

AUDIT REPORT

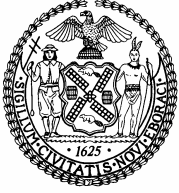


CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF FINANCIAL AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Audit Report on the Development and Implementation of the Enterprise Asset Management System by the New York City Fire Department

7A06-095

June 30, 2006



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

WILLIAM C. THOMPSON, JR.
COMPTROLLER

To the Citizens of the City of New York

Ladies and Gentlemen:

In accordance with the responsibilities of the Comptroller contained in Chapter 5, §93, of the New York City Charter, my office has audited the development and implementation of the Enterprise Asset Management System by New York City Fire Department.

New York City Fire Department oversees the use of existing and emerging technologies in City government operations and delivery of services to the public. We audit the management and oversight of City resources such as this to ensure that they are properly managed and protected from unauthorized use.

The results of our audit, which are presented in this report, have been discussed with New York City Fire Department officials, and their comments have been considered in preparing this report. Their complete written response is attached to this report.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please e-mail my audit bureau at audit@Comptroller.nyc.gov or telephone my office at 212-669-3747.

Very truly yours,

A handwritten signature in cursive script that reads "William C. Thompson, Jr.".

William C. Thompson, Jr.

WCT/fh

Report: 7A06-095
Filed: June 30, 2006

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*The City of New York
Office of the Comptroller
Bureau of Financial Audit
IT Audit Division*

**Audit Report on the
Development and Implementation of the
Enterprise Asset Management System by the
New York City Fire Department**

7A06-095

AUDIT REPORT IN BRIEF

This audit assessed the development and implementation of Enterprise Asset Management System (EAMS) by the Fire Department (FDNY) and determined whether EAMS meets the overall asset and inventory management goals and the business and system requirements of the FDNY and whether it also allows for future enhancement and upgrades.

Prior to 2003, the FDNY depended on a manual, paper-based system to record and track various internal requests made each year for service, repair, or replacement of installed equipment at FDNY facilities. To address many of the shortcomings inherent in its manual process and to maximize the efficiency and computerization of all internal processes of the purchasing, asset, and inventory management controls, and audit procedures required by the City, the FDNY entered into a contract with ICICI, Inc., (ICICI) to purchase and customize an assets management application. EAMS was the product that ICICI was to create for the FDNY from the application. From May 2004 to June 2004, EAMS was implemented in all five boroughs. ICICI was paid \$1.1 million for the development of EAMS.

Audit Findings and Conclusions

A formal system methodology was agreed to by both the vendor, ICICI, and the FDNY, and was adhered to during the course of the system's integration. EAMS generally functions reliably, contains accurate information, and reasonable controls are in place to keep it secure from unauthorized access. EAMS has been fully incorporated into the Building Maintenance Division (BMD) processes—the division responsible for the repair and maintenance of FDNY buildings. Therefore, implementation is considered complete, and the FDNY is in the process of fine-tuning the application. EAMS was procured in accordance with the provisions of the City Charter and the Procurement Policy Board (PPB) rules.

However, EAMS has no formal disaster-recovery plan or written policies for information-protection, logical or physical security, or for application-change control. Officials of the FDNY believe that the work performed by the BMD is of a critical nature to the FDNY mission. In that regard, the lack of these plans and policies increases the likelihood that the system will be vulnerable to unauthorized access, abuse, theft of equipment, and the loss of mission-critical information, especially in the case of a disaster.

Audit Recommendations

To address these issues we recommend that the FDNY should:

1. Assess EAMS's vulnerabilities and create a formal information protection plan to minimize the risks of exploitation of those vulnerabilities in accordance with Comptroller's Directive #18 requirements.
2. Create a formal disaster-recovery business continuation plan for EAMS in accordance with Comptroller's Directive #18 requirements, and periodically test the effectiveness of the plan.
3. Create a formal security policy that addresses physical and logical security; outlines the agency's requirements and methods to maintain control over its information resources; and states the responsibilities of each user to comply with the established procedures—all in accordance with Comptroller's Directive #18 standards.
4. Create a formal change-control policy for EAMS according to Comptroller's Directive #18 requirements.

INTRODUCTION

Background

The FDNY protects the life and property of City residents and visitors from fire and critical health threats by responding to emergencies, conducting investigations, and by providing fire prevention education and inspections services.

In order to accomplish its mission, the FDNY currently maintains approximately 300 facilities throughout the five boroughs of the City. These include 223 firehouses, 30 Emergency Medical Service stations, several support buildings housing fleet maintenance and warehouse functions, five Borough Communication offices, and 10 training buildings at the Randall's Island training academy. Approximately 10,000 requests of all types are made each year for work, including requests for service, repair or replacement of installed equipment at FDNY facilities.

The Building Maintenance Division (BMD) is responsible for the repair and maintenance of FDNY buildings and for the design and construction of new facilities. BMD responds to routine repairs and maintenance of FDNY facilities through demand for service requests.

The BMD used a paper-based manual process to record and to track each request for service. This process was labor-intensive and required various sections of a multipart form to be carried, mailed, annotated, and filed in various places by a variety of personnel. The paper document remained the primary record, but its data was entered into a Microsoft Access database. As is common in all paper systems, it was not efficient and susceptible to many problems. Documents can be lost, or partially or improperly submitted, and significant time-lags develop as the document moves through the manual system. Finally, a significant amount of work was requested and completed without any documentation, because the paper system was simply too slow to meet the overall needs of the FDNY.

To address many of the shortcomings inherent in its manual process to record and to track each request for service, in May 2003, the FDNY entered into a contract with ICICI, Inc. (ICICI). Through the contract, the FDNY purchased Datastream 7i for \$261,500. Datastream 7i is a commercially available off-the-shelf asset management application created by Datastream Systems, Inc., (Datastream) through ICICI. The terms of the contract stated a total cost of \$1.2 million, which included the purchase price of the asset management application, and the customization of the off-the-self package to the requirements of the FDNY. The contract was registered in May 2003 with a term from June 2003 to October 2008. Six subsequent change orders were executed to this contract, raising its total value to \$1.3 million. EAMS was the product that ICICI was to create for the FDNY from the asset management application.

In October 2003, after only five months into the project, ICICI discontinued its government services practice, but continued to work on the EAMS project. However, between December 2003 and February 2004, ICICI dismissed many of the key personnel assigned to the EAMS project. As a result, the FDNY did not receive the level of service that was agreed upon in its contract with ICICI. Consequently, a dispute arose over the scope of service provided by ICICI and the FDNY withheld \$207,587 from the vendor. In May 2005, ICICI agreed to

withdraw from providing any future services on the contract. In total, ICICI was paid \$1.1 million for the development of EAMS. From May 2004 to June 2004, EAMS was implemented in all five boroughs. EAMS is under consideration for expansion to other divisions in the FDNY as a management tool. In order to complete the project, in January 2006, the FDNY issued a purchase order for \$48,542 to Global PTM, Inc., for product service, support, maintenance, and consultant services for EAMS.

Objectives

The objectives of the audit were to evaluate the progress of the FDNY toward implementation of EAMS and to determine whether EAMS:

- as a finished product, meets its overall goals as stated in the system justification;
- meets initial business and system requirements of the FDNY;
- allows for future enhancements and upgrades;
- was developed using a formal system development methodology;
- functions reliably, so that information recorded in the database is accurate and secure from unauthorized access;
- was procured in accordance with City Charter provisions and PPB rules; and
- has a disaster recovery plan, and whether this plan has been incorporated into the overall recovery plans of the FDNY.

Scope and Methodology

Our audit fieldwork was conducted from November 2005 through April 2006. To achieve our audit objectives, we interviewed FDNY officials and conducted a system walk-through where we observed and evaluated EAMS's functionality and system controls. During the walk-through, validation mechanisms,¹ error-isolation,² and exception reporting³ features were tested.

To evaluate whether EAMS meets FDNY business and system requirements, and FDNY compliance with applicable PPB rules, we reviewed system specification documents, project plans, user manuals, contracts, and purchase orders. Fieldwork also included reviewing pertinent

¹ System controls that evaluate input based on specified field requirements.

² This system control prevents users from entering invalid records into the database.

³ A system feature that produces a list of reports that show the records that have not been accepted because of invalid data or other inconsistencies.

sections of the Fiscal Year 2003 and 2004 reports to management provided to the City by its external auditors—specifically those sections relating to the City’s internal controls.

Comptroller’s Internal Control and Accountability Directive #18, “Guidelines for the Management, Protection and Control of Agency Information and Information Processing Systems,” the Department of Investigation “Citywide Information Security Policy,” and “Information Security Directive” were used as criteria for the audit. Since the City has no stated formal system-development methodology, the National Institute of Standards and Technology Special Publication 500-223, *A Framework for the Development and Assurance of High Integrity Software* was consulted to assess whether FDNY followed a formal methodology.

This audit was conducted in accordance with generally accepted government auditing standards (GAGAS) and included tests of the records and other auditing procedures considered necessary. This audit was performed in accordance with the audit responsibilities of the City Comptroller, as set forth in Chapter 5, §93, of the New York City Charter.

Discussion of Audit Results

The matters covered in this report were discussed with FDNY officials during and at the conclusion of this audit. A preliminary draft report was sent to FDNY officials and was discussed at an exit conference held on May 23, 2006. On May 26, 2006, we submitted a draft report to FDNY officials with a request for comments; we received FDNY’s response on June 12, 2006.

The FDNY, in its response, agreed with our findings related to EAMS not being included in its information protection plan. However, it stated that it “has extensive physical and information security measures in place for safeguarding the information processing environment agency-wide.” Nonetheless, FDNY’s lack of formal plans or written policies for disaster recovery, information protection, logical or physical security or application change control specifically for EAMS increases the vulnerability of the system to unauthorized access, abuse, and theft of equipment. Moreover, lack of such formal plans and policies increases the vulnerability of the loss of information to the BMD, which, as stated in the FDNY response, “is of a critical nature to the FDNY mission.” The FDNY did not respond specifically to the three of the four recommendations made in this report.

The full text of the FDNY comments is included as an addendum to this report.

FINDINGS

EAMS meets the overall asset and inventory management goals and the business and system requirements of the FDNY. The design of EAMS also allows for future enhancement and upgrades. A formal system methodology was agreed to by both the vendor, ICICI, and the FDNY, and was adhered to during the course of the system's integration. EAMS generally functions reliably, contains accurate information, and reasonable controls are in place to keep it secure from unauthorized access. EAMS has been fully incorporated into the BMD processes. Therefore, implementation is considered complete, and the FDNY is in the process of fine-tuning the application. EAMS was procured in accordance with the provisions of the City Charter and the PPB rules.

