn	Director of the Office of Burial Claims/ Director of Field Operations for Community Affairs (II)	Office of Constituent and Community Affairs	HRA	Tr. 5759-5773 City 255
Pardus-Abbadessa, Drew	Administrative Staff Analyst (II)	Office of Environmental Health and Safety Compliance	DEP	Tr. 372-396 City 23
Patur, Ravinder	Executive Director of Quality Assurance (II)	Central Inspections and Quality Assurance	DOB	Tr. 1293-1312 City 85
Pechstein, Anne	Assistant Deputy Director (II)	Development	NYCHA	Tr. 8705, 8720-8724, 8728-8735
Pecker, Sara	Director of Communications (II)	Bureau of Water and Sewer Operations	DEP	Tr. 493-503 City 29
Pentangelo, Roy	Director of Resource Management (II)	Roadway Repair and Maintenance Division	DOT	Tr. 4865-4871 City 205
Peters-Smith, Renee	Deputy Director of Federal and State Aid (II)	Capital Budget Administration	DOT	Tr. 4690-4702 City 202

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Pheasant, Deborah	Assistant Director of the Office of Program Review and Evaluation (II)	Bureau of Planning, Evaluation and Quality Improvement	DOHMH	Tr. 2010-3033 City 124
Philip, Sunny	Assistant Director of Fiscal (II)	Community Operations Administration	NYCHA	Tr. 8785, 8789-8790, 8794-8802, 8818-8828, 8838-8840 NS 70
Ramos, Hector	Deputy Director Budget (III)	Manhattan Management	NYCHA	Tr. 8480-8499, 8506, 8509-8523
Redhead, Francis	Chief of Engineering (II)	Energy	NYCHA	Tr. 8905, 8909-8910, 8913-8921, 8927-8928 NS 74
Reinstein, Alvin	Deputy Director of Contract Compliance and Business Opportunities/ Assistant Secretary of NYCHA (II)	Equal Opportunity	NYCHA	Tr. 3774-3847, 5556-5557 HA 18, HA 19 NS 30
Ribakove, Bruce	Director of Public Pay Phone Permitting (II)	Franchise Administration	DOITT	Tr. 5052-5056 City 217
Ricca, Anthony	Assistant Director of the Lockbox Unit (II)	Accounting and Fiscal Services	NYCHA	Tr. 7199-7221 NS 45
Rieara, Shanifah	Director of the Northern Manhattan Office (II)	Northern Manhattan Office	MBPO	Tr. 5273-5276, 5279-5280, 5288-5304 City 241

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Rodriguez, Ramon	First Deputy Agency Chief Contracting Officer for Contract Administration (II)	Agency Chief Contracting Office	DDC	Tr. 999-1010 City 66
Royal, Michele	Director of the Office of Eligibility Monitoring (II)	Family Independence Administration	HRA	Tr. 4656-4659
Seltzer, Steven	Director of Asset Management (II)	Division of Housing Supervision	HPD	Tr. 2619-2630 City 139
Skarak, Michael	Director of the Contractor and Procurement Review Division (III)	Office of Contract Administration	Compt.	Tr. 6720-6758 City 285
Taylor, Deborah	Executive Director for Special Projects and Materials and Equipment Acceptance (III)	Technical Affairs	DOB	Tr. 1322-1331
Thomas, Larry	Executive Director of Sponsor Management and Compliance (II)	Division of Child Care and Head Start	ACS	Tr. 3052-3079 City 152
Tollin, Vivienne	Director (II)	Health Management Division	DOC	Tr. 1129-1145 City 76
Tyus, Ethel	Court Representative (II)	Bureau of Law and Adjustment	Compt.	Tr. 6779-6792 City 288
Ventura, Ana Maria	Assistant Deputy Director (II)		IBO	Tr. 6010-6017 City 264
Wollman, Eric	Deputy Director of Contracts (III)	Bureau of Asset Management	Compt.	Tr. 6759-6770 City 286
Yan, Kyin	Director of Capital Budget (II)	Infrastructure Division	DDC	Tr. 1012-1020 City 67

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Zalak, Henry	Logistics Administrator (II)	Capital Projects Administration	NYCHA	Tr. 7642, 7648, 7654-7657, 7659-7659, 7786-7820

“The formulation of policy does not extend to the determination of methods of operation that are merely of a technical nature.” *City of Binghamton*, 12 PERB ¶ 3099, at 3185. Having a high level of responsibility and authority to make decisions is not dispositive. The exercise of discretion alone is insufficient for a managerial designation. “It is the conditions under which discretion may be exercised, not the exercise of discretion itself, which we find relevant in determining manageriality. Employees who exercise their discretion only when permitted by policy, and exercise it within the specified guidelines of that policy, do not have the degree of freedom or authority to make decisions necessary to invoke managerial status.” *UFOA, L. 854*, 50 OCB 15, at 23; *see Local 621, SEIU*, 78 OCB 2, at 20 (BOC 2006).

Accordingly, this Board has found eligible employees who perform tasks such as initiating a process to ensure that invoices are paid in a timely manner, setting up an ombudsman program, and determining printing and mailing operations. *See CWA*, 2 OCB2d 13, at 24-25, 39-40.

Similarly, the following employees perform duties such as deciding that a facility should be purchased instead of leased; recommending that the cost of living adjustment should be distributed based on the contractor’s length of time with the agency, not the year of the renewal option; determining inspection and operation protocols for rodent control; improving the efficiency of payment operations by reducing number of steps in processing exemption applications; and serving

on a committee to determine the criteria for outside legal counsel to submit bills electronically.

While these employees exercise a high level of independent judgment and discretion in their respective areas, we find that these positions eligible because their duties do not rise to the level of formulating policy:

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Abel, Michael	Director of Homeowners' Assistance (II)	Division of Development	HPD	Tr. 2187-2204 City 133
Ahluwalia, Neena	Program Management Officer (II)	Bureau of Chronic Disease Prevention and Control	DOHMH	Tr. 1518-1541 City 98
Alexander, Ellison	Deputy Director (II)	Social Services	NYCHA	Tr. 8595-8627
Arciniega, Gladys	Senior Deputy Director of Program Development and Implementation (III)	Resident Employment Services	NYCHA	Tr. 8786, 8790-8791, 8794-8802, 8811-8818, 8821-8828, 8833-8838 NS 69
Ash, Michael	Director of the Discharge Planning Program (II)	Bureau of Forensic Behavioral Health Services	DOHMH	Tr. 2065-2095 City 127
Bethea, Vern	Administrative Director for Budgeting and Operations (II)	Bureau of Communicable Disease	DOHMH	Tr. 1742-1764 City 110
Brennan, Richard	Director (II)	Bureau of Revenue Management	FDNY	Tr. 148-175 City 8

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Chu, Richard	Director of Pharmacy (II)	Sexually Transmitted Diseases and Tuberculosis Pharmacy	DOHMH	Tr. 2176-2186 City 132
Cibic, Svetlana	Assistant Director of Investment Operations (II)	Accounting and Fiscal Services	NYCHA	Tr. 6399-6400, 6412- 6418, 6429, 6456-6459, 6627-6653 NS 41
Conry, John	Director of Payment Center Operations (II)	Payment Operations	DOF	Tr. 1628-1642 City 104
Covas, Ellen	Deputy Director for Capital Budget and Engineering Support (II)	Bureau of Planning and Budget	DSNY	Tr. 3754-3766 City 176
Cruz, Nancy	Director of Capital Budget (II)	Financial Services	DOITT	Tr. 5072-5093 City 219
Cucchiaro, Josh	Director of General Services (II)	Office of Administration	HPD	Tr. 3460-3473 City 167
Davis, Lorna	Director of the New York City Asthma Initiative (II)	Bureau of Chronic Disease Prevention and Control	DOHMH	Tr. 2092-2112 City 128
DeFina, Grace	Director of Planning and Support Services (II)	Enforcement Services	HPD	Tr. 3474-3483 City 168
Driver, Cynthia	Director of the Epidemiology Office (II)	Bureau of Tuberculosis Control	DOHMH	Tr. 2151-2160 City 130
Earle, Jeffrey	Director of Mobile Communications (II)	Franchise Administration	DOITT	Tr. 4919-4924 City 212

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Farrell, Lillie	Director of Community Outreach (II)	Bureau of Public Affairs	DEP	Tr. 461-476 City 27
Fergus, Patrick	Customer Service Coordinator (III)	Franchise Administration	DOITT	Tr. 6884-6906 City 292
Fornell, Gisela	Assistant Director of Cash Management (II)	Accounting and Fiscal Services	NYCHA	Tr. 6368-6431, 6627-6637, 6640, 6642, 6647 HA 42, NS 39
Greene, Richard	Director of Resident Support Services (III)	Community Operations	NYCHA	Tr. 8764-8783, 8794-8802, 8821-8828, 8841-8849 NS 67
Hession, Shaun	Deputy Director (III)	Technical Services	NYCHA	Tr. 7226, 7399, 7446, 8542-8563, 8573-8577
Jedreicich, Renato	Assistant Director for Purchasing (II)	Supply Chain Operations	NYCHA	Tr. 2460-2462, 2539-2541, 8304, 8321-8330, 8338-8345 NS 17
Jordan, Patricia	Director of Operations (II)	Tenant Support Services	HPD	Survey
Kalish, Wayne	Director of Audit and Revenue (II)	Franchise Administration and Planning	DOITT	Tr. 5039-5048 City 216
Kerr, Denise	Director of Finance and Administration (II)	Office of Information Technology	DEP	Tr. 344-354 City 21

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
King, Cheryl	Director of the Office of Planning and Quality Improvement (II)	Bureau of Planning, Evaluation and Quality Improvement	DOHMH	Tr. 1939-1946 City 119
LaMarca, Joseph	Deputy Director (III)	General Services	NYCHA	Tr. 2419, 2467-2472, 2530-2534, 4214-4327 HA 10, HA 19 HA 24, HA 25 HA 27, NS 3
Lee, Kay	Director of Policy Initiative for Elderly Participants (III)	Investigation, Revenue, and Enforcement Administration	HRA	Tr. 6028-6053 City 266
Levin, Jessica	Director of Finance and Administration (II)	Parking Bureau	DOT	Tr. 4442-4464 City 195
Marshall, Owen	Director of Account Maintenance (II)	Bureau of Customer Services	DEP	Tr. 477-491 City 28
Martinez, Jose	Assistant to the Director (II)	Applications and Tenancy Administration	NYCHA	Tr. 7249-7302 NS 47
Metroka, Amy	Director of the Citywide Immunization Registry (II)	Bureau of Immunization	DOHMH	Tr. 2035-2053 Survey 125
Miller, Rock	Director of Business Analysis and Technology Implementation (II)	Office of Development	HPD	Tr. 3311-3340 City 162

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Moss, Sherry	Director of MICSA Special Projects (II)	Medical Insurance and Community Services Administration	HRA	Tr. 7580-7627 City 306
Ng, Susanne	Expense Budget Director (II)	Financial Services	DOITT	Tr. 5098-5111 City 220
Norton, Robert	Executive Director of Wireless Technologies (II)	Wireless Technologies	DOITT	Tr. 5057-5071 City 218
O'Driscoll, Terence	Director of Special Projects (II)	NYC Media Group	DOITT	Tr. 6821-6875 City 290
Orlowski, Krzysztof	Assistant Director of Field Services (II)	Business Solution Technology	NYCHA	Tr. 4526, 4580, 6659, 6661-6663, 6671-6675, 6677-6679 NS 43
Pryor, Thomas	Deputy Director for Support Services (III)	Capital Projects Administration	NYCHA	Tr. 7636-7722, 7804-7808, 7811, 7817-7820 NS 51
Ramirez, Jeffrey	Assistant Director of Process Animation (II)	Process and Information Management	NYCHA	Tr. 4525-4526, 4580-4581, 4762, 4767-4768, 4778-4791, 4795-4798, 4816-4817, 4832-4833, 4837-4839, 4842-4856 NS 35

