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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

September 26, 2022

Janno Lieber
Chairman and Chief Executive Officer
Metropolitan Transportation Authority
2 Broadway
New York, NY 10004

Re: Employee Qualifications, Hiring, and
Promotions
Report 2021-F-27

Dear Mr. Lieber:

Pursuant to the State Comptroller's authority as set forth in Article X, Section 5 of the State Constitution and Section 2803 of the Public Authorities Law, we have followed up on the actions taken by officials of the Metropolitan Transportation Authority to implement the recommendations contained in our prior audit report, *Employee Qualifications, Hiring, and Promotions* ([2017-S-48](#)).

Background, Scope, and Objective

According to its mission statement, the MTA preserves and enhances the quality of life and economic health of the New York metropolitan region through cost-efficient provision of safe, on-time, reliable, and clean transportation services. Transit, an agency of the MTA, provides subway and bus services to New York City (NYC). Manhattan and Bronx Surface Transit Operation Authority (MaBSTOA), a subsidiary of Transit, operates buses in upper Manhattan and the Bronx. MTA Bus Company, a subsidiary of the MTA, provides bus services in the Bronx, Brooklyn, and Queens. Staten Island Railway (SIR), a subsidiary of the MTA, provides rapid transit service on Staten Island. Transit is governed by the provisions of the New York State Civil Service Law (Law). MaBSTOA, MTA Bus, and SIR are not subject to the Law.

Section 1210 of the Public Authorities Law provides that the appointment, promotion, and continuance of employment of all Transit employees is governed by the provisions of the Law and is subject to the rules of the NYC Municipal Civil Service Commission. As such, Transit employees are assigned to job titles that are generally classified as competitive and non-competitive.

Between January 1, 2020 and November 18, 2021, MTA listed 507 job title postings, 13 at MTA Bus, 39 at SIR, 68 at MaBSTOA, and 387 at Transit. The hiring and promotion processes used by Transit are determined by title classification. Competitive titles are subject to a Civil Service examination to establish eligibility for appointment; non-competitive titles do not require an examination.

For Transit-specific titles, Transit administers all operating and non-operating title examinations. Transit is responsible for developing, administering, and scoring competitive Civil Service examinations. The resulting eligibility lists are provided to the NYC Department of Citywide Administrative Services (DCAS), which is responsible for administering the lists in accordance with the Law.

For job titles also used at other NYC agencies, the examinations are administered by DCAS. Transit uses the lists to appoint or promote employees in these titles. If there are no active lists, employees hired in these titles are deemed “provisional” until the DCAS examinations are held and the certified lists are available. Transit also administers the examinations for MaBSTOA, MTA Bus, and SIR.

While Transit-specific jobs require an examination, non-Transit and non-operating job titles are filled through Job Vacancy Notices (JVN)s, which include the required qualifications. JVN)s are posted on the MTA website. Interested applicants must submit a résumé and/or application for these positions, from which an interview panel makes their selections. Transit officials also hire and promote using JVN)s when a list is not available.

MTA also allows interagency arrangements where employees may work for one agency while being paid by another agency. These employees are referred to as “matrixed” employees. MTA Headquarters permits these arrangements to allow MTA agencies to transfer qualified staff from other MTA agencies while allowing the staff to remain in the same pension system and tier and retain existing longevity and benefits. These transfers have also occurred due to consolidations in departments such as Legal, Treasury, and Procurement.

As a result of a transformation plan, MTA consolidated additional functions including Human Resources, Procurement, Division of Diversity and Civil Rights, and Compliance.

The objectives of our initial report, issued on January 17, 2019, were to determine whether the MTA used similar hiring and promotional policies, procedures, and directives for Transit, MaBSTOA, MTA Bus, and SIR. The audit also examined whether the MTA established controls over the interagency movement of employees and if there are opportunities for improprieties in the hiring, promotion, or supervision of employees. We found that non-operating employees were hired or promoted with lower education and experience than that established by DCAS for Civil Service competitive titles. In addition, interagency transfers were done without the required documentation and employee files lacked required documents meant to prevent nepotism in the workforce.

Our initial audit report contained 14 recommendations. The objective of our follow-up review was to assess the extent of implementation, as of September 14, 2022, of those recommendations.