However, EAMS has no formal disaster-recovery plan or written plans for information-protection, logical or physical security, or for application-change control. Officials of the FDNY believe that the work performed by the BMD is of a critical nature to the FDNY mission. In that regard, the lack of these plans and policies increases the likelihood that the system will be vulnerable to unauthorized access, abuse, theft of equipment, and the loss of mission-critical information, especially in the case of a disaster.

These matters are discussed in the following sections of this report.

Business and System Requirements and Goals

The overall goal of the FDNY as stated in the EAMS system justification was to re-engineer its asset and inventory process. The development and implementation of EAMS would maximize the efficiency and computerization of all internal processes of the purchasing, asset and inventory management controls, and audit procedures required by the City. The general functions required by the FDNY were:

1. asset management;
2. project management;
3. inventory management for parts, supplies and materials;
4. work management for units performing service, maintenance, or repair functions— inclusive of labor hours and costs for work completed by FDNY or contracted trade or service personnel;
5. purchasing and budget maintenance including electronic purchasing processes;
6. business rules: the ability to assign distribution or approval (work-flow) patterns to purchase orders, work requests, e-mail, and other electronic documents;
7. management information and reporting in the form of statistical analysis of costs, work statistics, failure analysis, key performance indicators, and other typical management reports;
8. electronic data collection, using bar-code or infrared scanning devices; and
9. notification and alert capability, using e-mail, paging, and in-system messages, and interfacing with handheld computers.

Our tests revealed that EAMS satisfies all of the aforementioned requirements.

However, we found that the FDNY did experience problems with its handheld devices. According to the FDNY officials, these problems have been resolved, and the handheld devices are expected to be redeployed by September 2006.

Methodology and Implementation

The FDNY and the vendor, ICICI, established a process by which the FDNY's asset-management needs would be evaluated and addressed. Both entities agreed on a formal systems integration methodology to accomplish these goals. This methodology was logical and included the following 12 milestones:

- business-process analysis;
- application selection;
- EAM software procurement;
- hardware/software implementation;
- customizations and integration,;
- data collection;
- training;
- completion and acceptance by the FDNY;
- Go Live–Rollout⁴;
- production implementation;
- planning;
- warranty and support.

EAMS was implemented in phases beginning in May 2004, and was being used by the FDNY in all five boroughs by June 2004.

Functionality, Enhancements, and Upgrades

EAMS is an asset-management application that can be customized. It contains numerous modules, which include assets, asset-hierarchy management, audit trails, commercial services, depreciation, key performance indicators, linear assets, messenger, Microsoft project 2003, preventative maintenance, usage monitoring, calibration, and advanced reporting. The capability of EAMS is to address a range of needs for achieving a comprehensive asset-management system. The FDNY purchased the following modules: asset management, materials management, inventory management, purchasing-and-receiving management, work management, inspection management, calibration management, project management, budget

⁴ This is the name of a project task that requires the vendor's support team to be prepared for the official system launch. In addition, final data migration and knowledge transfer to FDNY personnel was to occur during this period.

management, reports, and GIS⁵ integration. However, only assets management, work orders, materials, purchasing, projects, resources, and report management are currently being used.

Enhancements to the system are possible, and the FDNY has made modifications to EAMS to further tailor the application to benefit its operations. The FDNY upgraded the initial version of the application, which was version 7.6, to version 7.8. However, FDNY officials told us they planned to upgrade to version 7.10 to further improve EAMS functionality and thus FDNY operations.

Safeguarding the Information Processing Environment

The FDNY has not established written policies and procedures to safeguard its information processing environment. Specifically, the FDNY has no formal: information protection plan, disaster recovery plan, security policy, or application-change-control policy for the EAMS application. Comptroller's Directive #18 requires that policies and procedures be formalized and implemented by agencies to ensure that its information processing environment is properly protected. Officials of the FDNY believe that the work performed by the BMD is of a critical nature to the FDNY mission. In that regard, the lack of these plans and controls leaves the system vulnerable to unauthorized access, abuse, theft of equipment, and the loss of mission critical information, especially in the case of a disaster.

Formal policies are useful for communicating management's expectations, requirements, and vision for the agency or division. They are needed to create the framework to which departmental procedures must align. Without formal policies, goals can be misconstrued, resources misused, and effectiveness diminished.

Information Protection Plan

The FDNY has no documented information protection plan. Comptroller's Directive #18, §5, states: "The information protection plan establishes both broad general policies and the day to day internal controls, procedures and practices agencies must implement to safeguard the information processing environmentThe most effective plans are comprehensive, covering all aspects of the information processing environment and are in written form. Written plans are necessary to facilitate dissemination, provide future reference, and document the agency's efforts." With regard to EAMS, the FDNY has not formally specified the steps that it will take to minimize the vulnerabilities of the application and its component parts.

Disaster Recovery Plan

As previously stated, FDNY officials told us the work performed by the BMD is of a critical nature to the FDNY mission. However, the FDNY has no documented business continuation-disaster recovery plan for EAMS. A disaster-recovery plan would preserve access

⁵ GIS is an acronym for Geographic Information Systems — which are applications that rely on geographic data as references for the collection, control, monitoring or dispersal of information.

to and availability for this application in the event of a disaster. Comptroller's Directive #18, §10, states: "A formal plan for the recovery of agency operations and the continuation of business after a disruption due to a major loss of computer processing ability is an important part of the information protection plan." Without a disaster recovery plan for EAMS, the FDNY is vulnerable to the loss of mission critical information in the event of a disaster.

Security Policies

The FDNY does not have a formal security plan for the EAMS. In that regard, it lacks written physical or logical procedures to protect the information processing environment of EAMS. The system is accessible by field workers through handheld scanners and by their supervisors through laptop computers. However, the FDNY has not established a formal policy dictating the controls in place to safeguard these assets as well as to safeguard the system from unauthorized access. Therefore, the handheld scanners and the laptop computers may be susceptible to theft, and the system susceptible to unauthorized access to critical information.

Comptroller's Directive #18, §8, states: "Controls . . . ensure that every transaction entering the information processing environment is authorized, recorded, and processed completely and accurately, protected from physical loss, theft or unauthorized manipulation and that the data file integrity is preserved." In addition, §7 states: "Physical security encompasses safeguarding not only computer facilities and general work areas, but also includes areas where essential support equipment . . . are housed. Physical controls constitute the first level of defense in the information processing environment."

Application Change Control

The FDNY has no formal change-control procedures for EAMS. However, officials of the FDNY stated that the agency is "in the process of developing formal change-control policies and procedures." At present, changes are prioritized according to the source of the request. The system administrator is currently responsible for receiving, evaluating, approving, developing, and implementing user requests. If EAMS is expanded, as envisioned, the ability of the FDNY to adequately and efficiently respond to the need for changes to EAMS may be challenged under the current system.

Comptroller's Directive #18, §9.3, states: "A change control policy is necessary to insure that only appropriate, authorized changes are made to application and system software. . . . Close controls over software changes are essential to maintain continuity and reliability."

RECOMMENDATIONS

The FDNY should:

1. Assess EAMS's vulnerabilities and create a formal information protection plan to minimize the risks of exploitation of those vulnerabilities in accordance with Comptroller's Directive #18 requirements.

FDNY Response: "FDNY has extensive physical and information security measures in place for safeguarding the information processing environment agency-wide but they are not specific to EAMS."

Auditor Comment: FDNY, in its response, discusses the procedures currently in place for the information processing environment agency-wide. However, FDNY's procedures do not comply with Comptroller's Directive #18, §5.2, "Information Protection Plan Organization and Content," sub-section §5.2.1, "Plan Organization," which states:

"An effective information protection plan's organization: (1) clearly identifies the data, information, systems, software and equipment that comprise the agency's information-processing environment; (2) shows the result of the agency's assessment of the risks and vulnerabilities for the items in (1); and (3) enumerates the control activities and procedures that the agency has in place or must implement to protect against the risks and vulnerabilities."

Further, §5.2.2, "Plan Content," states:

"The key elements of a comprehensive information protection plan include: (1) a general policy statement that emphasizes the agency's commitment to its information protection program and is a clear declaration of the agency's information protection goals and general course of action; (2) a statement of its scope and purpose; (3) identification of the facilities, systems, and personnel to whom it applies; (4) a discussion of the importance of information security and how it supports the organization's overall goals and responsibilities; (5) a description of the objectives of information security and the methods for achieving it; and (6) definitions of violations and penalties for noncompliance."

Therefore, we feel that FDNY should address the concerns raised by our recommendation and create a formal information plan that addresses the aforementioned items. Further, this information plan should be disseminated throughout the agency.

2. Create a formal disaster-recovery business continuation plan for EAMS in accordance with Comptroller's Directive #18 requirements, and periodically test the effectiveness of the plan.

FDNY Response: "Although the FDNY does not have a designated off-site recovery location, disaster recovery processes are in place in the form of primary and fail-over servers along with data backups to tapes. These tapes are stored off-site at a secure records storage center.

"A Supplemental Budget request (Capital and OTPS) was submitted to OMB in January 2006 for a complete Disaster Recovery Solution. The purpose of this request was to improve protection of all FDNY Information Technology resources in the form of off-site resiliency and business continuity. The total cost for FY '07 was in the amount of \$2,386,406 with recurring yearly cost for support and maintenance of \$658,000. This request is still pending and awaiting decision from OMB."

Auditor Comment: The FDNY, in its response, discusses some elements of its disaster-recovery procedures it currently has in place for the information processing environment agency-wide; however, it does not address the recommendation, which is specific to EAMS. However, FDNY indicates in its response that a "complete Disaster Recovery Solution" was submitted to OMB in January 2006 and is awaiting OMB's decision, which implies that its current plan has issues that need to be addressed. We reiterate our recommendation and further recommend that the FDNY contact OMB immediately and resolve this issue.

3. Create a formal security policy that addresses physical and logical security; outlines the agency's requirements and methods to maintain control over its information resources; and states the responsibilities of each user to comply with the established procedures—all in accordance with Comptroller's Directive #18 standards.

FDNY Response: FDNY, in its response, discusses some procedures it currently has in place to safeguard the laptops and handheld scanners in use by the system; further the FDNY states that "no critical data" is stored on these devices, although it states that "technology is being acquired to send a 'poison pill' that would wipe all data from devices designated as 'stolen or lost.'" However, the FDNY does state that: "The formal guidelines for the use of laptops and PDAs are formalized in a number of documents, but not compiled into a document specific to EAMS."

Auditor Comment: If, as stated by the FDNY, "the work performed by the BMD is of a critical nature to the FDNY mission," it is difficult to imagine that no critical data is stored on these devices. Indeed, if the devices contain no critical data, we question FDNY's need to acquire the technology to send a poison pill to prevent data from being stolen. In addition, the FDNY agrees that formal guidelines are "not compiled into a document specific to EAMS."