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Reinhold, Israel	Deputy Director of Policy and Initiatives (III)	Leased Housing	NYCHA	Tr. 3514-3551, 3608-3645, 3669-3673 HA 13, HA 14
Rohan-Brenman Roberta	Manager of Application Development (II)	Business Solution Technology	NYCHA	Tr. 4526, 4580-4581, 6659, 6661-6677, 6679-6682, 6949-6996 NS 42
Rohde, Robert	Tort Claims Manager (III)	Law Department	NYCHA	Tr. 7983-8022 NS 58
Rosen, Michael	Senior CM Build Specialist (II)	Capital Projects Technical Services	NYCHA	Tr. 7749-7750, 8023-8053
Rubin, Stanley	Director of the Office of Case Integrity (II)	Finance Office	HRA	Tr. 5958-6008 City 263
Samuel, Sharon	Deputy Director of Management and Professional Development (III)	Staff Development	NYCHA	Tr. 2438-2448, 2542-2547, 4962-4997, 5000-5001, 5004-5007, 5451-5452, 5464-5514, 5533, 5545-5548 NS 12
Sangster-Graham, Paula	Director of Contracts for the HIV AIDS Services Administration (II)	Medical Insurance and Community Services Administration	HRA	Tr. 5847-5883 City 259
Simeone, Rick	Director of Pest Control Services (II)	Bureau of Veterinary and Pest Control	DOHMH	Tr. 2113-2149 City 129

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Solomita, Anthony	Waste Management Coordinator (II)	Technical Services	NYCHA	Tr. 7872-7916 NS 55
Stern, Anna	Director of New Initiatives (III)	Management Information Systems Division	HRA	Tr. 4183-4197 City 184
Stout, Renee	Executive Director of Managed Care (III)	Medical Insurance and Community Services Administration	HRA	Tr. 4624-4640 City 197
Subasic, Rosemarie	Director of the Division of Facilities Management and Construction (III)	Bureau of Human Resources Administration	DEP	Tr. 355-370 City 22
Tavarez, Erenisse	Deputy Director (II)	Brooklyn Community Operations	NYCHA	Tr. 8786, 8791, 8794-8811, 8821-8833 NS 68
Thomas, Herman	Deputy Director (III)	Staff Development	NYCHA	Tr. 2438-2441, 2448-2450, 4963-4975, 4981, 5012-5030, 5032, 5464-5470. 5498-5500, 5530-5535, 5542-5547 NS 13
Tripathi, Parmod	Chief of Management Services and Agency Chief Contracting Officer (III)	Management Services	DPR	Tr. 601-615 City 37

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Tyler, Kathleen	Contracts Director for the Home Care Services Program (III)	Medical Insurance and Community Services Administration	HRA	Tr. 3705-3735 City 172 City 173
Wasserman, Jonathan	Deputy Director of Process Automation/ Retrieval and Indexing (II)	Process and Information Management	NYCHA	Tr. 4547-4559, 4736-4739, 4757-4858 NS 34
Whitehouse, Thomas	Executive Director of Bridge Maintenance and Repair (III)	Bureau of Maintenance, Inspections, and Operations	DOT	Tr. 4667-4683 City 200
Williams, Sheila	Senior Director of General Services (II)	Administration Division	DOF	Tr. 1349-1390 City 89
Yarde, Joanne	Director of Revenue (II)	Division of Financial and Strategic Management	DOHMH	Tr. 1804-1835 City 113

B. Eligible Employees Who Do Not Have Managerial Involvement in Labor Relations/Personnel Administration

There is a “critical and long-standing distinction” between managers involved in labor relations/personnel administration, who are excluded from collective bargaining, and “the broader category of employees who perform supervisory functions,” who are eligible for collective bargaining. *Lippman*, 263 A.D.2d at 901; *see Metro. Suburban Bus Auth. v. Pub. Empl. Rel. Bd.*, 48 A.D.2d 206, 211 (3d Dept. 1975) (finding that the distinction between managers and supervisors is “reasonable and has a sound basis”). Accordingly, supervisory employees who “perform an important role in, and have powers directly affecting, personnel administration, for example by making hiring, promotional, disciplinary, staffing and other recommendations” have been found

eligible for collective bargaining. *Lippman*, 263 A.D.2d at 901-902 (finding eligible employees who did not “exercise independent judgment reflecting substantial discretionary responsibility, including standard setting”); *see County of Nassau*, 283 A.D.2d at 429 (finding eligible supervisors who investigate allegations of employee misconduct and recommend sanctions); *Metro. Suburban Bus Auth.*, 48 A.D.2d at 212 (finding eligible employees with the authority to fire subordinates because “they have no role in establishing the standards for terminating employees”); *see also County of Rockland*, 28 PERB ¶ 3063, at 3142 (“[E]ven those employees occupying what may fairly be termed a high-level supervisory role do not necessarily fall within the ‘managerial’ definition.” (quoting *City of Binghamton*, 12 PERB ¶ 4022, at 4035)). Similarly, employees who ascertain factual matters when subordinate employees raise complaints and serve as witnesses to factual matters in grievance proceedings have been found eligible. *Metro. Suburban Bus Auth.*, 28 A.D.2d at 211-212 (noting that such supervisors did not make “any major interpretation of the [collective bargaining] agreements”).

Accordingly, this Board has held that supervisory duties do not warrant a managerial designation based on labor relations or personnel administration. *See CWA*, 2 OCB2d 13, at 80-81, 92 (listing examples of supervisory duties). Thus, even employees with high-level supervisory responsibilities such as explaining management decisions to union representatives and selecting supervisees to be laid off have been found eligible for collective bargaining. *Id.* at 83, 85, 87, 89; *see also Uniformed Sanitation Chiefs Assn.*, 66 OCB 4, at 29-30 (finding eligible employees involved in command discipline and the suspension of subordinate employees pursuant to established guidelines).

The Employers argue that the following employees have managerial involvement in labor

relations/personnel administration. However, we find that their duties are primarily supervisory in nature. They perform tasks such hiring, evaluating, and disciplining subordinates; ensuring staff efficiency; determining staffing needs; selecting supervisees to lay off, and deciding whether to fill a departmental vacancy. These employees are not excluded from collective bargaining because of their supervisory duties:

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Arciniega, Gladys	Senior Deputy Director of Program Development and Implementation (III)	Resident Employment Services	NYCHA	Tr. 8786, 8790-8791, 8794-8802, 8811-8818, 8821-8828, 8833-8838 NS 69
Bertin, Hannele	Director of Mortgage Refinance and Homeowner Services (II)	Office of Development	HPD	Survey
Blanc, Jean	Deputy Agency Chief Contracting Officer (II)	Office of the Agency Chief Contracting Officer	DOITT	Tr. 4917-4918 City 211
Brennan, Richard	Director (II)	Bureau of Revenue Management	FDNY	Tr. 148-175 City 8
Carr, Susan	Executive Director of Operations (III)	Office of Preservation Services	HPD	Tr. 2721-2748 City 146
Connolly, Albert	Deputy Director (III)	Bureau of Uniform Payroll and Pensions	FDNY	Tr. 177-195 City 9
Conry, John	Director of Payment Center Operations (II)	Payment Operations	DOF	Tr. 1628-1642 City 104

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Dereszewski, John	Director of the Division of Accounts Payable and Reporting (II)	Finance Office	HRA	Tr. 6514-6526 City 278
Dowling, Thomas	Deputy Director/Chief Web Master (II)	Bureau of Technology Development and Systems	FDNY	Tr. 196-201 City 10
Eskowitz, Jerry	Director of Franchise Enforcement (II)	Franchise Administration	DOITT	Tr. 4937-4940 City 214
Farrell, Margaret	Assistant Director of Grants Accounting (II)	Accounting and Fiscal Services	NYCHA	Tr. 8581-8593
Feller, Michael	Chief Naturalist (II)	Natural Resources Group	DPR	Tr. 632-641 City 39
Goebel, Laura	Director (II)	Operations and Management Planning Division	DPR	Tr. 565-578 City 34
Gonzalez, Miguel	Director of Adjudications (II)	Office of the General Counsel	DOHMH	Tr. 2295-2301 City 138
Greene, Richard	Director of Resident Support Services (III)	Community Operations	NYCHA	Tr. 8764-8783, 8794-8802, 8821-8828, 8841-8849 NS 67
Guillo, Gloria	Procurement Administrator (II)	Capital Projects Administration	NYCHA	Tr. 7733-7784 NS 53
Lopatto, Paul	Assistant Deputy Director (II)		IBO	Tr. 6018-6027 City 265
Montesano, Roger	Director of Community Affairs (II)	Office of Intergovernmental Affairs	FDNY	Tr. 215-238 City 13

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Morelli, Dominic	Director of Support Services (III)	Bureau of Technology and Support Services	FDNY	Tr. 266-279 City 15
Mundy-Sutton, Robin	Director of the Technical Services Division (III)	Bureau of Fleet and Technical Services	FDNY	Tr. 12-35 City 2
O'Connor, Gerald	Director of Customer Assistance (II)	Communications and Customer Assistance	DOF	Tr. 1396-1416 City 91
Orlowski, Krzysztof	Assistant Director of Field Services (II)	Business Solution Technology	NYCHA	Tr. 4526, 4580, 6659, 6661-6663, 6671-6675, 6677-6679 NS 43
Perazzo, James	Director of Performance Management (II)	311 Application Development	DOITT	Tr. 4924-4937 City 213
Raccina, Scott	Manager of Workforce Management (II)	311 Citizen Service Center	DOITT	Tr. 5112-5115 City 221
Ramsey, Stephanie	Budget Supervisor (II)	Finance Office	HRA	Tr. 3678-3686 City 170
Reinhold, Israel	Deputy Director of Policy and Initiatives (III)	Leased Housing	NYCHA	Tr. 3514-3551, 3608-3645, 3669-3673 HA 13, HA 14
Rohan-Brenman Roberta	Manager of Application Development (II)	Business Solution Technology	NYCHA	Tr. 4526, 4580-4581, 6659, 6661-6677, 6679-6682, 6949-6996 NS 42
Rubin, Stanley	Director of the Office of Case Integrity (II)	Finance Office	HRA	Tr. 5958-6008 City 263

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Skarak, Michael	Director of the Contractor and Procurement Review Division (III)	Office of Contract Administration	Compt.	Tr. 6720-6758 City 285
Tavarez, Erenisse	Deputy Director (II)	Brooklyn Community Operations	NYCHA	Tr. 8786, 8791, 8794-8811, 8821-8833 NS 68
Ventura, Ana Maria	Assistant Deputy Director (II)		IBO	Tr. 6010-6017 City 264
White, Terry	Director of Electronic Benefit Transfer Services (II)	Family Independence Administration	HRA	Tr. 4333-4336 City 187
Wollman, Eric	Deputy Director of Contracts (III)	Bureau of Asset Management	Compt.	Tr. 6759-6770 City 286
Zalak, Henry	Logistics Administrator (II)	Capital Projects Administration	NYCHA	Tr. 7642, 7648, 7654-7657, 7659-7659, 7786-7820
Ziccardi, Arthur	Assistant Director of Receiving, Skill Trades, Heat, and Uniforms (II)	Supply Chain Operations	NYCHA	Tr. 8304, 8331-8337, 8344-8346

Routine personnel duties such as administering employee benefits, processing pay increases, administering the employee blood donation program, handling exit interviews, processing employment applications, and ensuring payment of overtime, shift differentials, and holiday pay have not been found to warrant a managerial designation. *See DC 37*, 30 OCB 31, at 23; *see also CWA*, 2 OCB2d 13, at 82-84, 96-97 (finding eligible employees with routine personnel duties such as overseeing investigations of candidates and serving as a safety and health coordinator or a human

resources coordinator); *County of Rockland*, 28 PERB ¶ 3063, at 3141-3142 (acting as a resource person or observer at the bargaining table or in caucuses and participating in the first level of the grievance process are insufficient for a managerial designation (quoting *City of Binghamton*, 12 PERB ¶ 4022, at 4035)); *Town of Greece*, 27 PERB ¶ 3024, at 3058 (1994) (finding eligible department heads who have twice been assigned to second and final step of the grievance procedure).