Summary Conclusions and Status of Audit Recommendations

We found that the MTA made progress in implementing the recommendations contained in our prior report. Of the 14 prior audit recommendations, four were implemented, seven were partially implemented, two were not implemented, and one is no longer applicable.

Follow-Up Observations

Recommendation 1

Maintain records of all required documentation to support that applicants or employees met all the necessary qualifications to be hired or promoted.

Status – Partially Implemented

Agency Action – While the agency does not maintain a standard checklist on how the files should be maintained or what should be included in the files, our review of a sample of applicants or employees showed improvement. The agency has a document referred to as Article 19-A Information Package, which details the tests and licenses required for Bus drivers. MTA officials advised that medical documents such as the 19-A for Bus Operators are maintained in accordance with applicable laws and regulations in a file that is separate and apart from the HR onboarding documents maintained by Human Resources and/or the employees' department. A separate file is maintained and stored in the MTA's Office of Occupational Health Services. The agency also could not provide any guide for the other titles. Nonetheless, based on our observation, we do not see evidence that documents are maintained consistently for all employees or that all the required documents are included in the employee files.

Recommendation 2

Review the education and experience requirements for all positions for all four agencies to identify any differences. Take steps to revise and document changes and advise all HR officials.

Status – Partially Implemented

Agency Action – There is no evidence that the titles have been reviewed for consistency. Further, no action has been taken with regard to MTA Bus, and no evidence was provided of what was done to address an error in the JVN requirement identified in our prior audit. Per an MTA official, this problem will be addressed going forward. Based on the review of our sample, only one employee did not meet the education and skill for the position based on the posting.

Recommendation 3

Ensure employees hired or promoted meet all the requirements in the job specifications and that Transit's JVNs follow all DCAS requirements.

Status – Implemented

Agency Action – We selected a sample of 32 employees (five were appointed based on a certified list, 15 were appointed from JVNs, and 12 were promoted through the "Step Up" process, which allows an employee already in a title to be promoted in the natural progression of their title through a JVN). We obtained copies of the JVNs and copies of the certified lists where applicable. JVNs subject to DCAS requirement adhered to the specifications for the titles reviewed. In addition, for employees who were working in a title without a list (Assistant Transit Management Analyst, Associate Transit Management Analyst, Assistant Electrical Engineer), the records show that once a qualifying exam was approved and certified by DCAS, they were appointed from the qualifying list.

Recommendation 4

Develop policies and procedures for Transit to use when creating job specifications/qualifications/examinations on behalf of MaBSTOA.

Status – Not Implemented

Agency Action – MTA did not develop any policies or procedures for use in creating job specifications. Officials stated that they use the job specification format provided by the Department of Citywide Services to create and revise job specifications for Transit. They also stated that job specifications for Civil Service jobs are governed by DCAS. As a result, the specifications are written by DCAS and include the job analysis, duties and responsibilities, and qualifications for promotions. Going forward, for non-Civil Service positions, the People Department will develop standardized job description templates that will be used across the authority. MTA Headquarters will issue a standard process by which this will be governed. Officials shared with us that they are in the process of creating a training manual for staff. It is still in the early development stage.

Recommendation 5

Revisit Transit oversight of SIR's hiring and promotion process.

Status – Partially Implemented

Agency Action – The agency provided evidence that there was a discussion in March 2019 regarding the SIR hiring and promotion process. The recommendation was to maintain “status quo.” However, we did not receive documents to show the recommendation was approved.

Recommendation 6

Ensure that employees doing Transit work at the support departments are hired by Transit using the Civil Service examination process.

Status – Partially Implemented

Agency Action – MTA officials provided recent legislation that allows the assignment transfer, sharing, or consolidating of powers, functions, or activities across agencies. This new law allows Transit wide latitude in transferring staff between agencies. The law allows Transit to “identify common functions and assign, transfer, share or consolidate, in whole or in part, such functions between the authority and its subsidiaries.” MTA agencies shall “have the right to share employees within and between such entities and to assign such employees to perform any operation or function subject only to a determination that they are substantially similar to any operation or function currently performed. Substantially similar operation or function shall be determined exclusively by the authority.” However, this law does not apply to all titles or all functions. Transit has not created specific policies for those functions that this law does not apply to and would still require Civil Service examinations.