4. Create a formal change-control policy for EAMS according to Comptroller's Directive #18 requirements.

FDNY Response: "FDNY is currently in the process of developing a change management system which will result in formalized change management policies and procedures. Funding has been approved in June 2006 and Phase One is expected to be completed in September 2006."



David Mitchell – Project Manager
Bureau of Technology Development & Systems



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(718) 999-1774 email: mitchcdh@fdny.nyc.gov

TO: RAY SAYLOR
Audit Manager

FROM: DAVID MITCHELL
Project Manager

THROUGH: DONALD STANTON
Assistant Commissioner of Technology Development & Systems

DATE: June 9, 2006

SUBJECT: Draft Audit Report on the Development and Implementation of the Enterprise Asset Management System
7A06-095

Attached is the Fire Department's response to the Draft Audit Report on the Development and Implementation of the Enterprise Asset Management System for transmittal to the Office of the City Comptroller.

I understand that the Comptroller's Office needs to receive our written comment by close of business on Monday, June 12, 2006.

Please call or e-mail me if you have any questions.

Attachment

DM/rs

June 1, 2006

**Subject: Fire Department Comments — Draft Audit Report on the Development and Implementation of the Enterprise Asset Management System
7A06-095**

Pursuant to the discussion in the May 23, 2006 Exit Conference, the following comments and attachments are submitted for the purpose of correction or clarification regarding the Draft Audit Report. It is the understanding of the Fire Department that changes to the report language or statements addressed in these comments will not be made, but that the Department's comments and attachments will be included in the final report.

**Response to each recommendation listed on Page 1 and Page 10 of the Draft Audit Report on the Development and Implementation of the Enterprise Asset Management System
7A06-095**

While the work performed by Buildings Maintenance Division (BMD) is of a critical nature to the FDNY mission, the Enterprise Asset Management System (EAMS) is not considered a **critical** system. It is not responsible for critical life safety equipment, medical equipment or records, or core functions essential to fire suppression, medical or emergency response and dispatch. The system also does not contain data of a highly sensitive nature. BMD was selected for the pilot project because the complexity and scope of its business functions was similar to that of mission critical units, but was itself a low risk implementation.

1. Information Protection Plan

FDNY has extensive physical and information security measures in place for safeguarding the information processing environment agency-wide but they are not specific to EAMS. Every user needs to fill out a request form with the last four digits of his SSN to establish an account to access the network and the Internet. Each form has to be approved by authorized officials.

Attached are examples of the following request forms:

- A. Network Account Request Form (*Attachment 1*)
- B. Internet Account Request Form – automatically generates an attached copy of the New York City Acceptable Use Policy detailing the protocol for the use of electronic mail, the Internet and CityMail by City personnel using City network resources (*Attachments 2 and 3*)
- C. Remote Access Request Form (*Attachment 4*)

FDNY complies with DOI Information Security Directive, Physical Security – Version 1. D 2.15 of April 30, 2003, with the exception of the use of security cables on unattended laptops.

2. Disaster Recovery Plan

Although the FDNY does not have a designated off-site disaster recovery location, disaster recovery processes are in place in the form of primary and fail-over servers along with data backups to tape. These tapes are stored off site at a secure records storage center.

A Supplemental Budget request (Capital and OTPS) was submitted to OMB in January 2006 for a complete Disaster Recovery Solution. The purpose of this request was to improve protection of all FDNY Information Technology resources in the form of off-site resiliency and business continuity. The total cost for FY '07 was in the amount of \$2,386,406, with recurring yearly cost for support and maintenance of \$658,000. This request is still pending and awaiting decision from OMB.

3. Security Policies

FDNY has procedures in place to safeguard the system from unauthorized access.

A. Laptops and handhelds are protected from unauthorized access as follows:

1. Device password
Handheld - 7 characters (letters + numbers)
Laptop - minimum 6 characters (letters + numbers)
2. Automatic Device Locking
On a handheld, if it has not been used for ≥ 30 minutes, the user must re-enter the password.
On a laptop, the user must re-enter password for following inactivity > 15 minutes.
3. A separate VPN password
4. Application password > 6 characters mixed alphanumeric.

Note: VPN and Application passwords are not stored locally.

B. There is no critical data stored on the devices.

1. At present, when reported stolen as required by documented policy, VPN access from the device can be terminated.
2. In the future, if VPN access is circumvented, technology is being acquired to send a "poison pill" that would wipe all data from a device designated as "stolen or lost" on access to VPN or the network.

C. The formal guidelines for the use of laptops and PDAs are formalized in a number of documents, but not compiled into a document specific to the EAMS.

The following attached publications contain applicable rules and procedures:

1. Buildings Maintenance Division Policy and Procedures Handbook
 - i. Chapter 4 Tools & Equipment (*Attachment 5*)
 - ii. Chapter 12 Lost Property Report (*Attachment 6*)
 - iii. Chapter 13 Civilian Code of Conduct (*Attachment 7*)

2. Policy on Limited Use of Office and Technology Resources
(*See Attachment 3*)

4. Application Change Control

The FDNY is currently in the process of developing a change management system which will result in formalized change management policies and procedures. Funding has been approved in June 2006 and Phase One is expected to be completed in September 2006.

Attachments

- Attachment 1 - Network Account Request Form
- Attachment 2 - Internet Account Request Form
- Attachment 3 - New York City Acceptable Use Policy
- Attachment 4 - Remote Access Request Form
- Attachment 5 - Chapter 4, Tools & Equipment (Buildings Maintenance Division Policy and Procedures Handbook)
- Attachment 6 - Chapter 12, Lost Property Report (Buildings Maintenance Division Policy and Procedures Handbook)
- Attachment 7 - Chapter 13, Civilian Code of Conduct (Buildings Maintenance Division Policy and Procedures Handbook)

Network Account Request Form



Name	Last 4 digits of SSN	Date
Bureau	Unit	
Phone	Location (Enter Cubicle/Room Number)	
Title		

REQUEST TYPE (Select appropriate options below)		
NEW USER **	TEMPORARY USER	MODIFY EXISTING USER
Yes No	Yes (Account will expire in 6 months)	Delete User (Computer must be returned to BTDS inventory) Transfer User ** (Computer must be moved with user)
Computer installed at location?	Yes No **	Previous Bureau: _____ Previous Location: _____
In addition to Microsoft Office, GroupWise, and Virus Protection, list all other software requirements below and attach the necessary forms. Please provide the justification for this request:		

SPECIALIZED SOFTWARE REQUEST (New User, Delete User, Modify Existing User, Temporary User)		
CAD Form BTDS-CAD-2 Required	HRIS Form BTDS-HRIS-2 Required	INTERNET Form BTDS-INTERNET-2 Required
STATISTICAL REPORTS Form BTDS-STATREP-1 Required	UNISYS Form BTDS-UNISYS-2 Required	VAX Form BTDS-VAX-2 Required
OTHER: _____		CITYNET: _____
SHARED DIRECTORY: _____ Please specify the path name(s)	_____	

I have read and fully understand the Electronic Communications Usage Policy (ECUSP VI) and agree to comply with all Fire Department and City of New York regulations contained therein.

Signature _____ Date _____

APPROVALS		
Unit Supervisor:		
Print Name _____	Signature _____	Date _____
Bureau Head or Designee:		
Print Name _____	Signature _____	Date _____
BTDS Security Administrator or Designee:		
Print Name _____	Signature _____	Date _____
BTDS Assistant Commissioner or Designee:		
Print Name _____	Signature _____	Date _____

Help Desk Ticket #	Network Login Name	Created On	Created By
Created Date			

**** THIS REQUEST CANNOT BE PROCESSED UNTIL BTDS RECEIVES A COMPLETED AND FULLY APPROVED EMPLOYEE WORKSPACE RELOCATION FORM.**



Internet Account Request Form

Name	Last 4 digits of SSN	Date
Bureau	Unit	
Phone	Location (Enter Cubicle/Room Number)	
Title		

I have read and agree to the terms and conditions set forth in the attached NYC Acceptable Use Policy.

Signature _____

Date _____

Justification for Request of Internet Access (to be filled out by Bureau Head):

APPROVALS

Unit Supervisor:

Print Name _____

Signature _____

Date _____

Bureau Head or Designee:

Print Name _____

Signature _____

Date _____

BTDS Security Administrator or Designee:

Print Name _____

Signature _____

Date _____

BTDS Assistant Commissioner or Designee:

Print Name _____

Signature _____

Date _____

DO NOT WRITE BELOW THIS LINE - BTDS USE ONLY

DESKTOP INFORMATION

- 1) The current version of Virus Scanning Software has been installed on the workstation.
- 2) The Virus Scanning Software is configured to update automatically through the internal FDNY Web Server at system startup; ActiveX Controls and Java scanning are enabled.
- 3) Temporary Internet file storage is moved from the user's roaming profile to C:\Temp.

DESKTOP TECHNICIAN CHECK LIST

- Virus Scan Engine Version: _____ DatFile Version: _____
- The configuration has been modified to check for DatFiles (autoupdate) upon system startup.
DatFiles are loaded from: FTP.FDNY.ORG/PUB/ANTIVIRUS/DATFILES/4.X
- Internet options have been modified to place Temporary Internet files in C:\TEMP.
- Check for Newer Versions of Stored Pages has been set to AUTOMATIC.
- The Internet proxy settings have been changed to: <http://bmproxy/internet.pac> (must be lowercase).

Technician:

Print Name _____

Signature _____

Date _____

LAN Administrator:

Print Name _____

Signature _____

Date _____

Help Desk Ticket #	Network Login Name	Created On	Created By
Created Date			

NEW YORK CITY ACCEPTABLE USE PROTOCOL
Page 1 of 3

This Acceptable Use Policy (AUP) is the City Protocol for the use of Electronic Mail (Email), the INTERNET, and CityMail (except if noted otherwise in this AUP, Internet Access shall mean all of these facilities) by City personnel using City network resources.

Internet Access is a resource provided by the City solely for City employees to perform their City job responsibilities. Internet Access is provided to City personnel to enhance their ability to conduct the City's business. Accordingly, Internet Access should be used only in connection with the conduct of City business, it should not be used in connection with any personal or non-City business matters. All City rules apply to this resource as they apply to all others.

Guidelines:

All users of City network resources have a responsibility to use their Internet Access in compliance with this AUP and with customary INTERNET "netiquette," and all other applicable City rules.

Use of Internet Access for activities that are unacceptable under this AUP may subject a user to disciplinary action, including the removal of a user's access from the system and/or appropriate additional disciplinary action. City agencies reserve the right to review violations of the AUP on a case-by-case basis.