We reject the Employers' argument that the following positions warrant a managerial designation based on their involvement in labor relations/personnel administration duties because their duties are more routine in nature. They perform tasks such as developing training programs; monitoring overtime and advising when units are reaching their caps; investigating health and safety complaints and recommending whether alleviation is required by regulations; and serving as a personnel liaison. Accordingly, we find these employees eligible for collective bargaining.

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Anderson, Hector	Director of Salary Administration (II)	Office of Staff Resources	HRA	Tr. 4388-4399 City 191
Andino, Yvette	Assistant Director for Administration and Special Projects (II)	Research and Management Analysis	NYCHA	Tr. 7312-7361 NS 48
Ashjian, Lilia	Director of Training, Agency Support, Production Oversight, and Communications (III)	CityTime Project	OPA	Tr. 7039-7083
Basu, Amitabha	Administrative Staff Analyst (III)	Bureau of Accountancy	Compt.	Tr. 6153-6196 City 269

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Bryant, Rena	Secretary to the Department/Board of Health, Records Access Officer, Program Management Officer, Designated Human Resources Liaison, and Director of Administrative Services for the Office of the General Counsel (II)	Office of the General Counsel	DOHMH	Tr. 1948-1956 City 120
Buccellato, Frank	Chief Compliance Officer (III)	Bureau of Compliance	FDNY	Tr. 246-265 City 14
Coleman, Valerie	Executive Director of Administrative Services (II)	Bureau of Traffic Operations	DOT	Tr. 4899-4908 City 209
Davis, Alan	Manager of Training Registration, Evaluation, and Analysis (II)	Staff Development	NYCHA	Tr. 2452-2455, 4963-4975, 5006-5012, 5457-5458, 5464-5470, 5525-5530, 5546-5549 NS 14
Davis, Carol	Bureau Administrator (II)	Bureau of Customer Services	DEP	Tr. 519-530 City 31
Eisenstat, Kenneth	Administrator of the Closeout Task Force (II)	Capital Project Technical Support	NYCHA	Tr. 7954-7981
Feldman, Edward	Chief of Staff for Management and Budget (III)	Budget Division	DPR	Tr. 579-596 City 35
Freeman, Denice	Director of Management and Personnel Services (II)	Finance Office	HRA	Tr. 4338-4357 City 188

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Galarza, Nancy	Personnel Director/ Personnel Officer (II)	Investigation, Revenue, and Enforcement Administration	HRA	Tr. 4400-4406 City 192
Hanlon, James	Budget Administrator for Business Services (II)	Queens-Staten Island Management	NYCHA	Tr. 7365-7398, 8506-8508
Hassell, Tarece	Director of Recruitment and Diversity Initiatives (II)	Bureau of Administration	FDNY	Tr. 330-336 City 20
Headley, Tennyson	Director of Occupational Safety and Health (III)	Bureau of Technology and Support Services	FDNY	Tr. 202-207 City 11
Hession, Shaun	Deputy Director (III)	Technical Services	NYCHA	Tr. 7226, 7399, 7446, 8542-8563, 8573-8577
Heydarpour, Farid	Principal Economist (II)	Bureau of Fiscal and Budget Studies	Compt.	Tr. 6228-6253 City 271
Horodniceano, Bat-Sheva	Deputy Director of Administration (III)	IT Infrastructure	NYCHA	Tr. 4581-4584, 4729-4731, 4746-4748, 8851-8873 NS 71
Krantz, Jason	Coordinator for Environmental Health and Safety (II)	Technical Services	NYCHA	Tr. 7398-7446, 8540, 8545, 8560, 8564-8571 HA 51
Levin, Jessica	Director of Finance and Administration (II)	Parking Bureau	DOT	Tr. 4442-4464 City 195

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Lucas, Karen	Executive Director of Training (II)	Training	TLC	Tr. 924-931 City 60
Mack, Deborah	Director of Administrative Services (II)	Division of Disease Control	DOHMH	Tr. 1985-2009 City 123
Marrero, Louis	Director of Headcount Control and Analysis (II)	Family Independence Administration	HRA	Tr. 4378-4387 City 190
Martinez, Jose	Assistant to the Director (II)	Applications and Tenancy Administration	NYCHA	Tr. 7249-7302 NS 47
Mazon, Gilbert	Manager of Management and Professional Development Training (II)	Staff Development	NYCHA	Tr. 2439, 2444-2446, 4964-4975, 4982-4987, 4995-5006, 5464-5470, 5490, 5501-5503, 5507-5508, 5514-5525, 5546-5547 NS 10
McAteer, Joseph	Deputy Director (II)	Health Management Division	DOC	Tr. 1115-1128 City 75
McGrath, Matthew	Deputy Director (II)	Bureau of Building Maintenance	DSNY	Tr. 3747-3753 City 175

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Morcos, Manal	Human Resources Administrator (II)	Capital Projects Administration	NYCHA	Tr. 7642, 7647-7655, 7659-7664, 7667-7679, 7698, 7707-7708, 7712-7713, 7719-7720, 7722, 7804 NS 52
Nibbs, Laurette	Deputy Director Administration (III)	Brooklyn Management	NYCHA	Tr. 8480-8499, 8506, 8509-8523
Okoroji, Georgiana	Assistant Director for the Executive and Central Office (II)	Budget and Financial Planning	NYCHA	Tr. 8358, 8373-8375, 8386-8394, 8412, 8417-8423, 8425-8435, 8438-8451
Panchamia, Kirit	Deputy Director (III)	Accounting and Fiscal Services	NYCHA	Tr. 8274-8287, 8296-8297, 8299-8300, 8359-8360
Peters-Smith, Renee	Deputy Director of Federal and State Aid (II)	Capital Budget Administration	DOT	Tr. 4690-4702 City 202
Pryor, Thomas	Deputy Director for Support Services (III)	Capital Projects Administration	NYCHA	Tr. 7636-7722, 7804-7808, 7811, 7817-7820 NS 51
Ramos, Hector	Deputy Director Budget (III)	Manhattan Management	NYCHA	Tr. 8480-8499, 8506, 8509-8523

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Rivera, Evelyn	Office Manager (II)	Office of the Deputy Commissioner for Adjudications	TLC	Tr. 915-923 City 59
Ruiz, Gisella	Personnel Liaison (II)	Enforcement Services	HPD	Survey
Samuel, Sharon	Deputy Director of Management and Professional Development (III)	Staff Development	NYCHA	Tr. 2438-2448, 2542-2547, 4962-4997, 5000-5001, 5004-5007, 5451-5452, 5464-5514, 5533, 5545-5548 NS 12
Schoonmaker, Joanne	Director of Administrative Services, Operations Manager, and Chief of Staff (II)	General Support Services	HRA	Tr. 3686-3703 City 171
Shatz, Theodore	Assistant Director for Operation and Support Services (II)	Budget and Financial Planning	NYCHA	Tr. 8358, 8373-8375, 8386-8392, 8394-8395, 8412, 8417-8423, 8425-8435, 8438-8451
Smith, Calvin	Director (II)	Civilian Payroll Bureau	FDNY	Tr. 321-326 City 19
Swackhamer, Meredith	Director of the Personnel Services Budget (II)	Budget	DHS	Tr. 680-688 City 42

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Thomas, Herman	Deputy Director (III)	Staff Development	NYCHA	Tr. 2438-2441, 2448-2450, 4963-4975, 4981, 5012-5030, 5032, 5464-5470. 5498-5500, 5530-5535, 5542-5547 NS 13
Tollin, Vivienne	Director (II)	Health Management Division	DOC	Tr. 1129-1145 City 76
Tow, Dean	Director of the Candidate Investigation Division (II)	Uniformed Personnel	FDNY	Tr. 310-320 City 18
Urbina, Deborah	Coordinator for Administrative Services (II)	Technical Services	NYCHA	Tr. 7222-7248, 8540, 8563-8564 NS 46
Wong, David	Deputy Director of Operating Budget (III)	Budget and Financial Planning	NYCHA	Tr. 2821, 2824-2825, 2836-2851, 2968-2977, 2987-2988, 8357, 8373-8375, 8377-8381, 8383-8386, 8412-8413, 8417-8423, 8425-8435, 8438-8451

C. Eligible Employees Who Do Not Assist in a Confidential Capacity Managers With Significant Involvement in Labor Relations/Personnel Administration

In accordance with the statutory definition of confidential, “work that employees perform for a person who is managerial due to the formulation of policy does not qualify the employees for confidential designation.” *Lippman*, 263 A.D.2d at 902; *see* Taylor Law § 201.7(a). Similarly, supervisory duties alone do not warrant a confidential designation. “[K]nowledge of personnel or disciplinary matters is often inherent in supervisory positions and does not warrant a confidential designation where . . . it is limited and does not encompass labor relations information significant to the basic mission of the employer.” *Lippman*, 263 A.D.2d at 903.

Involvement in budget formulation is also not dispositive. *See Lippman*, 263 A.D.2d at 903 (finding that “limited involvement in budget preparation” does not support a confidential designation when the public employer “has not shown that the information to which they are exposed, and the duties they perform, have a direct relationship to and impact upon collective negotiations and the administration of collective bargaining agreements”), *affg State of New York (Unified Court Sys.)*, 30 PERB ¶ 3067, at 3167-3168 (1997) (finding that employee who prepared the policy committee’s annual budget was not confidential); *DC 37*, 30 OCB 32, at 16-17 (BOC 1982) (finding eligible FISA employees with access to confidential information concerning the City’s budget in the absence of evidence of the relevance to collective bargaining).

The Employers argued that the following positions should be designated confidential. We find that the following positions do not meet the first prong of the test for confidentiality: “the employee to be designated must assist a Civil Service Law § 201(7)(a)(ii) manager in the delivery of labor relations duties described in that subdivision—a duty oriented analysis.” *Lippman*, 263 A.D.2d at 902. Instead, these employees perform tasks such as managing the City’s investment

accounting system for reconciling pension funds; meeting with staff regarding the length of breaks and the recording of customer service calls; making recommendations concerning a pilot program to expand the questions asked by staff during the screening of clients; using the salaries of engineers covered by intrafund agreements for budget forecasting; and taking minutes at the Capital Projects Division's senior staff meetings and following up on tasks. *See CWA*, 2 OCB2d 13, at 108 (finding that duties such as attending departmental staff meetings did not satisfy the first prong of the confidentiality test). Some of these employees assist managers who formulate policy; others have supervisory duties. Since these employees do not assist a manager involved with labor relations/personnel administration, we find these positions eligible for collective bargaining.