Recommendation 7

Assign employees to projects/initiatives within the agency that hired the employee.

Status – No Longer Applicable

Agency Action – The agency stated that this is no longer necessary because recent legislation gives MTA the right to share employees and to assign such employees to perform any operation or function that is similar in nature. We noted postings that were created for multiple agencies so employees from any agency can apply. Transit officials stated that they are legally allowed to do so and therefore there is nothing wrong with this practice.

Recommendation 8

Ensure required documentation is prepared and maintained for each interagency transfer.

Status – Not Implemented

Agency Action – Agency officials stated that with the legislation's implementation there is no need for transfer documents. However, as stated in Recommendation 6, the new legislation does not apply to all titles, and there is a need to document the titles that remain under Civil Service Law.

Recommendation 9

Comply with stated TAM/PAR processing and nepotism policies, procedures, and directives.

Status – Partially Implemented

Agency Action – The agency required different types of documentation to be maintained for Talent Acquisition Management (TAM) and Personnel Action Request (PAR) processing. As part of the documentation to support anti-nepotism, the agency is required to maintain Dual Employment, Family Member Disclosure, and Interviewer Relationship forms and, where applicable, Familial Relationship Recusal forms. Only three of the files we reviewed had the Interviewer Relationship form included in the package. The agency includes an Interview Summary report, which lists the names of the interview panel, but the report is not signed by the panel members. There is no evidence that the forms are reviewed and/or approved to determine whether any relationships exist or whether any recusals are necessary in the event of identified relationships with interviewee and the candidate.

Recommendation 10

Implement proper documentation policies to ensure all required forms are collected and retained in employee files.

Status – Partially Implemented

Agency Action – Transit does not use a checklist to ensure all required documents are included in the package. Documents are maintained in different parts of the agency's system, and staff may have access to the information. In the absence of written instruction such as a checklist, we received inconsistent information about which documents make up a candidate's package. Transit officials provided a copy of an outdated list. They claimed the list was updated but could not provide a copy of the new list. Other staff had different

versions of email communications regarding what documents should be maintained. There was no evidence of monitoring to ensure staff are complying. Transit officials explained they are developing a training manual that will incorporate the steps on hiring and samples of the documentation to be maintained.

Recommendation 11

Comply with Civil Service regulations, which require the use of DCAS-certified lists when hiring/promotion employees at Transit.

Status – Partially Implemented

Agency Action – Twelve of the 32 employees sampled were promoted through the Step-Up process. Officials stated that generally a JVN will not be created if there is a list. However, if the staff is in an appointed title, a JVN will be created for promotions. The posting usually states that it is only for staff in the title. Therefore, staff from any agency in that title can apply. People Department officials stated that the Step-Up process is used for jobs with multiple levels. An individual is appointed from a certified list at level 1. Once probation is completed, a level change does not come from a Civil Service list. Job postings are created to fill assignment-level changes. All employees who meet the requirements in the title can apply for the level-change position, which creates competition. One individual is selected from the candidates via the selection process. There is no other mechanism.

Recommendation 12

Communicate with DCAS regarding examination needs for citywide titles and request that such examinations be held.

Status – Implemented

Agency Action – Based on schedules posted on the DCAS website, there were postings for the Mechanical Engineer title, for Civil Engineer interns but none for just Civil Engineer titles, and for Assistant Electrical Engineer but not for just Electrical Engineer. We did note communications with DCAS regarding the need for exams. We also accessed a copy of the agency's current exam schedule posted on its website.

Recommendation 13

Hold Transit-specific examinations (e.g., TMA and TCSS) at regular intervals.

Status – Implemented

Agency Action – We found postings for all four positions – Assistant, Associate, and Principal Transit Management Analyst (TMA) titles and Transit Customer Service Specialist (TCSS) – on MTA's website.

Recommendation 14

Post the compensation schedule and biographical information on the MTA's website in the future and for all years missed since 2013.

Status – Implemented

Agency Action – The biographical information was posted on MTA website under the Compliance section. The salary information was posted on Open Data.

Contributors to the report were Robert C. Mehrhoff and Susan Gordon.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We also thank the management and staff of the MTA for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Carmen Maldonado
Audit Director

cc: M. Woods, AG
D. Jurgens, Assistant AG
Division of the Budget