1. E-mail, CityMail and the Internet may be used for NYC/DoITT work purposes only.
2. You must have supervisory approval prior to accessing the Internet.
3. It is not acceptable to use CityMail, E-mail or the Internet for illegal purposes.
4. It is not acceptable to use CityMail, E-mail or the Internet to transmit threatening, obscene or profane language, nor sexually, racially or religiously demeaning, offensive or abusive reference. Any gratuitous negative comments which may be construed as a personal attack are also not acceptable.
5. It is not acceptable to use CityMail, E-mail or the Internet to run a personal business, political group or non-profit organization.
6. Employees may not transmit confidential City information to anyone who does not have the right to that information.

NEW YORK CITY ACCEPTABLE USE PROTOCOL Page 2 of 3

7. Employees may not use Internet Access that will interfere with or disrupt network users, services or equipment. Disruptions include, but are not limited to, distribution of unsolicited advertising, propagation of computer worms or viruses, and use of the network to make unauthorized entry to any other machine accessible via the network. It is not acceptable to compromise the integrity of City computers or City network resources in any way.
8. Employees may not use Internet Access to access information or resources unless permission to do so has been granted by the owners or holders of rights to those resources and information. It is not acceptable to use Internet Access to distribute copyrighted programs or documents without proper authorization.
9. Employees may not attempt to gain unauthorized access to network information resources. It is not acceptable to prevent the rightful access of others to City computer resources or other City network resources.
10. Employees may not send Internet Access messages that contain personal opinions expressed in such a way that may be interpreted as official City policy. It is general practice in such cases to include a disclaimer such as, "The opinions expressed here are my own and do not necessarily represent the policy of the City of New York."
11. Employees must maintain their individual E-mail and/or Internet Access accounts. Accordingly, users should:
 - Never publicize or share their passwords.
 - Never share accounts, except within the agreed parameters for common accounts.
 - Check Internet Access daily; to minimize disk storage problems, unwanted messages should be deleted immediately.

Privacy:

The E-mail system and the messages sent on it are the property of the City. Internet Access is received and stored on the City's network servers and monitored on a regular basis; accordingly, Internet Access users should not assume a right to privacy in electronic communications at their City agency. In addition, users should be aware that City Internet Access and other City electronic communications may be subject to the New York State Freedom of Information Law. City agencies reserve the right to monitor and delete Internet Access in the event of a violation of the AUP or other City policy, or any threat to the operation of CityMail.

NEW YORK CITY ACCEPTABLE USE PROTOCOL

Page 3 of 3

A City agency's system administrator and certain other agency staff have access to records, files and data belonging to City personnel. The system administrator and staff shall take reasonable precautions to avoid invading the privacy of individuals without their

knowledge; they shall not divulge or disclose any such information to others, unless disclosure is required by department policy or Federal law.

System Security

The City's system security is of the highest priority. System security is essential for the effective and efficient operation of the system. It is the responsibility of all users to help maintain the highest possible degree of system security. If a user discovers a security problem, that user should immediately report the problem to the system Administrator

Passwords

- Select passwords that are not easy to guess or to find using a password decoding program. A combination of 6 or more letters, cases, numbers or symbols should be selected.
- Keep the password confidential; do not write it down.
- Change passwords regularly.
- If a password has been lost, stolen, or has otherwise been obtained by another person, or if a user has any reason to believe that someone has obtained unauthorized access to their account, it is the responsibility of the user to immediately notify the system administrator. Clues to unauthorized access include, but are not limited to: strange files appearing in a directory, the system reporting log-ins when you were not using the system, or files or programs changing sizes or no longer functioning properly.

Remote Access Request Form



Name	Last 4 digits of SSN	Date
Bureau	Unit / Department	
Phone	Location	
Title	User Name (Required)	

REQUEST TYPE:	<input type="checkbox"/> Token	<input type="checkbox"/> Password	<input type="checkbox"/> Other Access:
NEW USER	<input type="checkbox"/> TEMPORARY USER		MODIFY EXISTING USER
<input type="checkbox"/> Yes **	Month	Day	Year
<input type="checkbox"/> No			
			<input type="checkbox"/> Delete User (Token must be returned to BTDS)
			<input type="checkbox"/> Re-instate Account

Please provide the justification for this request:

Please list any access requirement:

ACCESS RESTRICTIONS (For Internal Use Only)

Machine Name: _____

IP Address(es): _____

Other: _____

APPROVALS

Bureau Head or Designee:

Print Name _____ Signature _____ Date _____

BTDS Deputy Director of Networking or Designee:

Print Name _____ Signature _____ Date _____

BTDS Security Administrator or Designee:

Print Name _____ Signature _____ Date _____

BTDS Assistant Commissioner or Designee:

Print Name _____ Signature _____ Date _____

Help Desk Ticket #	Access ID	Created On	Created By
ID/Token Replaced	Reason:	New ID/Token:	Modified By

I have received the Token and the instructions on its appropriate use. I have read and fully understand the Electronic Communications Usage Policy (ECUSP VI) and agree to comply with all Fire Department and City of New York regulations contained therein.

Signature _____ Date _____

** This account will be terminated if not used in 3 months. Tokens must be returned to BTDS.

CHAPTER 4
TOOLS & EQUIPMENT

TOOLS & EQUIPMENT

1. All tools and equipment issued to employees must be signed for. Refer to Chapter 12, Forms; Personnel Issued Equipment Form. Storehouse personnel will fill out the form and the employee is responsible for signing it to indicate receipt.
2. Safeguard all tools and Department property.
3. In the event a tool or equipment is stolen.
 - a) Make an entry in the Fire Department journal at the location the loss occurred.
 - b) File a Police Report if you are certain it was stolen (rather than lost).
 - c) Notify your immediate supervisor.
 - d) File a Fire Department Lost Property Report, attaching the police report, if applicable. Refer to Chapter 12, Forms Section, Lost Property Form, Chapter 12 in the manual) and ask your immediate supervisor for a copy to file a report.
4. Use all Department tools and equipment in a safe and workmanship manner.
5. If you borrow a tool or piece of equipment from the storeroom, please return it when completed. Refer to Chapter 12, Equipment On Loan Form.
6. Fire Department tools and equipment are not to be used for personal use. No exceptions.
7. Read and follow all instruction safety manuals before operating tools and equipment.
8. If a tool or equipment is not in good working order, do not use it. Report it to your immediate supervisor for replacement or repair.
9. Required tools by skilled trades via contractual agreement are the sole responsibility of the employee.

CHAPTER 12

FORMS

Application for Leave

Civilian Medical Documentation Form

Weekly Credit for Overtime/Compensatory Time

Fire Department Buildings Unit Work or Repair Requisition (BB7)
BB7 Required (Letter to: Company Officer)

Materials Issue Form

Return To Stock Form

Personal Issue Equipment Form

Equipment on Loan Form

Weekly Time Report

Lost Property

Hazardous Materials Exposure Contamination Report

FIRE DEPARTMENT BUILDINGS UNIT

Lost Property

_____, 19____
(Date)

I request that responsibility for the loss of the following articles be investigated:

Number (In figures)	Articles	Manner Lost

I certify that all due care and precaution were taken of the above articles and that their loss was due to no neglect or carelessness on the part of any member of the Fire Department concerned.

MECHANIC'S SIGNATURE

_____, 19____
(Date)

I have personally investigated the loss of the above articles and find that _____

and therefore recommend that _____

FOREMAN'S SIGNATURE

SUPERVISOR OF MECHANICS

The foregoing recommendation of the Investigating Foreman is hereby _____

(Date)

DIRECTOR, FDBU

34 30

CHAPTER 13

CIVILIAN CODE OF CONDUCT

Fire Department, City of New York

Civilian Code of Conduct

For Managerial & Non-Managerial
Employees of the Fire Department




Fire Department, City of New York
Rudolph W. Giuliani, Mayor
Thomas Von Essen, Fire Commissioner

INTRODUCTION

The Charter and Administrative Code of the City of New York confer upon the Fire Commissioner certain authority and powers for governing employees of the New York City Fire Department. By virtue of this authority, and in the exercise of these powers, the Civilian Code of Conduct is hereby issued, as amended.

All civilian employees are responsible for compliance with the Code of Conduct. No order shall be issued which in any way conflicts with or alters the purpose or intent of any of its provisions, except by authority of the Fire Commissioner.



By order of
Thomas Von Essen
Fire Commissioner

January 2001

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Chapter 1

Civilian Code of Conduct

Employees of the Fire Department shall not:

1. Disobey any law, rule, regulation, order or instruction governing civilian personnel of the Department.
2. Engage in conduct tending to bring the City of New York, the Fire Department, or any other City agency into disrepute.
3. Engage in conduct prejudicial to the good order and discipline of the Department.
4. Use profane or uncivil language, or be discourteous or inconsiderate to the public or fellow employees.
5. Engage in disorderly or disruptive conduct, including verbal and/or physical altercations.
6. Perform assigned duties improperly or inefficiently, or neglect or refuse to perform duties.
7. Leave an assigned work location while on duty for any purpose other than official business, for a period greater than ten minutes, without the express authorization of a supervisor.
8. Be absent from duty except in accordance with applicable rules, regulations, written policies, directives, and collective bargaining agreements.
9. Be excessively or habitually late, tardy, or absent from work or assigned duties.
10. Punch a timecard or, except where authorized, otherwise record onto the time record of another employee.
11. Fail to notify his or her immediate supervisor of any planned absence or leave.
12. Malingering or feign illness, or shirk any lawful assignment.
13. Possess, indulge in, be impaired by, or be under the influence of alcohol during work hours.
14. Possess, indulge in, be impaired by, be under the influence, or sell marijuana or any controlled substance prohibited by the New York State Penal Law.
15. Falsify, alter and/or change, or knowingly create for the purpose of misrepresentation, any document, record, or form used for official business.
16. Engage in practices or activities that discriminate against others with regard to age, alienage, color, creed, disability, gender, national origin, prior record of arrest or conviction, race, religion, sexual orientation, marital status or genetic predisposition. *(See Chapter 2).*
17. Engage in practices or activities which constitute sexual harassment. *(See Chapter 3).*

18. Carry, possess, store or use any firearm while on duty without the express written authorization of the Fire Commissioner.
19. Fail to safeguard or use reasonable care in the operation, use and maintenance of all Department property.
20. Take or otherwise acquire Department property for other than job-related purposes.
21. Use any Department property or facilities for unauthorized purposes.
22. Engage in any type of gambling of any form while on duty or on Department property.
23. Borrow, take, or otherwise acquire money, property, services, or other things of value from a subordinate Department employee.
24. Lend or give money, property, services or other things of value to a Department employee of a higher rank, title, or position.
25. Fail to report his/her arrest and/or conviction to his or her immediate supervisor, and to the Bureau of Investigations and Trials at (718) 999-2432. Written notification of arrest must be made within two (2) business days of release from custody. Written notice of conviction must be made within five (5) business days of conviction.
26. Be convicted of any crime or violation of the New York State Penal Law or of any other legally recognized jurisdiction.
27. Violate the Fire Department's Public Speaking and Media Policy. (*See Chapter 6*).
28. **Reserved.**
29. Use Department letterhead, envelopes, or other Department stationery, except for official Department business.
30. Refuse to give first and last name, title and work unit to any member of the public with a legitimate interest for requesting information.
31. Make, possess, produce, procure, or use copies of any Department badges, identification cards, vehicle plaques, or other identifying materials.
32. Fail to immediately report to the supervisor the presence of any person on Department property known by the employee to be unauthorized.
33. Fail to report lost or stolen Department property to his or her immediate supervisor in writing, including but not limited to, badges, identification cards and vehicles.
34. Fail to report a change of home address and/or telephone number in writing to his or her immediate supervisor and the Bureau of Personnel Resources within (5) business days of such change.
35. Knowingly fail to report, in writing, to his or her immediate supervisor the receipt of a parking summons issued to a Department vehicle, or a moving violation issued during the operation of a Department vehicle within 48 hours of the receipt of such summons.