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Ash, Michael	Director of the Discharge Planning Program (II)	Bureau of Forensic Behavioral Health Services	DOHMH	Tr. 2065-2095 City 127
de Bourbon, Elizabeth	Director of Communications (II)	Administration	LPC	Tr. 5890-5912 City 260
Freeman, Denice	Director of Management and Personnel Services (II)	Finance Office	HRA	Tr. 4338-4357 City 188
Gayle, Sandra	Operations Risk Manager (II)	Bureau of Asset Management	Compt.	Tr. 6313-6340 City 274
Horodniceano, Bat-Sheva	Deputy Director of Administration (III)	IT Infrastructure	NYCHA	Tr. 4581-4584, 4729-4731, 4746-4748, 8851-8873 NS 71
Kwan, Manny	Assistant Bureau Chief/Project Manager (III)	Bureau of Fiscal and Budget Studies	Compt.	Tr. 5708-5732 City 253

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
LaMarca, Joseph	Deputy Director (III)	General Services	NYCHA	Tr. 2419, 2467-2472, 2530-2534, 4214-4327 HA 10, HA 19 HA 24, HA 25 HA 27, NS 3
McAndrews, Lorraine	Administrative Assistant to the Deputy General Manager (II)	Capital Projects	NYCHA	Tr. 8251-8269
Molloy, Thomas	Director of Financial Management Systems (II)	Bureau of Information Systems	Compt.	Tr. 6703-6719 City 284
Montesano, Roger	Director of Community Affairs (II)	Office of Intergovernmental Affairs	FDNY	Tr. 215-238 City 13
Moss, Nat	Senior Speech Writer (II)	Executive Office	Compt.	Tr. 6771-6778 City 287
Moss, Sherry	Director of MICSA Special Projects (II)	Medical Insurance and Community Services Administration	HRA	Tr. 7580-7627 City 306
Murphy, Marcia	Principal Revenue Economist (II)	Bureau of Fiscal and Budget Studies	Compt.	Tr. 5683-5707 City 252
Nagin, Deborah	Director (II)	Lead Poisoning Prevention Program	DOHMH	Tr. 1643-1664 City 105
O'Connor, Gerald	Director of Customer Assistance (II)	Communications and Customer Assistance	DOF	Tr. 1396-1416 City 91
Peters-Smith, Renee	Deputy Director of Federal and State Aid (II)	Capital Budget Administration	DOT	Tr. 4690-4702 City 202

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Schwarz, Arnold	Director of Building and Revenue Services (III)	Division of Property Management	HPD	Tr. 2250-2278 City 136

“As the two parts of the [confidentiality] test are distinct, satisfaction of one might not satisfy the other.” *Town of Dewitt*, 32 PERB ¶ 3001, at 3002. In other words, even if an employee assists a manager involved in labor relations/personnel administration, that employee might not have a confidential relationship with that manager.

Significantly, “the secretive or highly sensitive nature of an employee’s work alone does not compel a confidential designation.” *OSA*, 78 OCB 5, at 41 (finding that access to proprietary marketing information does not warrant a confidential designation); *see Town of Dewitt*, 32 PERB ¶ 3001, at 3003 (“Simple access to existing personnel or financial information . . . is not sufficient for a confidential designation.”); *see also New York Power Auth.*, 38 PERB ¶ 3003, at 3008 (2005) (running a computer program that randomly selects an employee for drug testing does not satisfy the duty prong); *County of Orange*, 31 PERB ¶ 3016, at 3029 (1998) (access to personnel records and exposure to finalized disciplinary matters is insufficient to satisfy duty prong). Thus, employees who have access to sensitive, personal information regarding investigations of City employees and the public have been found eligible for collective bargaining. *See DC 37*, 78 OCB 7, at 43; *NYC Dept. of Investigation Investigator’s Assn.*, 72 OCB 2, at 18 (BOC 2003); *Assn. of NYC Assistant Dist. Attorneys*, 14 OCB 13, at 26 (BOC 1974).

We find that the following employees are eligible because they do not satisfy the second prong of the test for confidentiality: “the employee assisting the [§] 201(7)(a)(ii) manager must be

acting in a confidential capacity to that manager—a relationship oriented evaluation.” *Lippman*, 263

A.D.2d at 902. These employees have duties such as ensuring that salaries are consistent with collective bargaining agreements, responding to personnel information requests from the agency’s labor relations department, preparing reports on background checks, providing information to the New York City Office of Labor Relations regarding the implementation of Citytime for titles that are the subject of improper practice petitions, and gathering information such as federal year-end wage calculations. *See CWA*, 2 OCB2d 13, at 109-111, 116-117 (finding insufficient evidence of a confidential relationship to satisfy the second prong of the confidentiality test for employees with duties such as ensuring that salaries are accurate, reviewing time and leave records, and developing an overtime approval process). While some of these employees have knowledge of sensitive information, such as employee arrests and Inspector General investigations of individuals suspected of cheating on civil service exams, the record does not establish that they have a confidential relationship with a manager who has significant involvement in labor relations/personnel administration. Accordingly, the following employees are eligible for collective bargaining.

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Allocca, Andrea	Director of Management Analysis and Planning (II)	Bureau of Management Initiatives	FDNY	Tr. 101-115 City 6
Anderson, Hector	Director of Salary Administration (II)	Office of Staff Resources	HRA	Tr. 4388-4399 City 191
Andino, Yvette	Assistant Director for Administration and Special Projects (II)	Research and Management Analysis	NYCHA	Tr. 7312-7361 NS 48

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Ashjian, Lilia	Director of Training, Agency Support, Production Oversight, and Communications (III)	CityTime Project	OPA	Tr. 7039-7083
Bryant, Rena	Secretary to the Department/Board of Health, Records Access Officer, Program Management Officer, Designated Human Resources Liaison, and Director of Administrative Services for the Office of the General Counsel (II)	Office of the General Counsel	DOHMH	Tr. 1948-1956 City 120
Chisholm, Dean	Operations Manager (II)	Office of the General Counsel	ACS	Tr. 2654-2666 City 142
Cucchiaro, Josh	Director of General Services (II)	Office of Administration	HPD	Tr. 3460-3473 City 167
Headley, Tennyson	Director of Occupational Safety and Health (III)	Bureau of Technology and Support Services	FDNY	Tr. 202-207 City 11
Hession, Shaun	Deputy Director (III)	Technical Services	NYCHA	Tr. 7226, 7399, 7446, 8542-8563, 8573-8577
Kerr, Denise	Director of Finance and Administration (II)	Office of Information Technology	DEP	Tr. 344-354 City 21
Krantz, Jason	Coordinator for Environmental Health and Safety (II)	Technical Services	NYCHA	Tr. 7398-7446, 8540, 8545, 8560, 8564-8571 HA 51

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Lamont, Diana	Director of Administration (III)	Division of Environmental Health	DOHMH	Tr. 1720-1741 City 109
Marrero, Louis	Director of Headcount Control and Analysis (II)	Family Independence Administration	HRA	Tr. 4378-4387 City 190
Martinez, Jose	Assistant to the Director (II)	Applications and Tenancy Administration	NYCHA	Tr. 7249-7302 NS 47
McBride, John	Chief of Staff (III)	Sheriff's Division	DOF	Tr. 1440-1448 City 93
Morcos, Manal	Human Resources Administrator (II)	Capital Projects Administration	NYCHA	Tr. 7642, 7647-7655, 7659-7664, 7667-7679, 7698, 7707-7708, 7712-7713, 7719-7720, 7722, 7804 NS 52
Nibbs, Laurette	Deputy Director Administration (III)	Brooklyn Management	NYCHA	Tr. 8480-8499, 8506, 8509-8523
Pryor, Thomas	Deputy Director for Support Services (III)	Capital Projects Administration	NYCHA	Tr. 7636-7722, 7804-7808, 7811, 7817-7820 NS 51
Ramos, Hector	Deputy Director Budget (III)	Manhattan Management	NYCHA	Tr. 8480-8499, 8506, 8509-8523

ELIGIBLE EMPLOYEES

<u>Name</u>	<u>Position (Level)</u>	<u>Bureau/Division</u>	<u>Employer</u>	<u>Evidence</u>
Reinstein, Alvin	Deputy Director of Contract Compliance and Business Opportunities/ Assistant Secretary of NYCHA (II)	Equal Opportunity	NYCHA	Tr. 3774-3847, 5556-5557 HA 18, HA 19 NS 30
Steinmann, James	Assistant Director of Payroll Computation and Contract (II)	Accounting and Fiscal Services	NYCHA	Tr. 8525-8535 NS 62
Subasic, Rosemarie	Director of the Division of Facilities Management and Construction (III)	Bureau of Human Resources Administration	DEP	Tr. 355-370 City 22
Swackhamer, Meredith	Director of the Personnel Services Budget (II)	Budget	DHS	Tr. 680-688 City 42
Talan, Jeffrey	Director of Administration (II)	Enforcement Division	DOF	Tr. 1450-1460 City 94
Tow, Dean	Director of the Candidate Investigation Division (II)	Uniformed Personnel	FDNY	Tr. 310-320 City 18
Urbina, Deborah	Coordinator for Administrative Services (II)	Technical Services	NYCHA	Tr. 7222-7248, 8540, 8563-8564 NS 46

V. Procedural Issues

This Board has thoroughly considered the numerous procedural objections and issues raised by NYCHA during the course of this proceeding and finds that the record provided a substantial basis upon which to reach its decision on all of the ASA positions. In addition, NYCHA was afforded due process in presenting evidence in support of its position.

NYCHA objects to the use of surveys and requests that the Board not consider the surveys of NYCHA employees who did not testify in this proceeding. NYCHA argues that the Board should rely solely on the testimony generally describing NYCHA's in-house titles and "not draw any conclusions" from its failure to call ASAs to testify. (NYCHA Brief at 4). This Board has previously held that "NYCHA's organizational structure, use of certain in-house titles, and use of assignment levels are insufficient to provide a basis for a determination." *CWA*, 2 OCB2d 13, at 48 (noting that the Board makes its determinations based on actual duties performed); *see also Fashion Inst. of Tech.*, 42 PERB ¶ 3018, at 3062 (2009) (finding that the granting of managerial designations based primarily upon an employer's organizational structure or culture would be inconsistent with case law). As a result, evidence beyond NYCHA's organizational structure and general use of the Director, Deputy Director, and Assistant Director in-house titles was necessary to make determinations on the managerial and/or confidential status of ASAs Levels II and III.

In investigating questions of representation, this Board has utilized surveys on a case by case basis in large cases such as this one. *See* OCB Rule § 1-02(j)(1) (granting the Board discretion to determine the method of resolving a question concerning representation); *see, e.g., CWA*, 78 OCB 3 (decided solely on evidence from employee surveys); *OSA*, 66 OCB 1 (BOC 2000). Here, surveys were ordered at the request of the City and with the consent of the Union prior to NYCHA's joining the proceedings. All surveys are signed by a department head, who affirms that he or she has reviewed and concurs with the employee's statements and notes exceptions, if any. We find that the surveys are generally indicative of an employee's duties and responsibilities and have relied on them in reaching our conclusions here. When requested, we have allowed the parties to supplement a survey with testimony to clarify an employee's duties and responsibilities and/or to describe changes

NYCHA did not specifically argue in its brief any ASA about whom there was no testimony. We have not drawn any adverse inferences from NYCHA's not calling ASAs to testify instead of or in addition to their supervisors. For those NYCHA ASAs who did not testify, we have considered the testimony of one or more supervisors. In addition, we have relied on the employee's survey when the evidence indicated that the employee is still performing the duties about which he or she completed the survey. NYCHA has not provided any compelling arguments to warrant disregarding the employee's written description of his or her duties.