36. Fail to report immediately, in writing, to his/her supervisor, any accident or arrest resulting from use of a Department vehicle at any time, or from the use of any vehicle to conduct City business.
37. Operate any Department vehicle at any time, or any vehicle to conduct City business, while the subject of any open traffic or criminal matter involving the use of a vehicle.
38. Use Department issued vehicle identification plaques for purposes other than Department business.
39. Fail to report the loss or theft of a vehicle identification plaque, in writing, to the appropriate Department supervisor, and make notification to the local police precinct.
40. Engage in any business, transaction or private employment or have any financial or other private interest, direct or indirect, which is in conflict with the proper discharge of official duties. *(See Chapter 4).*
41. Violate the Conflicts of Interest Board provisions of the New York City Charter or any law, rule or regulation of the City of New York pertaining to the proper conduct of employees. *(See Chapter 4).*
42. Use or attempt to use his/her position with the Department to influence any political action by other employees or members of the public. *(See Chapter 5).*
43. Take an adverse personnel action in retaliation against another employee for reporting conduct which involves corruption, criminal activity, or conflict of interest.
44. Knowingly make a false statement or material omission regarding his/her background information when disclosing background information to the Department or other City entities.
45. Fail to file, if required to do so, by the required date, financial disclosure statements with the Department of Investigations and/or the Conflicts of Interest Board.
46. Disclose privileged or confidential departmental information except upon the approval of the Fire Commissioner or his or her designee who has the authority to approve release of such information, or where required by law or in accordance with a judicial order.
47. Remove from the Department or other City facility any official records, file, or documents of the Department, except in the course of official business.

Chapter 2

Equal Employment Opportunity Employer Statement

FDNY is an Equal Employment Opportunity Employer

FDNY is committed to full compliance with federal, state, and local laws prohibiting employment discrimination. Employment decisions in City government will be made on the basis of merit, fitness and equality of opportunity and without unlawful discrimination on the basis of:

- Age
- Alienage
- Color
- Creed
- Disability
- Gender
- National Origin
- Prior record of arrest or conviction
- Race
- Religion
- Sexual Orientation
- Marital Status
- Genetic Predisposition

In addition to providing protections on the basis of the above categories, some federal, state, and local laws protect persons who are discriminated against because they are perceived to be in a protected class. For example, a person who is denied a job because she/he is perceived to have a disability may file a complaint of disability discrimination even though that person actually has no disability. The same is true of persons who may be perceived to be in any of the above listed categories, including race, religion, etc.

Harassment based on a person's actual or perceived protected status is also prohibited. Thus, if a person is harassed because of skin color, for example, she/he is protected by this Policy, as well as by federal, state, and local anti-discrimination laws.

Consistent with the law, reasonable accommodations will be made for persons with disabilities and for religious observance.

These laws prohibit discrimination which affects:

- Recruitment
- Testing
- Hiring
- Work Assignments
- Discipline
- Salary and Benefits
- Performance Evaluations
- Promotions
- Training Opportunities
- Transfers
- Discharge
- Working Conditions

The New York City Fire Department is committed to preventing discrimination by ensuring that all employees are aware of their rights and obligations under this Policy and by encouraging work environments which appreciate and tolerate differences

among persons through regular anti-discrimination and bias reduction training. The New York City Fire Department will promote these objectives through regular anti-discrimination and bias reduction training.

When discrimination is suspected, employees are encouraged to use the Fire Department's complaint and investigation procedures. Any person found to be engaging in discriminatory conduct or practices will be subject to discipline which may include a reprimand, suspension, probation, demotion, transfer, termination, and any other measures calculated to eliminate illegal or inappropriate behavior. In addition to implementing such disciplinary action, the Fire Department shall take such steps as may be necessary to address the impact that any unlawful discrimination has had on the complainant.

An employee or applicant who believes that she/he has been discriminated against should contact the Fire Department's EEO Officer, who may be contacted at (718) 999-1448. The EEO Office is at 9 Metrotech Center, Room 1S-3, Brooklyn, New York 11201-3857. Any employee may instead choose to contact an EEO counselor for consultation and/or file a complaint. A list of the Equal Employment Opportunity Counselors and where they may be contacted is provided in the Discrimination Complaint Procedures, PAID 1-77R.

By order of

Thomas Von Essen
Fire Commissioner

Chapter 3

Sexual Harassment

POLICY STATEMENT

Sexual harassment which affects one's job is a form of employment discrimination prohibited by law. All Fire Department employees should familiarize themselves with the guidelines in this policy statement so that they understand what type of conduct is prohibited, and know the remedies available to anyone who has experienced sexual harassment.

Guidelines issued by the Equal Employment Opportunity Commission state that unwelcomed sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. Such conduct has the effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

These guidelines are not meant to interfere with voluntary social relationships between individuals in the workplace, but they do prohibit those actions and behaviors that are unwanted and unwelcomed and/or which create an intimidating and hostile work environment.

There is a broad range of conduct by supervisors and co-workers which can, in certain circumstances, be considered sexual harassment, and this includes, but is not limited to sexually suggestive remarks, sexually suggestive pictures, sexually suggestive gesturing, verbal harassment or abuse of a sexual nature, subtle or direct propositions for sexual favors, and any unnecessary touching, patting, or pinching.

Any manager or supervisor who knows of a sexually intimidating or hostile work environment or who becomes aware that the terms and conditions of an individual's employment are based upon submission to sexual conduct should consult with the EEO Officer immediately.

Any employee who has a complaint about sexual harassment is urged to contact the EEO Officer or an EEO Counselor. The Equal Opportunity Employment Officer is Lai-Sun Yee who may be contacted at (718) 999-1448. Her office is at 9 Metrotech Center, Room 1S-3, Brooklyn, New York 11201-3857. A list of EEO Counselors and where they may be contacted is provided in the Discrimination Complaint Procedure. Complaints of sexual harassment will be handled in accordance with Fire Department Equal Employment Opportunity Compliant Procedure.

All complaints will be handled in confidence. No employee may retaliate against or harass any person for filing a complaint or cooperating in the investigation of the complaint. Such retaliation or harassment is unlawful and will be cause for disciplinary action.

By order of

Thomas Von Essen
Fire Commissioner

Chapter 4

New York City Charter

Chapter 68

Conflicts of Interest

Section	2600	Preamble
	2601	Definitions
	2602	Conflicts of Interest
	2603	Powers and Obligations
	2604	Prohibited Interests and Conduct
	2605	Reporting
	2606	Penalties

Section 2600. Preamble.

Public service is a public trust. These prohibitions on the conduct of public servants are enacted to preserve the trust placed in the public servants of the city, to promote public confidence in government, to protect the integrity of government decision-making and to enhance government efficiency.

Section 2601. Definitions.

As used in this chapter,

1. "Advisory committee" means a committee, council, board or similar entity constituted to provide advice or recommendations to the city and having no authority to take a final action on behalf of the city or take any action which would have the effect of conditioning, limiting or requiring any final action by any other agency, or to take any action which is authorized by law.
2. "Agency" means a city, county, borough or other office, position, administration, department, division, bureau, board, commission, authority, corporation, advisory committee or other agency of government, the expenses of which are paid in whole or in part from the city treasury, and shall include but not be limited to, the council, the offices of each elected official, the board of education, community school boards, community boards, the financial services corporation, the health and hospitals corporation, the public development corporation, and the New York city housing authority, but shall not include any court or any corporation or institution maintaining or operating a public library, museum, botanical garden, arboretum, tomb, memorial building, aquarium, zoological garden or similar facility.
3. "Agency served by a public servant" means (a) in the case of a paid public servant, the agency employing such public servant or (b) in the case of an unpaid public servant, the agency employing the official who has appointed such unpaid public servant unless the body to which the unpaid public servant has been appointed does

not report to, or is not under the control of, the official or the agency of the official that has appointed the unpaid public servant, in which case the agency served by the unpaid public servant is the body to which the unpaid public servant has been appointed.

4. "Appear" means to make any communication, for compensation, other than those involving ministerial matters.
5. A person or firm "associated" with a public servant includes a spouse, domestic partner, child, parent or sibling; a person with whom the public servant has a business or other financial relationship; and each firm in which the public servant has a present or potential interest.
6. "Blind trust" means a trust in which a public servant, or the public servant's spouse, domestic partner, or unemancipated child, has a beneficial interest, the holdings and sources of income of which the public servant, the public servant's spouse, domestic partner, and unemancipated child have no knowledge, and which meets requirements established by rules of the board, which shall include provisions regarding the independent authority and discretion of the trustee, and the trustee's confidential treatment of information regarding the holdings and sources of income of the trust.
7. "Board" means the conflicts of interest board established by this chapter.
8. "Business dealings with the city" means any transaction with the city involving the sale, purchase, rental, disposition or exchange of any goods, services, or property, any license, permit, grant or benefit, and any performance of or litigation with respect to any of the foregoing, but shall not include any transaction involving a public servant's residence or any ministerial matter.
9. "City" means the city of New York and includes an agency of the city.
10. "Elected official" means a person holding office as mayor, comptroller, public advocate, borough president or member of the council.
11. "Firm" means sole proprietorship, joint venture, partnership, corporation and any other form of enterprise, but shall not include a public benefit corporation, local development corporation or other similar entity as defined by rule of the board.
12. "Interest" means an ownership interest in a firm or a position with a firm.
13. "Law" means state and local law, this charter, and rules issued pursuant thereto.
14. "Member" means a member of the board.
15. "Ministerial matter" means an administrative act, including the issuance of a license, permit or other permission by the city, which is carried out in a prescribed manner and which does not involve substantial personal discretion.
16. "Ownership interest" means an interest in a firm held by a public servant, or the public servant's spouse, domestic partner, or unemancipated child, which exceeds five percent of the firm or an investment of twenty-five thousand dollars in cash or other form of commitment, whichever is less, or five percent or twenty-five thousand dollars of the firm's indebtedness, whichever is less, and any lesser interest in a firm when the public servant, or the public servant's spouse, domestic partner, or unemancipated child exercises managerial control or responsibility regarding any

such firm, but shall not include interests held in any pension plan, deferred compensation plan or mutual fund, the investments of which are not controlled by the public servant, the public servant's spouse, domestic partner, or unemancipated child, or in any blind trust which holds or acquires an ownership interest. The amount of twenty-five thousand dollars specified herein shall be modified by the board pursuant to subdivision a of section twenty-six hundred three.

17. "Particular matter" means any case, proceeding, application, request for a ruling or benefit, determination, contract limited to the duration of the contract as specified therein, investigation, charge, accusation, arrest, or other similar action which involves a specific party or parties, including actions leading up to the particular matter, provided that a particular matter shall not be construed to include the proposal, consideration, or enactment of local laws or resolutions by the council, or any action on the budget or text of the zoning resolution.
18. "Position" means a position in a firm, such as an officer, director, trustee, employee, or any management position, or as an attorney, agent, broker, or consultant to the firm, which does not constitute an ownership interest in the firm.
19. "Public servant" means all officials, officers and employees of the city, including members of community boards and members of advisory committees, except unpaid members of advisory committees shall not be public servants.
20. "Regular employee" means all elected officials and public servants whose primary employment, as defined by rule of the board, is with the city, but shall not include members of advisory committees or community boards.
21.
 - a. "Spouse" means a husband or wife of a public servant who is not legally separated from such public servant.
 - b. "Domestic partner" means persons who have a registered domestic partnership pursuant to section 3-240 of the administrative code, a domestic partnership registered in accordance with executive order number 123, dated August 7, 1989, or a domestic partnership registered in accordance with executive order number 48, dated January 7, 1993.
22. "Supervisory official" means any person having the authority to control or direct the work of a public servant.
23. "Unemancipated child" means any son, daughter, step-son or step-daughter who is under the age of eighteen, unmarried and living in the household of the public servant.

Section 2602. Conflicts of interest board.

- a. There shall be a conflicts of interest board consisting of five members, appointed by the mayor with the advice and consent of the council. The mayor shall designate a chair.
- b. Members shall be chosen for their independence, integrity, civic commitment and high ethical standards. No person while a member shall hold any public office, seek election to any public office, be a public employee in any jurisdiction, hold any political party office, or appear as a lobbyist before the city.
- c. Each member shall serve for a term of six years; provided, however, that of the three members first appointed, one shall be appointed for a term to expire on March thirty-first, nineteen

hundred ninety, one shall be appointed for a term to expire on March thirty-first, nineteen hundred ninety-two and one shall be appointed for a term to expire on March thirty-first, nineteen hundred ninety-four, and of the remaining members, one shall be appointed for a term to expire on March thirty-first, nineteen hundred ninety-two and one shall be appointed for a term to expire on March thirty-first, nineteen hundred ninety-four. If the mayor has not submitted to the council a nomination for appointment of a successor at least sixty days prior to the expiration of the term of the member whose term is expiring, the term of the member in office shall be extended for an additional year and the term of the successor to such member shall be shortened by an equal amount of time. If the council fails to act within forty-five days of receipt of such nomination from the mayor, the nomination shall be deemed to be confirmed. No member shall serve for more than two consecutive six-year terms. The three initial nominations by the mayor shall be made by the first day of February, nineteen hundred eighty-nine and both later nominations by the mayor shall be made by the first day of March, nineteen hundred ninety.

- d. Members shall receive a per diem compensation, no less than the highest amount paid to an official appointed to a board or commission with the advice and consent of the council and compensated on a per diem basis, for each calendar day when performing the work of the board.
- e. Members of the board shall serve until their successors have been confirmed. Any vacancy occurring other than by expiration of a term shall be filled by nomination by the mayor made to the council within sixty days of the creation of the vacancy, for the unexpired portion of the term of the member succeeded. If the council fails to act within forty-five days of receipt of such nomination from the mayor, the nomination shall be deemed to be confirmed.
- f. Members may be removed by the mayor for substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office or violation of this section, after written notice and opportunity for a reply.
- g. The board shall appoint a counsel to serve at its pleasure and shall employ or retain such other officers, employees and consultants as are necessary to exercise its powers and fulfill its obligations. The authority of the counsel shall be defined in writing, provided that neither the counsel, nor any other officer, employee or consultant of the board shall be authorized to issue advisory opinions, promulgate rules, issue subpoenas, issue final determinations of violations of this chapter, or make final recommendations of or impose penalties. The board may delegate its authority to issue advisory opinions to the chair.
- h. The board shall meet at least once a month and at such other times as the chair may deem necessary. Two members of the board shall constitute a quorum and all acts of the board shall be by the affirmative vote of at least two members of the board.

Section 2603. Powers and obligations.

- a. *[Effective upon confirmation of members nominated by mayor pursuant to § 2602(c).] Rules.*

The board shall promulgate rules as are necessary to implement and interpret the provisions of this chapter, consistent with the goal of providing clear guidance regarding prohibited conduct. The board, by rule, shall once every four years adjust the dollar amount established in subdivision sixteen of section twenty-six hundred one of this chapter to reflect changes in the consumer price index for the metropolitan New York-New Jersey region published by the United States bureau of labor statistics.

- b. *[Effective upon confirmation of members nominated by mayor pursuant to § 2602(c).]* Training and education.
1. The board shall have the responsibility of informing public servants and assisting their understanding of the conflicts of interest provisions of this chapter. In fulfilling this responsibility, the board shall develop educational materials regarding the conflicts of interest provisions and related interpretive rules and shall develop and administer an on-going program for the education of public servants regarding the provisions of this chapter.
 2. The board shall provide training to all individuals who become public servants to inform them of the provisions of this chapter, shall assist agencies in conducting ongoing training programs, and shall make information concerning this chapter available and known to all public servants. On or before the tenth day after an individual becomes a public servant, such public servant must file a written statement with the board that such public servant has read and shall conform with the provisions of this chapter.
- c. *[Effective upon confirmation of members nominated by mayor pursuant to § 2602(c).]* Advisory opinions.
1. The board shall render advisory opinions with respect to all matters covered by this chapter. An advisory opinion shall be rendered on the request of a public servant or a supervisory official of a public servant and shall apply only to such public servant. The request shall be in such form as the board may require and shall be signed by the person making the request. The opinion of the board shall be based on such facts as are presented in the request or subsequently submitted in a written, signed document.
 2. Advisory opinions shall be issued only with respect to proposed future conduct or action by a public servant. A public servant whose conduct or action is the subject of an advisory opinion shall not be subject to penalties or sanctions by virtue of acting or failing to act due to a reasonable reliance on the opinion, unless material facts were omitted or misstated in the request for an opinion. The board may amend a previously issued advisory opinion after giving reasonable notice to the public servant that it is reconsidering its opinion; provided that such amended advisory opinion shall apply only to future conduct or action of the public servant.
 3. The board shall make public its advisory opinions with such deletions as may be necessary to prevent disclosure of the identity of any public servant or other involved party. The advisory opinions of the board shall be indexed by subject matter and cross-indexed by charter section and rule number and such index shall be maintained on an annual and cumulative basis.
 4. Not later than the first day of September, nineteen hundred ninety the board shall initiate a rulemaking to adopt, as interpretive of the provisions of this chapter, any advisory opinions of the board of ethics constituted pursuant to chapter sixty-eight of the charter heretofore in effect, which the board determines to be consistent with and to have interpretive value in construing the provisions of this chapter.
 5. For the purposes of this subdivision, public servant includes a prospective and former public servant, and a supervisory official includes a supervisory official who shall supervise a prospective public servant and a supervisory official who supervised a former public servant.

- d. [Effective upon confirmation of members nominated by mayor pursuant to § 2602(c).] Financial disclosure.
1. All financial disclosure statements required to be completed and filed by public servants pursuant to state or local law shall be filed by such public servants with the board.
 2. The board shall cause each statement filed with it to be examined to determine if there has been compliance with the applicable law concerning financial disclosure and to determine if there has been compliance with or violations of the provisions of this chapter.
 3. The board shall issue rules concerning the filing of financial disclosure statements for the purpose of ensuring compliance by the city and all public servants with the applicable provisions of financial disclosure law.
- e. Complaints.
1. The board shall receive complaints alleging violations of this chapter.
 2. Whenever a written complaint is received by the board, it shall:
 - (a) dismiss the complaint if it determines that no further action is required by the board; or
 - (b) refer the complaint to the commissioner of investigation if further investigation is required for the board to determine what action is appropriate; or
 - (c) make an initial determination that there is probable cause to believe that a public servant has violated a provision of this chapter; or
 - (d) refer an alleged violation of this chapter to the head of the agency served by the public servant, if the board deems the violation to be minor or if related disciplinary charges are pending against the public servant.
 3. For the purposes of this subdivision, a public servant includes a former public servant.
- f. Investigations.
1. The board shall have the power to direct the department of investigation to conduct an investigation of any matter related to the board's responsibilities under this chapter. The commissioner of investigation shall, within a reasonable time, investigate any such matter and submit a confidential written report of factual findings to the board.
 2. The commissioner of investigation shall make a confidential report to the board concerning the results of all investigations which involve or may involve violations of the provisions of this chapter, whether or not such investigations were made at the request of the board.
- g. Referral of matters within the board's jurisdiction.
1. A public servant or supervisory official of such public servant may request the board to review and make a determination regarding a past or ongoing action of such public servant. Such request shall be reviewed and acted upon by the board in the same manner as a complaint received by the board under subdivision e of this section.