NYCHA further objects to the fact that it was given a deadline to complete its case. NYCHA asserts that it was denied the opportunity to present its case as thoroughly as it would have liked. During the first 14 days of hearing reserved exclusively for the presentation of NYCHA witnesses, NYCHA presented extensive background information of limited value, provided duplicative testimony from multiple witnesses regarding the same ASAs, and did not utilize surveys to streamline its presentation of the case. Although full days of hearing were scheduled months in advance and at least two weeks apart to give the parties time to schedule witnesses and prepare, NYCHA presented no more than a half-day of testimony for over 40% of its first 14 hearing dates. Having the burden of proof does not relieve a party from a reasonable obligation to proceed efficiently and in a timely manner in order to avoid needlessly delaying the final adjudication of public employees' representation rights. Under the NYCCBL, public employees are presumed to be eligible for collective bargaining rights, and this Board has a statutory obligation to reach a final determination regarding managerial and/or confidential status. NYCCBL §§ 12-305, 12-309(b)(4).

Accordingly, we find that the Director of Representation appropriately limited the number

of hearing dates in order to ensure that hearing days were used efficiently. *See* OCB Rule § 1-10(c) (providing that the trial examiner “shall have full authority to control the conduct and procedure of the hearing and the record thereof”). We note that, in November 2007, when the Director of Representation gave NYCHA notice that its case should conclude on May 29, 2008, NYCHA had already provided extensive testimony. Therefore, an additional six months was sufficient time and notice for NYCHA to complete its case. Further, the Director of Representation was not unnecessarily rigid in adhering to this deadline. Although NYCHA continued to use less than half of the time allocated for the three hearing days after the imposition of the deadline, she granted NYCHA’s request for one more hearing date. In addition, she further scheduled an additional half-day and offered other accommodations in order to afford NYCHA ample opportunity to present its evidence.

In sum, we find that NYCHA was given a full and fair opportunity to present its case. The 24 hearing days provided to NYCHA over a period of almost two years were more than sufficient to fully present the evidence concerning its 111 ASAs. The Board is confident that the time allocated allowed considerable opportunity for the planning and preparation of witnesses. We note that the City presented its testimony concerning almost seven times as many ASAs (716) in only twice as many hearing days (50). Further, 39% of the total transcript in this case was evidence adduced by NYCHA, which addressed only 13% of all ASAs. The Board is not persuaded that additional time was necessary to present more testimony or to provide further background information. We are fully satisfied that the record contained extensive evidence on the duties and responsibilities of ASAs at NYCHA.

Conclusion

The testimony and documentary evidence concerning ASAs, Levels II and III, other than the ASAs addressed above and found managerial and/or confidential, indicates that they do not formulate policy, do not have a significant involvement in labor relations or personnel administration, and do not assist in a confidential capacity a manager who has a significant involvement in labor relations or personnel administration.¹³ Accordingly, all ASAs, Levels II and III, in positions not specifically excluded as managerial or confidential are eligible for collective bargaining.¹⁴ Those positions designated managerial are listed in Appendix A; those positions designated confidential, in Appendix B.

The Board is satisfied that no evidence was presented to rebut the Union's assertion that eligible ASAs, Levels II and III, have a sufficient community of interest with members of the Union's bargaining unit. Accordingly, excluding those positions found to be managerial and/or confidential, employees in the title ASA, Levels II and III, are appropriately added to Certification No. 3-88.

¹³ An illustrative list of in-house titles of the eligible ASAs not addressed above can be found in Appendix C.

¹⁴ To the extent that employees no longer hold the positions about which they testified, our decision runs to the position, not the individual, and applies to their successors who perform substantially the same duties and functions. *See DC 37, 34 OCB 16, at 3.*

ORDER

NOW, THEREFORE, pursuant to the powers vested in the Board of Certification by the New York City Collective Bargaining Law (New York City Administrative Code, Title 12, Chapter 3), it is hereby

ORDERED that employees in the title Administrative Staff Analyst, Levels II and III, (Title Code No. 10026) are eligible for collective bargaining, except for the positions currently held by those employees set forth in Appendices A and B, which are designated managerial and/or confidential and excluded from collective bargaining; and it is further

ORDERED that Certification No. 3-88 (as previously amended) be, and the same hereby is, further amended to include the title Administrative Staff Analyst, Levels II and III, (Title Code No. 10026), subject to existing contracts, if any.

Dated: July 29, 2010
New York, New York

MARLENE A. GOLD

CHAIR

GEORGE NICOLAU

MEMBER

CAROL A. WITTENBERG

MEMBER

Appendix A			
MANAGERIAL DESIGNATIONS			
Agency/Employer	Name	Department/Division	Position
Administration for Children's Services	Ambrose, Eric	Office of Labor Relations	Director of Labor Relations*
	Borak, Denise	Division of Financial Services	Budget Director
	Brooks, Douglas	Division of Policy and Planning	Special Assistant to the Deputy Commissioner/ Director of Special Projects
	Ferrer, Stephen	Division of Policy and Planning	Deputy Executive Director of Administration for the James Satterwhite Academy*
	Kimerling, Ervine	Division of Policy and Planning	Executive Director of the James Satterwhite Academy*
	Martin, Nancy	Division of Policy and Planning	Assistant Commissioner of Policy Development and Program Planning*
	Nicklas, Eric	Division of Policy and Planning	Assistant Commissioner of Research and Evaluation
	Roberts, Elizabeth	Division of Policy and Planning	Assistant Commissioner of Medical Services Planning*

Appendix A			
MANAGERIAL DESIGNATIONS			
Agency/Employer	Name	Department/Division	Position
	Shernicoff, Judy	Division of Financial Services	Assistant Commissioner of Budget, Claiming, and Revenue*
	Taurisano, Michael	Division of Administration	Executive Director of Personnel Services*
	Welsh, Thomas	Division of Financial Services	Assistant Commissioner of Audit Services
Borough President's Office-Manhattan	Bocian, Joshua	Community Affairs	Director of Community Affairs and Constituent Services*
	Borelli, Anthony	Land Use, Planning, and Development	Director of Land Use*
	Colon, Alaina	Executive	Chief of Staff*
	Elam, Pamela	Executive	Deputy Chief of Staff*
	Golub, Daniel	Land Use, Planning, and Development	Deputy Director of Land Use/ Senior Policy Advisor
	James, Nakia	Operations	Director of Operations
	Puritz, Sascha	Intergovernmental Affairs	Director of Intergovernmental Affairs
	Schnell, Scott	Executive	Senior Advisor*
	Shane-Rustvold, Megan	Policy and Research Unit	Director of Policy and Research*

Appendix A			
MANAGERIAL DESIGNATIONS			
Agency/Employer	Name	Department/Division	Position
	Vickers, Susannah	Capital Budget and Grants	Director of Budget and Grants
Borough President's Office-Staten Island	Arena, JoAnn	Personnel	Personnel Director*
	Devereaux, Meagan	Executive Office	Chief of Staff*
Campaign Finance Board	Gin, Man Wai	Administration	Director of Administrative Services
	O'Brien, Kenneth	Systems Administration	Director of Systems Administration
Comptroller's Office	Bettridge, Thomas	Bureau of Asset Management	Director of Risk Management
	Budhai-Robinson, Millicent	Bureau of Asset Management	Director of Corporate Governance
	Dresler, Evelyn	Bureau of Asset Management	Director of Contracts
	Londono-Valle, Janet	Bureau of Asset Management	Special Assistant to the Chief Investment Officer
	Merseberg, John	Bureau of Asset Management	Senior Investment Officer for U.S. Equities
	Nelson, Yvonne	Bureau of Asset Management	Senior Investment Officer for Real Estate
	Nesterczuk, Christopher	Bureau of Asset Management	Senior Investment Officer for Real Estate

Appendix A			
MANAGERIAL DESIGNATIONS			
Agency/Employer	Name	Department/Division	Position
	Pares, Moraima	Bureau of Asset Management	Senior Investment Officer for U.S. Equities
Department for the Aging	Chu, Janice	Bureau of Long Term Care and Active Aging	Deputy Assistant Commissioner
	Hernandez, Kim	Bureau of Community Outreach and Emergency Preparedness	Deputy Assistant Commissioner
	Lorenzo, Robert	Human Resources	Director of Human Resources*
Department of Buildings	Betro, Gina	Operations	Chief Operations Officer
	Bohmstein, Ida	Administration/Human Resources	Director of Human Resources*
	Canepa, Jorge	Staten Island Borough Office	Borough Commissioner
	deFoe, Werner	Bronx Borough Office	Deputy Borough Commissioner
	Fariello, Thomas	Brooklyn Borough Office	Deputy Borough Commissioner
	Hinkson, Susan	Brooklyn Borough Office	Borough Commissioner
	Iulo, Robert	Safety and Emergency Operations	Assistant Commissioner
	Kaminer, Marshall	Bronx Borough Office	Borough Commissioner
	Pemberton, Edwin	Budget and Fiscal Operations	Director of Budget and Fiscal Operations*
	Penzi, Mario	Model Code Program	Assistant Commissioner

Appendix A			
MANAGERIAL DESIGNATIONS			
Agency/Employer	Name	Department/Division	Position
	Santulli, Christopher	Manhattan Borough Office	Deputy Borough Commissioner
	Schmid, Karl	Central Inspections and Quality Assurance	Assistant Commissioner
Department of Citywide Administrative Services	Brown, Renee	Division of Citywide Personnel Services	Director of Examinations/ Deputy to Assistant Commissioner for Examinations*
	Brunet, Andrew	Division of Citywide Personnel Services	Director of Executive Services
	Gomez, Rosa	Division of Citywide Personnel Services	Director of Personnel Audits and Transactions*
	Grossman, Barbara	Division of Citywide Personnel Services	Director of Citywide Organizational and Executive Development
	Hebert, Amy	Administration and Security	Director of Training and Professional Development
	Jelin, Marjorie	Division of Citywide Personnel Services	Director of the Public Service Corps
	Johnson, Leslie	Division of Citywide Personnel Services	Director of Citywide Redeployment*

Appendix A			
MANAGERIAL DESIGNATIONS			
Agency/Employer	Name	Department/Division	Position
	Lee, Ellen	Division of Citywide Personnel Services	Director of Operations at the Citywide Training Center
	Pierre, Martha	Division of Citywide Personnel Services	Director of Certification*
	Session-Kelly, Beverly	Division of Citywide Personnel Services	Director of Investigations*
	Simmons, Barbara	Division of Citywide Personnel Services	Director of Fellowship Programs
	Solomon, Michael	Division of Citywide Personnel Services	Director of Client Services at the Citywide Training Center
	Wallace, Arrie	Exam Support Group	Administrative Staff Analyst (II)
Department of Consumer Affairs	Mahon, Cathleen	Office of Financial Empowerment	Executive Director and Assistant Commissioner*
	Moore, Vickie	Administration and Finance	Assistant Commissioner for Finance and Administration*
	Nelson, Troy	Licensing, Collections and Consumer Services	Assistant Commissioner of Operations
	Pico, Alba	Commissioner's Office	Deputy Commissioner of Operations
Department of Correction	Benson, Rodney	Personnel Division	Deputy Director

Appendix A			
MANAGERIAL DESIGNATIONS			
Agency/Employer	Name	Department/Division	Position
	Carpentier, Marc	Financial Management and Budget Administration	Assistant Commissioner*
	McLeish, Leasa	Strategic Planning and Programs	Assistant Commissioner of Programs Administration and Discharge Planning
	Santangelo, Nicolas	Labor Relations	Director of Labor Relations*
Department of Cultural Affairs	Chin, Susan	Capital Projects Unit	Assistant Commissioner
Department of Design and Construction	Allard, Marisa	Administration	Assistant Commissioner of Human Resources*
	Cleary, Robert	Administration	Assistant Commissioner for Budget and Finance*
	Laiserin, Rachel	Executive Division	Chief of Staff
	Monahan, Matthew	Executive Division	Assistant Commissioner for Public Affairs*
	Pemberton, Audwin	Administration	Director of Payroll, Time Management, and Benefits Compensation
Department of Environmental Protection	de Fritsch, Carol	Bureau of Human Resources and Administration	Director of Labor Relations*

Appendix A			
MANAGERIAL DESIGNATIONS			
Agency/Employer	Name	Department/Division	Position
	Liebold, Warren	Bureau of Customer Services	Chief of the Technical Services/Conservation Division
Department of Finance	Bratcher, Diane	Executive	Director of Mayor's Pension Unit/Special Assistant to the Commissioner*
	Crawford, Casey	Executive	Senior Director of Management Analysis and Deputy Assistant Commissioner for the Payment Operations Division
	Cruz, Alison	Mayor's Pension Fund Unit	Deputy Director
	Greene, Tim	Executive	Special Assistant to the Commissioner*
	Joseph, Frances	Office of Legal Affairs	Director of Real Property Tax Exemptions and Policy
	Mattera, Patricia	Executive/Budget and Financial Services	Director of Budget and Financial Services
	Reichard, Richard	Administration	Deputy Director of Human Resources
	Schlain, Karen	Office of Tax Policy	Director of Research

Appendix A			
MANAGERIAL DESIGNATIONS			
Agency/Employer	Name	Department/Division	Position
	Sullivan, Patrick	Executive	Special Assistant to the Commissioner and First Deputy Commissioner*
Department of Health and Mental Hygiene	Chang, Christina	Commissioner's Office	Chief of Staff
	Kaplan, Deborah	Division of Health Promotion and Disease Prevention	Assistant Commissioner of the Bureau of Maternal, Infant and Reproductive Health*
	Leighton, Jessica	Division of Environmental Health	Assistant Commissioner of the Bureau of Environmental Disease Protection
	Levy, Joslyn	Bureau of Chronic Disease Prevention and Control	Director of Clinical Systems Improvement
	Marcus, Elliott	Division of Environmental Health	Assistant Commissioner of the Bureau of Food Safety and Community Sanitation*
	Miller, Nancy	Division of Health Promotion and Disease Prevention	Assistant Commissioner of the Bureau of Tobacco Control*

Appendix A			
MANAGERIAL DESIGNATIONS			
Agency/Employer	Name	Department/Division	Position
	Park, Jan Carl	Division of Disease Control	Deputy Assistant Commissioner and Executive Director of the Bureau of HIV/AIDS Services
	Prud'homme, Jeanine	Division of Environmental Health	Assistant Commissioner of the Bureau of Environmental Science and Engineering
	Raphael, Marisa	Division of Disease Control	Assistant Commissioner of the Bureau of Emergency Management
	Rubin, Joshua	Division of Mental Hygiene	Chief Policy Officer
	Torian, Lucia	Bureau of HIV/AIDS Services	Director of HIV Surveillance and Epidemiology Program
	Troob, Charles	Bureau of Policy, Planning, Quality and Development	Assistant Commissioner of Business Systems Improvement
	Wilt, Susan	Division of Epidemiology	Assistant Commissioner of the Bureau of Injury Epidemiology
	Wright, Dorothy	Division of Administrative Services	Director of EEO

Appendix A			
MANAGERIAL DESIGNATIONS			
Agency/Employer	Name	Department/Division	Position
	Zimmerman, Regina	Division of Epidemiology	Assistant Commissioner of the Bureau of Public Health Training
Department of Homeless Services	Banks, Jill	Fiscal Operations	Assistant Commissioner of Finance
	Montalban, Silvia	Administration-Personnel Bureau	Director of Personnel*
	Rosenberg, Barbara	Family Services	Assistant Commissioner of Planning and Administration*
	Wu, Han Wen	Labor Relations	Director of Labor Relations*
Department of Housing Preservation and Development	Allred, Christopher	Division of Housing Incentives	Director of Tax Credits and Compliance Unit*
	Blair-Johnson, Lorraine	Human Resources	Director of Compensation and Benefits
	Cirillo, Christopher	Division of Neighborhood Planning	Assistant Commissioner*
	Grace, Peter	Division of Strategic Planning	Assistant Commissioner*
	Naidu-Walton, Dawn	Labor Relations Division	Director of Labor Relations*
	Padgett, Willa	Division of Alternative Management Programs	Assistant Commissioner
	Reid, Merrick	Division of Fiscal Affairs	Assistant Commissioner

Appendix A			
MANAGERIAL DESIGNATIONS			
Agency/Employer	Name	Department/Division	Position
	Salgado, Carol Ann	Division of Anti-Abandonment	Director of Operations Field Coordination
	Schreiber, Paul	Labor Relations Division	Associate General Counsel*
	Siegel, Allison	Division of Fiscal Affairs	Director of Management, Systems Support, and Central Administration
	Sloman, Gary	Division of Housing Supervision	Director of Operations
	Tamis, Laurie	Office of Development	Chief of Staff
	Warren, Alexandra	Division of Tenant Resources	Director of Budget, Policy, and Special Programs
	Weinstein, Robin	Division of Housing Finance	Director of Operations*
	Wexler, Janet	Division of Housing Finance	Director*
Department of Information Technology and Telecommunications	Bechtold, Marta	Special Projects	NYCAPS Central Benefits Lead
	Grippio, Vincent	Commissioner' Office	Chief of Staff
	Scotland, Trevor	NYC Media Group	Director of Business Development and Operations
	Shor, Stanley	Franchise Administration	Assistant Commissioner

Appendix A			
MANAGERIAL DESIGNATIONS			
Agency/Employer	Name	Department/Division	Position
	Tollin, Matthew	NYC Media Group	Director of External Affairs
Department of Juvenile Justice	McInnis, Beverly	Administration	Director of Labor Relations*
Department of Parks and Recreation	Gaul, Laura	Commissioner's Office	Chief of Staff
	Laird, Joshua	Planning Division	Chief of Planning*
	Lewis, Edward	Community Relations	Assistant Commissioner
	Terhune, David	Central Personnel	Director of Personnel*
	Trimble, Joseph	Labor Relations, Payroll Timekeeping, and Benefits	Director*
	Watt, Fiona	Central Forestry and Horticulture	Chief*
Department of Probation	Evangelista, John	Management Analysis and Planning	Assistant Commissioner
	Provenzano, Anthony	Human Resources	Director of Labor Relations/ Director of Human Resources
	Tamler, Cary	Internal Audit and Restitution	Assistant Commissioner
Department of Sanitation	Camacho, Fernando	Equal Employment Opportunity Office	EEO Director*
Department of Small Business Services	Frye, Celeste	Division of Workforce Development	Executive Director of NYC Business Solutions Hiring and Training
	Giampietro, Donald	Business Incentives	Executive Director

Appendix A			
MANAGERIAL DESIGNATIONS			
Agency/Employer	Name	Department/Division	Position
	Jackson, Donald	Agency Development	Executive Director of Human Resources
Department of Transportation	Aaronson, Arthur	Staten Island Ferry	Director of Administration*
	Breglio, Patricia	Human Resources	Director of Policy Analysis and Implementation*
	Forgione, Margaret	Manhattan Borough Commissioner's Office	Manhattan Borough Commissioner*
	Frankowski, Jean	Human Resources	Director of Personnel and Payroll*
	Giaccio, John	Staten Island Borough Commissioner's Office	Staten Island Borough Commissioner*
	Goldberg, Gordon	Administration	Director of Labor Relations*
	Holloway, Helene	Human Resources	Deputy Director of Personnel
	Horsch, Andra	External Affairs	Director of Intergovernmental Affairs*
	Howard, Keith	Sidewalks and Inspection Management Division	Assistant Commissioner
	Korn, Evan	Sidewalks and Inspection Management	Assistant Commissioner for Special Events
	McKenna, Brooke	First Deputy Commissioner's Office	Chief of Staff to the First Deputy Commissioner*

Appendix A			
MANAGERIAL DESIGNATIONS			
Agency/Employer	Name	Department/Division	Position
	Messana, Catherine	First Deputy Commissioner's Office	Assistant Commissioner of Customer Service
	Natofsky, Richard	Financial Management and Analysis	Director of Expense Budget and Grants Management*
	Oberman, Theodore	First Deputy Commissioner's Office	Director of Performance Management and Accountability*
	Perlman, Gwen	Financial Management and Analysis	Assistant Commissioner/ Chief Financial Officer*
	Sanghvi, Yogesh	Financial Management and Analysis	Director of Capital Budget Administration*
	Williams, Ann	Equal Employment Opportunity Office	Assistant Commissioner/ EEO Officer*
Department of Youth and Community Development	Caruso, Christopher	Budget	Budget Director*
	Chong, Tzylai Yunn	Capacity Building	Assistant Commissioner
	Colter, Cindy	Community Development Operations	Assistant Commissioner
	Cortes, Carlos	Discretionary Awards	Assistant Commissioner

Appendix A			
MANAGERIAL DESIGNATIONS			
Agency/Employer	Name	Department/Division	Position
	Donahue, John	Office of Legal Affairs	Compliance Manager and Agency Advocate
	Fish, Richard	Community Development	Special Advisor
	Greenberg, Hal	Office of Support Services	Assistant Commissioner*
	Gulick, Lisa	Planning, Research and Program Development	Assistant Commissioner
Financial Information Services Agency	Crowe, Carri-Ann	Office Management Services Division	Director of Fiscal Services
	Roth, Sherri	Office Management Services Division	Director of Human Resources
Fire Department	Clair, John	Office of Medical Affairs	Assistant Commissioner for Emergency Medicine
	Clappin, John	Bureau of Investigations and Trials	Hearing Officer/ Department Advocate*
	Joyce, V. Serena	Bureau of Intergovernmental Affairs	Assistant Commissioner for Family Assistance
	Kavaler, Sherry	Bureau of Personnel Resources	Assistant Commissioner
	Kretz, Caroline	Intergovernmental Affairs and Management Initiatives	Associate Commissioner for Intergovernmental Affairs
	Lundy, Paulette	Commissioner's Office/EEO Unit	Assistant Commissioner*

Appendix A			
MANAGERIAL DESIGNATIONS			
Agency/Employer	Name	Department/Division	Position
	Novello, Fred	Bureau of Budget Services	Director
	Ribowsky, Meta	Bureau of Operations/Planning and Strategy Unit	Director of Strategic Planning*
Housing Authority	Flatley, Anne-Marie	Research and Management Analysis	Deputy Director of Research*
	Kearney, Kevin	Program Assessment and Policy Development Department	Deputy Director*
	Kim, Sung Woo	Budget and Financial Planning	Assistant Director for Labor Relations and OPR*
	Kogen, Rhonda	Human Resources	Chief of Staff Relations*
	Lipsetz, David	Strategic Planning and Change Management	Director
	Louis, Sybille	Research and Management Analysis	Deputy Director of Management Analysis*
	Minikes, Stewart	Human Resources	Chief of Classification
	Montes, Juliet	Human Resources	Deputy Director*
	Morillo, Helen	Executive	Special Assistant to the Chairman
	formerly Turkewitz, Barbara	Program Assessment and Policy Development Department	Assistant Director*
	Turkewitz, Barbara	Strategic Planning and Change Management	Deputy Director

Appendix A			
MANAGERIAL DESIGNATIONS			
Agency/Employer	Name	Department/Division	Position
	Ventarola, Dennis	Program Assessment and Policy Development Department	Director*
	Wilson-Glover, Lorraine	Executive	Executive Assistant to the Vice-Chairman
Human Resources Administration	Alraimouny, Lyn	Medical Insurance and Community Services Administration	Director of Administration
	Arroyo, Enrique	Family Independence Administration	Executive Director of FIA Personnel and Head Count Administration
	Berkowitz, Sherry	Finance Office	Assistant Deputy Commissioner of Disbursement and Grant Accounting
	Carcana, Candida	Office of Staff Resources	Assistant Deputy Commissioner of Personnel Operations/ Program Personnel Officer
	Clark Jr., Avery	Office of Staff Resources	Assistant Deputy Commissioner of Autotime/ Timekeeping/ Payroll Administration
	Dynia, Paul	Customized Assistance Services	Director of Substance Abuse Policy, Planning, and Monitoring