2. Whenever an agency receives a complaint alleging a violation of this chapter or determines that a violation of this chapter may have occurred, it shall refer such matter to the board. Such referral shall be reviewed and acted upon by the board in the same manner as a complaint received by the board under subdivision e of this section.
 3. For the purposes of this subdivision, public servant includes a former public servant, and a supervisory official includes a supervisory official who supervised a former public servant.
- h. Hearings.
1. If the board makes an initial determination, based on a complaint, investigation or other information available to the board, that there is probable cause to believe that the public servant has violated a provision of this chapter, the board shall notify the public servant of its determination in writing. The notice shall contain a statement of the facts upon which the board relied for its determination of probable cause and a statement of the provisions of law allegedly violated. The board shall also inform the public servant of the board's procedural rules. Such public servant shall have a reasonable time to respond, either orally or in writing, and shall have the right to be represented by counsel or any other person.
 2. If, after receipt of the public servant's response, the board determines that there is no probable cause to believe that a violation has occurred, the board shall dismiss the matter and inform the public servant in writing of its decision. If, after the consideration of the response by the public servant, the board determines there remains probable cause to believe that a violation of the provisions of this chapter has occurred, the board shall hold or direct a hearing to be held on the record to determine whether such violation has occurred, or shall refer the matter to the appropriate agency if the public servant is subject to the jurisdiction of any state law or collective bargaining agreement which provides for the conduct of disciplinary proceedings, provided that when such a matter is referred to an agency, the agency shall consult with the board before issuing a final decision.
 3. If the board determines, after a hearing or the opportunity for a hearing, that a public servant has violated provisions of this chapter, it shall, after consultation with the head of the agency served or formerly served by the public servant, or in the case of an agency head, with the mayor, issue an order either imposing such penalties provided for by this chapter as it deems appropriate, or recommending such penalties to the head of the agency served or formerly served by the public servant, or in the case of an agency head, to the mayor; provided, however, that the board shall not impose penalties against members of the council, or public servants employed by the council or by members of the council, but may recommend to the council such penalties as it deems appropriate. The order shall include findings of fact and conclusions of law. When a penalty is recommended, the head of the agency or the council shall report to the board what action was taken.
 4. Hearings of the board shall not be public unless requested by the public servant. The order and the board's findings and conclusions shall be made public.
 5. The board shall maintain an index of all persons found to be in violation of this chapter, by name, office and date of order. The index and the determinations of probable cause and orders in such cases shall be made available for public inspection and copying.

6. Nothing contained in this section shall prohibit the appointing officer of a public servant from terminating or otherwise disciplining such public servant, where such appointing officer is otherwise authorized to do so; provided, however, that such action by the appointing officer shall not preclude the board from exercising its powers and duties under this chapter with respect to the actions of any such public servant.

7. For the purposes of this subdivision, the term public servant shall include a former public servant.

i. *[Effective upon confirmation of members nominated by mayor pursuant to § 2602(c).]* Annual report.

The board shall submit an annual report to the mayor and the council in accordance with section eleven hundred and six of this charter. The report shall include a summary of the proceedings and activities of the board, a description of the education, and training conducted pursuant to the requirements of this chapter, a statistical summary and evaluation of complaints and referrals received and their disposition, such legislative and administrative recommendations as the board deems appropriate, the rules of the board, and the index of opinions and orders of that year. The report, which shall be made available to the public, shall not contain information, which, if disclosed, would constitute an unwarranted invasion of the privacy of a public servant.

j. *[Effective upon confirmation of members nominated by mayor pursuant to § 2602(c).]* Revision.

The board shall review the provisions of this chapter and shall recommend to the council from time to time such changes or additions as it may consider appropriate or desirable. Such review and recommendation shall be made at least once every five years.

k. *[Effective upon confirmation of members nominated by mayor pursuant to § 2602(c).]*

Except as otherwise provided in this chapter, the records, reports, memoranda and files of the board shall be confidential and shall not be subject to public scrutiny.

Section 2604. Prohibited interests and conduct.

a. Prohibited interests in firms engaged in business dealings with the city.

1. Except as provided in paragraph three below,

(a) no public servant shall have an interest in a firm which such public servant knows is engaged in business dealings with the agency served by such public servant; provided, however, that, subject to paragraph one of subdivision b of this section, an appointed member of a community board shall not be prohibited from having an interest in a firm which may be affected by an action on a matter before the community or borough board, and

(b) no regular employee shall have an interest in a firm which such regular employee knows is engaged in business dealings with the city, except if such interest is in a firm whose shares are publicly traded, as defined by rule of the board.

2. Prior to acquiring or accepting an interest in a firm whose shares are publicly traded, a public servant may submit a written request to the head of the agency served by the

public servant for a determination of whether such firm is engaged in business dealings with such agency. Such determination shall be in writing, shall be rendered expeditiously and shall be binding on the city and the public servant with respect to the prohibition of subparagraph a of paragraph one of this subdivision.

3. An individual who, prior to becoming a public servant, has an ownership interest which would be prohibited by paragraph one above; or a public servant who has an ownership interest and did not know of a business dealing which would cause the interest to be one prohibited by paragraph one above, but has subsequently gained knowledge of such business dealing; or a public servant who holds an ownership interest which, subsequent to the public servant's acquisition of the interest, enters into a business dealing which would cause the ownership interest to be one prohibited by paragraph one above; or a public servant who, by operation of law, obtains an ownership interest which would be prohibited by paragraph one above shall, prior to becoming a public servant or, if already a public servant, within ten days of knowing of the business dealing, either:
 - (a) divest the ownership interest; or
 - (b) disclose to the board such ownership interest and comply with its order.
4. When an individual or public servant discloses an interest to the board pursuant to paragraph three of this subdivision, the board shall issue an order setting forth its determination as to whether or not such interest, if maintained, would be in conflict with the proper discharge of the public servant's official duties. In making such determination, the board shall take into account the nature of the public servant's official duties, the manner in which the interest may be affected by any action of the city, and the appearance of conflict to the public. If the board determines a conflict exists, the board's order shall require divestiture or such other action as it deems appropriate which may mitigate such a conflict, taking into account the financial burden of any decision on the public servant.
5. For the purposes of this subdivision, the agency served by
 - (a) an elected official, other than a member of the council, shall be the executive branch of the city government,
 - (b) a public servant who is a deputy mayor, the director of the office of management and budget, commissioner of citywide administrative services, corporation counsel, commissioner of finance, commissioner of investigation or chair of the city planning commission, or who serves in the executive branch of city government and is charged with substantial policy discretion involving city-wide policy as determined by the board, shall be the executive branch of the city government,
 - (c) a public servant designated by a member of the board of estimate to act in the place of such member as a member of the board of estimate, shall include the board of estimate, and
 - (d) a member of the council shall be the legislative branch of the city government.
6. For the purposes of subdivisions a and b of section twenty-six hundred six, a public servant shall be deemed to know of a business dealing with the city if such public servant should have known of such business dealing with the city.

b. Prohibited conduct.

1. A public servant who has an interest in a firm which is not prohibited by subdivision a of this section, shall not take any action as a public servant particularly affecting that interest, except that
 - (a) in the case of an elected official, such action shall not be prohibited, but the elected official shall disclose the interest to the conflicts of interest board, and on the official records of the council or the board of estimate in the case of matters before those bodies,
 - (b) in the case of an appointed community board member, such action shall not be prohibited, but no member may vote on any matter before the community or borough board which may result in a personal and direct economic gain to the member or any person with whom the member is associated, and
 - (c) in the case of all other public servants, if the interest is less than ten thousand dollars, such action shall not be prohibited, but the public servant shall disclose the interest to the board.
2. No public servant shall engage in any business, transaction or private employment, or have any financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his or her official duties.
3. No public servant shall use or attempt to use his or her position as a public servant to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant.
4. No public servant shall disclose any confidential information concerning the property, affairs or government of the city which is obtained as a result of the official duties of such public servant and which is not otherwise available to the public, or use any such information to advance any direct or indirect financial or other private interest of the public servant or of any other person or firm associated with the public servant; provided, however, that this shall not prohibit any public servant from disclosing any information concerning conduct which the public servant knows or reasonably believes to involve waste, inefficiency, corruption, criminal activity or conflict of interest.
5. No public servant shall accept any valuable gift, as defined by rule of the board, from any person or firm which such public servant knows is or intends to become engaged in business dealings with the city, except that nothing contained herein shall prohibit a public servant from accepting a gift which is customary on family and social occasions.
6. No public servant shall, for compensation, represent private interests before any city agency or appear directly or indirectly on behalf of private interests in matters involving the city. For a public servant who is not a regular employee, this prohibition shall apply only to the agency served by the public servant.
7. No public servant shall appear as attorney or counsel against the interests of the city in any litigation to which the city is a party, or in any action or proceeding in which the city, or any public servant of the city, acting in the course of official duties, is a complainant, provided that this paragraph shall not apply to a public servant employed

by an elected official who appears as attorney or counsel for that elected official in any litigation, action or proceeding in which the elected official has standing and authority to participate by virtue of his or her capacity as an elected official, including any part of a litigation, action or proceeding prior to or at which standing or authority to participate is determined. This paragraph shall not in any way be construed to expand or limit the standing or authority of any elected official to participate in any litigation, action or proceeding, nor shall it in any way affect the powers and duties of the corporation counsel. For a public servant who is not a regular employee, this prohibition shall apply only to the agency served by the public servant.

8. No public servant shall give opinion evidence as a paid expert against the interests of the city in any civil litigation brought by or against the city. For a public servant who is not a regular employee, this prohibition shall apply only to the agency served by the public servant.
9. No public servant shall,
 - (a) coerce or attempt to coerce, by intimidation, threats or otherwise, any public servant to engage in political activities, or
 - (b) request any subordinate public servant to participate in a political campaign. For purposes of this subparagraph, participation in a political campaign shall include managing or aiding in the management of a campaign, soliciting votes or canvassing voters for a particular candidate or performing any similar acts which are unrelated to the public servant's duties or responsibilities. Nothing contained herein shall prohibit a public servant from requesting a subordinate public servant to speak on behalf of a candidate, or provide information, or perform other similar acts, if such acts are related to matters within the public servant's duties or responsibilities.
10. No public servant shall give or promise to give any portion of the public servant's compensation, or any money, or valuable thing to any person in consideration of having been or being nominated, appointed, elected or employed as a public servant.
11. No public servant shall, directly or indirectly,
 - (a) compel, induce or request any person to pay any political assessment, subscription or contribution, under threat of prejudice to or promise of or to secure advantage in rank, compensation or other job-related status or function,
 - (b) pay or promise to pay any political assessment, subscription or contribution in consideration of having been or being nominated, elected or employed as such public servant or to secure advantage in rank, compensation or other job-related status or function, or
 - (c) compel, induce or request any subordinate public servant to pay any political assessment, subscription or contribution.
12. No public servant, other than an elected official, who is a deputy mayor, or head of an agency or who is charged with substantial policy discretion as defined by rule of the board, shall directly or indirectly request any person to make or pay any political assessment, subscription or contribution for any candidate for an elective office of the city or for any elected official who is a candidate for any elective office; provided that nothing contained in this paragraph shall be construed to prohibit such public servant

from speaking on behalf of any such candidate or elected official at an occasion where a request for a political assessment, subscription or contribution may be made by others.