Appendix A			
MANAGERIAL DESIGNATIONS			
Agency/Employer	Name	Department/Division	Position
	Fitzgerald, Lisa	Family Independence Administration	Assistant Deputy Commissioner of the Office of Procedures
	Fleming, Adrienne	Family Independence Administration	Regional Manager
	Hendon, Kay	Family Independence Administration	Assistant Deputy Commissioner of the Office of Childcare
	Koehler, Peter	Medical Insurance and Community Services Administration	Director of Finance, Contracts, and Personnel for the HIV AIDS Services Administration*
	Krause-Friedberg, C. Gordon	Finance Office	Assistant Deputy Commissioner of Audit
	Mouzon, Barbara	Family Independence Administration	First Deputy Regional Manager
	Ovadia, Neil	Customized Assistance Services	Director of Contract Services
	Russ, Regina	Family Independence Administration	Assistant Deputy Commissioner of Training Operations
	Tobkes, Alex	Family Independence Administration	Deputy Regional Manager

Appendix A			
MANAGERIAL DESIGNATIONS			
Agency/Employer	Name	Department/Division	Position
	Winston, Irita	Finance Office	Assistant Deputy Commissioner of Budget Administration
Law Department	Besthoff, Dawn	Administration	Director of Human Resources*
	Kilgannon, Kery	Administration	Director of Finance
Office of Emergency Management	Mewborn, Virginia	Operations Division	Director of Training and Exercises
	Santiago, Annette	Personnel	Director of Personnel*
Office of Payroll Administration	Hennefield, Susan	Administration	Director of Information Technology Services
	Sutton, Carol	Administration	Chief Fiscal and Budget Officer
Office of the Actuary	Flaschenberg, Susan	Administration Division	Director of Administration*
Office of the Chief Medical Examiner	Borakove, Ellen	Public Affairs	Director
	Murphy, Nicole	Human Resources	Assistant Commissioner of Human Resources
Police Department	Berlinerman, Paula	Employee Management Division	Deputy Director
	Doka, Frank	Financial Management Division	Assistant Commissioner

Appendix A			
MANAGERIAL DESIGNATIONS			
Agency/Employer	Name	Department/Division	Position
	Roberson, Carol Ann	Training Division	Assistant Commissioner
	Rosenstein, Irving	School Safety Division	Commanding Officer of the Administrative Operations Unit
Police Pension Fund	Murphy, Ellen Joan	Human Resources	Director of Human Resources*
Taxi and Limousine Commission	Applebaum, Jed	Safety and Emissions Division	Assistant Commissioner
	Schechter, Barbara	Licensing Division	Deputy Commissioner
	Tumminelli, Peter	Adjudications Division	Assistant Commissioner

* Positions that the parties agree are managerial and/or confidential are marked with an asterisk. These positions are not discussed in the decision.

Appendix B			
CONFIDENTIAL DESIGNATIONS			
Agency/Employer	Name	Department/Division	Position
Administration for Children's Services	Taurisano, Michael	Personnel Services	Executive Director of Personnel Services*
Borough President's Office-Manhattan	James, Nakia	Operations	Director of Operations*
Department for the Aging	Fishman, Alexandra	Bureau of Management and Budget	Budget Director
	Massena, Ramona	Bureau of Management and Budget	Deputy Budget Director
	Romero, Therese	Human Resources	Deputy Director of Human Resources*
Department of Citywide Administrative Services	Brown, Renee	Division of Citywide Personnel Services	Director of Examinations/ Deputy to Assistant Commissioner for Examinations*
	Brunet, Andrew	Division of Citywide Personnel Services	Director of Executive Services
	Cunningham, Richard	Division of Citywide Personnel Services	Director of Special Projects
	Gomez, Rosa	Division of Citywide Personnel Services	Director of Personnel Audits and Transactions*
	Johnson, Leslie	Division of Citywide Personnel Services	Director of Citywide Redeployment*
	Pierre, Martha	Division of Citywide Personnel Services	Director of Certification*

Appendix B			
CONFIDENTIAL DESIGNATIONS			
Agency/Employer	Name	Department/Division	Position
Department of Design and Construction	Laiserin, Rachel	Executive Division	Chief of Staff
Department of Environmental Protection	Grob, Shauna	Executive	Chief of Staff*
Department of Finance	Brutus-Larios, Yvrose	Executive/Budget and Financial Services	Deputy Director of Budget and Financial Services
	Mattera, Patricia	Executive/Budget and Financial Services	Director of Budget and Financial Services
	Merante, Carl	Human Resources	Director of Payroll, Timekeeping, and Employee Affairs
	Reichard, Richard	Administration	Deputy Director of Human Resources*
Department of Health and Mental Hygiene	Chang, Christina	Commissioner's Office	Chief of Staff*
	Rozza, Assunta	Division of Financial and Strategic Management	Director of Budget
Department of Housing Preservation and Development	Naidu-Walton, Dawn	Office of Labor Relations	Director of Labor Relations*
	Whing, Stanley	Office of Administration	EEO Officer
Department of Juvenile Justice	McInnis, Beverly	Administration	Director of Labor Relations*
Department of Parks and Recreation	Berg, Allan	Budget Division	Deputy Chief of Budget

Appendix B			
CONFIDENTIAL DESIGNATIONS			
Agency/Employer	Name	Department/Division	Position
Department of Sanitation	Camacho, Fernando	Equal Employment Opportunity Office	EEO Director*
	Joyner, Ruth	Administration Division	Director of the Work Experience Program*
	Reilly, Nancy	Human Resources	Deputy Director
	Rothenberg, Barbara	Operations Management Division	Deputy Director*
	Stamm, Charles	Bureau of Planning and Budget	Deputy Director for the Expense Budget*
	Ward, George	Human Resources	Deputy Director of the Payroll Division
Department of Transportation	Breglio, Patricia	Human Resources	Director of Policy Analysis and Implementation*
	Frankowski, Jean	Human Resources	Director of Personnel and Payroll*
	Goldberg, Gordon	Administration	Director of Labor Relations*
	Holloway, Helene	Human Resources	Deputy Director of Personnel*
	Natofsky, Richard	Financial Management and Analysis	Director of Expense Budget and Grants Management*
	Oberman, Theodore	First Deputy Commissioner's Office	Director of Performance Management and Accountability*

Appendix B			
CONFIDENTIAL DESIGNATIONS			
Agency/Employer	Name	Department/Division	Position
	Sanghvi, Yogesh	Financial Management and Analysis	Director of Capital Budget Administration*
	Williams, Ann	Equal Employment Opportunity Office	Assistant Commissioner/ EEO Officer*
District Attorney's Office-Richmond County	Brannigan, Sean	Administration Bureau	Chief Fiscal Officer
Fire Department	Fiorentino, Teresa	Bureau of Budget Services	Deputy Budget Director
	Novello, Fred	Bureau of Budget Services	Director*
Housing Authority	Heveran, Peggy	Finance	Executive Assistant to the Deputy General Manager
	Iannozzo, Lawrence	Human Resources	Deputy Assistant Director for CERTS*
	Kim, Sung Woo	Budget and Financial Planning	Assistant Director for Labor Relations and OPR*
	Kogen, Rhonda	Human Resources	Chief of Staff Relations*
	Minikes, Stewart	Human Resources	Chief of Classification*
	Morillo, Helen	Executive	Special Assistant to the Chairman

Appendix B			
CONFIDENTIAL DESIGNATIONS			
Agency/Employer	Name	Department/Division	Position
	Pinnock, Dawn	Administration	Executive Assistant to the Deputy General Manager*
	Wilson-Glover, Lorryne	Executive	Executive Assistant to the Vice-Chairman
	Young, Linda	Human Resources	Assistant Director of Human Resources and Employment*
Human Resources Administration	Arroyo, Enrique	Family Independence Administration	Executive Director of FIA Personnel and Head Count Administration*
	Koehler, Peter	HIV AIDS Services Administration	Director of Finance, Contracts, and Personnel*
Police Department	Doka, Frank	Financial Management Division	Assistant Commissioner
	Winters, Lucretia	Office of the Deputy Commissioner of Management and Budget	Coordinator of Financial Analysis and Special Projects
Police Pension Fund	Murphy, Ellen Joan	Human Resources	Director of Human Resources*
	Ragone, Michael	Human Resources	Deputy Director of Human Resources*

* Positions that the parties agree are managerial and/or confidential are marked with an asterisk. These positions are not discussed in the decision.

Appendix C: Illustrative List of Additional Eligible ASA Positions¹⁵**ACS**

Chief of Staff to the Associate Commissioner (II) in the Division of Financial Services
 Deputy Agency Chief Contracting Officer (II) in the Child Welfare Services Unit
 Deputy Director for the Office of Audit Services (II) in the Division of Financial Services
 Director of EQUIP (II) in the Office of Research and Evaluation
 Director of Financial Management and Technical Assistance (II) in Sponsor Management and Compliance
 Director of Lease Management (II) in the Office of Facilities
 Director of Training and Resource Development (II) in the Division of Child Care and Head Start
 Division Director of Administrative Affairs (II) in the Division of Policy and Planning
 Executive Director (III) in Administrative Services
 Project Manager-Production Reporting (II) in Management Information Systems
 Project Manager-Revenue Maximization Systems (II) in Management Information Systems

Comptroller's Office

Contract Analyst (II) in the Office of Contract Administration
 Court Representative (II) in the Bureau of Law and Adjustment
 Director of Document Management and GIS Systems (III) in the Bureau of Information Systems
 Division Chief (II) in the Bureau of Accountancy
 Press Officer (II) in the Executive Office
 Special Assistant to the Director (II) in the Bureau of Financial Audit

DCAS

Administrative Staff Analyst (II) in Facilities Management and Construction
 Administrative Staff Analyst (II) in Fiscal Management and Operations
 Director of Systems and Administrative Services (III) in Management Information Systems Central Storehouse
 Editor of Green Book Publications (II) in the Executive Office
 Lease Negotiator (II) in the Bureau of Acquisitions and Construction Services
 Senior Portfolio Manager (II) in the Bureau of Acquisitions and Construction Services

DDC

Deputy Agency Chief Contracting Officer for Professional Contracts (II) in Agency Chief Contracting Office
 Deputy Director (II) in Administration
 Safety and Health Officer (II) in Operations

¹⁵ While most ASAs have a different in-house title, some do not. The illustrative list does not include the positions discussed in the decision.

DEP

Capital Facility Coordinator/Program Manager (II) in the Bureau of Water Supply
Chief of Staff (II) in the Police Division
Director of Construction Services (II) in the Bureau of Facilities Management and Construction
Director of Emergency Support Services (II) in Bureau of Environmental Compliance
Manager for Business Liaison and Project Management (II) in the Office of Information Technology
Project Manager (II) in the Office of Environmental Coordination

DFTA

Assistant Deputy Agency Chief Contracting Officer (II) in Contract Procurement and Support Services
Deputy Assistant Commissioner/Deputy Agency Chief Contracting Officer (II) in Contract Procurement and Support Services

DHS

Audit Director (III) in Audit Services
Deputy Agency Chief Contracting Officer (III) in Contracts and Procurement
Deputy Audit Director (II) in Audit Services
Director of Budget Management (III) in Budget, Financial Operations
Director of Payments (II) in Fiscal Management/Finance
Director of Payroll/Timekeeping (II) in Administration
Director of the Competitive Sealed Proposal Unit (II) in Agency Chief Contracting Officer Administration

DOB

Director of Information Technology (III) in Information Technology
Executive Director of Code Relations and Compliance (III) in the Model Code Program

DOC

Administrative Staff Analyst (II) in Pre-Audit Unit of Financial Services Division
Director of Finance (II) in Financial Services Division
Executive Director of Special Events and Community Resources (II) in Strategic Planning and Programs

DOF

Director of Financial Services (II) in the Bureau of Treasury
Senior Director (II) in Payment Operations
Senior Director of Internal Audit and Special Projects (III) in Executive/Internal Audit

DOHMH

Assistant Director of Zoonotic and Vector-Borne Disease (II) in the Bureau of Communicable Diseases
Associate Director of BioThreat Laboratory and Microbiology (III) in Public Health Laboratories
Audit Director (II) in Business Systems Improvement
Budget Officer (II) in the Division of Mental Hygiene
Deputy Director (III) for the Brooklyn District Public Health Office
Deputy Director (II) of the Office of Management Information Systems in the Division of Mental Hygiene
Deputy Director of the Office of Quality Improvement (III) in the Division of Mental Hygiene
Deputy Executive Director (III) of Correctional Health Services
Director for Laboratory Services (II) in BSTDC
Director (II) in the Office of Public Health Engineering
Director of Administration (II) in the Division of Financial and Strategic Management
Director of Environmental Investigations (II) in the Bureau of Environmental Science and Engineering
Director of HIV Prevention (II) in the Bureau of HIV/AIDS
Director of HIV Training Institute (II) in the Bureau of HIV/AIDS
Director of Operations (II) in the Bureau of Tuberculosis Control
Institutional Review Board Chair (III) in the Office of the General Counsel
Rodent Coordinator (II) in Office of Pest Control Services
Senior Advisor to the Deputy Commissioner (III) in the Division of Health Care Access and Improvement

DOITT

Administrator Citywide Contracts (II) in OCIO
Enhanced 311 Project Lead (II) in 311 Performance Management
Senior Budget Analyst (II) for the 311 Customer Service Center

DOT

Administrative Staff Analyst (III) in the Office of the Agency Chief Contracting Officer
Deputy Director of the Financial and Management Audit Bureau (II) in the Office of the Auditor General
Deputy Director of the Office of Construction Mitigation and Control-Streets/Director of the Newsstands Unit (II) in the Bureau of Permit Management

Director of Contracts (II) for the Traffic Operations Division
Director of Finance (II) for the Coordinated Street Furniture Franchise Unit
Director of Marine Terminal Security (II) for the Staten Island Ferry
Executive Assistant to the Borough Commissioner (III) in the Queens Borough Commissioner's Office
Executive Director of Concrete Programs (II) in the Division of Sidewalks and Inspection Management

DPR

Administrator of the Greenbelt (II) in Staten Island
Deputy Chief Fiscal Officer (II) in Budget and Fiscal Management
Director of Communications and Policy (III) in Public Information
Director of Community Resources (II) in Citywide Services
Director of Concessions (II) in the Revenue Division
Director of Grants (II) in Budgets/Grants
Director of Program Development (II) in Public Programs
Director of Training (II) in the Parks Academy

DSNY

Deputy Director of Composting (II) in the Bureau of Waste Prevention, Reuse, and Recycling
Deputy Director of Recycling (II) in the Bureau of Waste Prevention, Reuse, and Recycling
Deputy Director of Waste Prevention (II) in the Bureau of Waste Prevention, Reuse, and Recycling
Director of Administration (II) for Waste Management Engineering
Director (II) of Real Estate

DYCD

Deputy Chief of Staff (III) in the Executive Office
Director of Communications (II) in the Executive Office
Director of Community Relations (II) in External Relations
Director of Equal Opportunity-Workforce Investment Act (II) in Administration
Director of Evaluation (II) in Planning, Research and Program Development
Director of Family Development (II) in Capacity Building
Director of Intergovernmental Affairs (II) in External Relations
Director of NAB/CAB Liaison Unit (II) in Community Development Operations
Director of Review and Claims (II) in Budget/Finance
Director of User Services (II) in Information Technology
Senior Policy Manager (II) in External Relations

FDNY

Audit Manager (II) in the Bureau of Compliance

Grants and Revenue Manager (II) in the Bureau of Revenue Management
Starfire CAD Manager (II) in the Bureau of Technology Development and Systems

HPD

Administrative Staff Analyst (II) in the Office of Enforcement Services
Administrative Staff Analyst (II) in the Office of the Special Counsel
Deputy Director of Bronx Anti-Abandonment (II) in the Division of Neighborhood Preservation
Field Operations
Deputy Director of Operations (II) in Preservation Planning and Analysis
Director of Bronx Anti-Abandonment (II) in the Division of Neighborhood Preservation Field
Operations
Director of Budget and Fiscal Operations (II) in the Office of Development
Director of Litigation Services (III) for the Office of Preservation Services
Director of Manhattan Planning Office (II) in the Division of Planning and Pipeline Development
Director of Operations (II) for the Tax Incentive Programs
Director of Planning Finance (II) in the Division of Planning and Pipeline Development
Director of Registration Assistance Unit (II) in the Office of Enforcement Services
Director of Section 8 IT (II) in the Division of Tenant Resources
Director of Special Projects Unit (II) in the Division of Neighborhood Planning
Director of Strategic Initiatives (II) in TSD

HRA

Administrative Staff Analyst (II) in the Brooklyn Adult Protective Services Office in the Medical
Insurance and Community Services Administration
Assistant to the Deputy Commissioner (III) in the Office of Child Support Enforcement
Budget Supervisor (II) in the Finance Office
Bureau Director of Reconciliation and Control (II) in the Finance Office
Center Director (II) in the Family Independence Administration
Chief of Staff of the Employment Services Administration (III) in the Family Independence
Administration
Deputy Director of Claims and Reimbursement (II) in the Finance Office
Director of Accounts Payable (III) in the Finance Office
Director of Accounts Receivable (II) in the Finance Office
Director of Business Link (II) in the Family Independence Administration
Director of Case Integrity and Eligibility Verification (III) in the Finance Office
Director of Claims and Reimbursement (III) in the Finance Office
Director of Contract Monitoring (II) in the Family Independence Administration
Director of Employment Processing and Data Control Division (II) in the Office of Staff Resources
Director of Intake and Court Services (II) in the Office of Child Support Enforcement
Director of Managed Care Client Services (II) in the Medical Insurance and Community Services
Administration
Director of OSA (II) in Management Information Systems

Director of Program Support Services (III) for the Medical Assistance Program in the Medical Insurance and Community Services Administration

Director of Recoveries (II) in the Medical Insurance and Community Services Administration

Director of Research and Analysis (III) in the Medical Insurance and Community Services Administration

Director of Revenue Budget (II) in the Finance Office

Director of Revenue Enhancement and Analysis (II) in the Finance Office

Director of the Bronx Adult Protective Services Office (II) in the Medical Insurance and Community Services Administration

Director of the Employee Discipline Unit (II) in the Office of Staff Resources

Director of Training Evaluation and Monitoring (II) in the Family Independence Administration

Executive Director of the Office of Training Operations (II) in the Family Independence Administration

IBO

Assistant Deputy Director (II)

Law Department

Borough Systems and Support Services Coordinator (II) in the Family Court Division

Deputy Agency Chief Contracting Officer (II) in the Administration Division

Deputy Director of Media and Communication (II) in the Office of Communications

Director of Communications (II) in the Executive Office

Director of Infrastructure (II) in the Information Technology Division

NYCERS

Deputy Director (II) in Communications and Customer Services

NYCHA¹⁶

Administrative Staff Analyst (II) in Budget and Financial Planning

Administrative Training Coordinator (II) in Staff Development

Administrator, Analysis and Reporting (II) in Capital Projects Administration

Administrator for Code Compliance (II) in Community Operations

Assistant Chief, Staff Relations (II) in Human Resources

Assistant Director, Accounting Control Section (II) in Accounting and Fiscal Services

Assistant Director, Cash Management/Investments (II) in Accounting and Fiscal Services

Assistant Director, Contract Registration (II) in Accounting and Fiscal Services

Assistant Director, Fiscal Management (II) in Finance

¹⁶ The illustrative list of additional eligible positions at NYCHA is derived from the list of ASAs provided by NYCHA in 2008.

Assistant Director, Fleet Administration (II) in General Services
Assistant Director for Data Management, Data Warehousing, and SAS Analysis (II) in Research and Management Analysis
Assistant Director (II) in Budget and Financial Planning
Assistant Director (II) in Resident Support Services
Assistant Director of Management System Program Development and Implementation (II) in Community Operations
Assistant Director, Revenue and Receivables Division (II) in Accounting and Fiscal Services
Assistant to the Director (II) in General Services
Chief, Employee Benefits (II) in Human Resources
Chief of Technology Services (II) in Law
Coordinator (II) in Communications
Database Administrator, Payment and Audit (II) in Technical Services
Deputy Director for Budget Control and Coordination (III) in Budget and Financial Planning
Executive Assistant (II) in Information Technology
Manager of Administrative Services (II) in IT Infrastructure
Manager of Client Server Financial Applications (II) in Business Solution Technology
Manager of Technical Training (II) in Staff Development
Planning and Budgeting Administrator (II) in Capital Projects Administration
Project Administrator (II) in Site Improvements
Project Coordinator (II) in Development
Risk Manager (II) in Finance
Senior Assistant Director (II) in Business Solution Technology
Senior Assistant Director (II) in Research and Management Analysis
Senior Environmental Manager (II) in Technical Services
Special Assistant (II) in Budget and Financial Planning
Special Assistant to the Program Director (II) in Site Improvements
Supervisor for Analysis, Operations (II) in Budget and Financial Planning
Team Member, OGM/Project Team (II) in Business Solution Technology
Team Member, Purchase Contract (II) in Business Solution Technology
Training Manager (II) in Business Enterprise Systems Transformation
Vendor Administrator (II) in Law

NYPD

Director of the Budget and Accounting Section (II) in the Financial Management Division
Senior Analyst (II) in the Intelligence Division
Special Assistant (II) to the Deputy Commissioner of Strategic Initiatives

OCME

Administrative Staff Analyst (II) in Management Information Systems

OEM

Director of Communications (II) in External Affairs
Program Director (II) in the Urban Search and Rescue Program

PPF

Director of Training (II) in the Executive Unit

SBS

Director of the Micro-Enterprise Program (III) in External Affairs and Community Relations
Executive Director (II) in the Division of Workforce Development
Executive Director of One Stop System Development (III) in the Division of Workforce
Development

TLC

Special Assistant to the Chair (II) in Consumer Relations
Special Assistant to the Deputy Commissioner (II) in USB

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NOTICE OF AMENDED CERTIFICATION

This notice is to acknowledge that the Board of Certification has issued Decision and Order as follows:

DATE: July 29, 2010 **DOCKET #:** AC-15-04

DECISION: **3 OCB2d 33 (BOC 2010)**

EMPLOYERS: The City of New York, represented by the Office of Labor Relations
40 Rector Street, 4th Floor
New York, NY 10006

New York City Housing Authority
250 Broadway
New York, NY 10007

CERTIFIED/RECOGNIZED BARGAINING REPRESENTATIVE:

Organization of Staff Analysts
220 East 23rd Street, Suite 707
New York, NY 10010

AMENDMENT: Certification No. 3-88 has been amended to add the following Title/Code:

Added: **Administrative Staff Analyst, Levels II and III (Title Code No. 10026)**