13. No public servant shall receive compensation except from the city for performing any official duty or accept or receive any gratuity from any person whose interests may be affected by the public servant's official action.
14. No public servant shall enter into any business or financial relationship with another public servant who is a superior or subordinate of such public servant.
15. No elected official, deputy mayor, deputy to a citywide or boroughwide elected official, head of an agency, or other public servant who is charged with substantial policy discretion as defined by rule of the board may be a member of the national or state committee of a political party, serve as an assembly district leader of a political party or serve as the chair or as an officer of the county committee or county executive committee of a political party, except that a member of the council may serve as an assembly district leader or hold any lesser political office as defined by rule of the board.

c. This section shall not prohibit:

1. an elected official from appearing without compensation before any city agency on behalf of constituents or in the performance of public official or civic obligations;
2. a public servant from accepting or receiving any benefit or facility which is provided for or made available to citizens or residents, or classes of citizens or residents, under housing or other general welfare legislation or in the exercise of the police power;
3. a public servant from obtaining a loan from any financial institution upon terms and conditions available to members of the public;
4. any physician, dentist, optometrist, podiatrist, pharmacist, chiropractor or other person who is eligible to provide services or supplies under title eleven of article five of the social services law and is receiving any salary or other compensation from the city treasury, from providing professional services and supplies to persons who are entitled to benefits under such title, provided that, in the case of services or supplies provided by those who perform audit, review or other administrative functions pursuant to the provisions of such title, the New York state department of health reviews and approves payment for such services or supplies and provided further that there is no conflict with their official duties; nothing in this paragraph shall be construed to authorize payment to such persons under such title for services or supplies furnished in the course of their employment by the city;
5. any member of the uniformed force of the police department from being employed in the private security field, provided that such member has received approval from the police commissioner therefor and has complied with all rules and regulations promulgated by the police commissioner relating to such employment;
6. a public servant from acting as attorney, agent, broker, employee, officer, director or consultant for any not-for-profit corporation, or association, or other such entity which operates on a not-for-profit basis, interested in business dealings with the city, provided that:
 - (a) such public servant takes no direct or indirect part in such business dealings;

- (b) such not-for-profit entity has no direct or indirect interest in any business dealings with the city agency in which the public servant is employed and is not subject to supervision, control or regulation by such agency, except where it is determined by the head of an agency, or by the mayor where the public servant is an agency head, that such activity is in furtherance of the purposes and interests of the city;
 - (c) all such activities by such public servant shall be performed at times during which the public servant is not required to perform services for the city; and
 - (d) such public servant receives no salary or other compensation in connection with such activities;
7. a public servant, other than elected officials, employees in the office of property management of the department of housing preservation and development, employees in the department of citywide administrative services who are designated by the commissioner of such department pursuant to this paragraph, and the commissioners, deputy commissioners, assistant commissioners and others of equivalent ranks in such departments, or the successors to such departments, from bidding on and purchasing any city-owned real property at public auction or sealed bid sale, or from purchasing any city-owned residential building containing six or less dwelling units through negotiated sale, provided that such public servant, in the course of city employment, did not participate in decisions or matters affecting the disposition of the city property to be purchased and has no such matters under active consideration. The commissioner of citywide administrative services shall designate all employees of the department of citywide administrative services whose functions relate to citywide real property matters to be subject to this paragraph; or
8. a public servant from participating in collective bargaining or from paying union or shop fees or dues or, if such public servant is a union member, from requesting a subordinate public servant who is a member of such union to contribute to union political action committees or other similar entities.
- d. Post-employment restrictions.
- 1. No public servant shall solicit, negotiate for or accept any position (i) from which, after leaving city service, the public servant would be disqualified under this subdivision, or (ii) with any person or firm who or which is involved in a particular matter with the city, while such public servant is actively considering, or is directly concerned or personally participating in such particular matter on behalf of the city.
 - 2. No former public servant shall, within a period of one year after termination of such person's service with the city, appear before the city agency served by such public servant; provided, however, that nothing contained herein shall be deemed to prohibit a former public servant from making communications with the agency served by the public servant which are incidental to an otherwise permitted appearance in an adjudicative proceeding before another agency or body, or a court, unless the proceeding was pending in the agency served during the period of the public servant's service with that agency. For the purposes of this paragraph, the agency served by a public servant designated by a member of the board of estimate to act in the place of such member as a member of the board of estimate, shall include the board of estimate.

3. No elected official, nor the holder of the position of deputy mayor, director of the office of management and budget, commissioner of citywide administrative services, corporation counsel, commissioner of finance, commissioner of investigation or chair of the city planning commission shall, within a period of one year after termination of such person's employment with the city, appear before any agency in the branch of city government served by such person. For the purposes of this paragraph, the legislative branch of the city consists of the council and the offices of the council, and the executive branch of the city consists of all other agencies of the city, including the office of the public advocate.
4. No person who has served as a public servant shall appear, whether paid or unpaid, before the city, or receive compensation for any services rendered, in relation to any particular matter involving the same party or parties with respect to which particular matter such person had participated personally and substantially as a public servant through decision, approval, recommendation, investigation or other similar activities.
5. No public servant shall, after leaving city service, disclose or use for private advantage any confidential information gained from public service which is not otherwise made available to the public; provided, however, that this shall not prohibit any public servant from disclosing any information concerning conduct which the public servant knows or reasonably believes to involve waste, inefficiency, corruption, criminal activity or conflict of interest.
6. The prohibitions on negotiating for and having certain positions after leaving city service, shall not apply to positions with or representation on behalf of any local, state or federal agency.
7. Nothing contained in this subdivision shall prohibit a former public servant from being associated with or having a position in a firm which appears before a city agency or from acting in a ministerial matter regarding business dealings with the city.

e. Allowed positions.

A public servant or former public servant may hold or negotiate for a position otherwise prohibited by this section, where the holding of the position would not be in conflict with the purposes and interests of the city, if, after written approval by the head of the agency or agencies involved, the board determines that the position involves no such conflict. Such findings shall be in writing and made public by the board.

Section 2605. Reporting.

No public servant shall attempt to influence the course of any proposed legislation in the legislative body of the city without publicly disclosing on the official records of the legislative body the nature and extent of any direct or indirect financial or other private interest the public servant may have in such legislation.

Section 2606. Penalties.

- a. Upon a determination by the board that a violation of section twenty-six hundred four or twenty-six hundred five of this chapter, involving a contract, work, business, sale or transaction, has occurred, the board shall have the power, after consultation with the head of the agency involved, or in the case of an agency head, with the mayor, to render forfeit and void the transaction in question.

- b. Upon a determination by the board that a violation of section twenty-six hundred four or twenty-six hundred five of this chapter has occurred, the board, after consultation with the head of the agency involved, or in the case of an agency head, with the mayor, to impose fines of up to ten thousand dollars, and to recommend to the appointing authority, or person or body charged by law with responsibility for imposing such penalties, suspension or removal from office or employment.

- c. Any person who violates section twenty-six hundred four or twenty-six hundred five of this chapter shall be guilty of a misdemeanor and, on conviction thereof, shall forfeit his or her public office or employment. Any person who violates paragraph ten of subdivision b of section twenty-six hundred four, on conviction thereof, shall additionally be forever disqualified from being elected, appointed or employed in the service of the city. A public servant must be found to have had actual knowledge of a business dealing with the city in order to be found guilty under this subdivision, of a violation of subdivision a of section twenty-six hundred four of this chapter.

- c. Notwithstanding the provisions of subdivisions a, b and c of this section, no penalties shall be imposed for a violation of paragraph two of subdivision b of section twenty-six hundred four unless such violation involved conduct identified by rule of the board as prohibited by such paragraph.

Chapter 5

New York State Election Law

Section 17-158. Corrupt use of position or authority

Any person who:

1. While holding public office, or being nominated or seeking a nomination therefor, corruptly uses or promises to use, directly, or indirectly, any official authority or influence possessed or anticipated, in the way of conferring upon any person, or in order to secure, or aid any person in securing, any office or public employment, or any nomination, confirmation, promotion or increase of salary, upon consideration that the vote or political influence or action of the person so to be benefited or of any other person, shall be given or used in behalf of any candidate, officer or party or upon any other corrupt condition or consideration; or,
2. Being a public officer or employee of the state or a political subdivision having, or claiming to have, any authority or influence affecting the nomination, public employment, confirmation, promotion, removal or increase or decrease of salary of any public officer or employee, promises or threatens to use, any such authority or influence, directly or indirectly to affect the vote or political action of any such public officer or employee, or on account of the vote or political action of such officer or employee; or,
3. Makes, tenders or offers to procure, or cause any nomination or appointment for any public office or place, or accepts or requests any such nomination or appointment, upon the payment or contribution of any valuable consideration, or upon an understanding or promise thereof; or,
4. Makes any gift, promise or contribution to any person, upon the condition or consideration of receiving an appointment or election to a public office or a position of public employment, or for receiving or retaining any such office or position, or promotion, privilege, increase of salary or compensation therein, or exemption from removal or discharge therefrom,

is guilty of a felony.

Chapter 6

Public Speaking and Media Policy

1. **Statement Made in the Employee's Official Capacity**

Any employee of the Fire Department, other than an employee duly authorized to make statements on behalf of the Fire Department, who intends to make a statement before a governmental agency, private organization or the media in an **official capacity** regarding Department policy and operations, must first obtain approval to make the statement from a duly designated supervisor. In addition, a copy of the statement, if it is in written form, or a summary of the statement, if provided in oral form, shall be forwarded to the Deputy Commissioner for Public Information not later than 72 hours after the statement is made. The written statement or summary of oral statement shall be attached to a cover memorandum containing: (a) the name of the employee who made the statement; (b) the name of the supervisor who gave prior approval; (c) the date such statement was made; and (d) the name of the person, agency or organization to which the statement was made.

2. **Statement Made in the Employee's Non-Official Capacity**

Any employee who makes a statement to a governmental agency, private organization or the media in a **non-official capacity** regarding Department policy and operations shall communicate to his or her audience that the statement is not being made in the employee's official capacity and that such statement represents solely the employee's opinions and does not necessarily represent the official position of the Fire Department. Such statement, whether written or oral, shall be made on the employee's own time and not on City time.

3. **Statements Made in Violation of Law**

All employees are prohibited from making statements, orally or in writing, in violation of applicable law, including but not limited to, any law governing disclosure of confidential information gained from public service, or protecting the confidentiality of medical information.