

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**MICHAEL L. SHAKMAN and  
PAUL M. LURIE, *et al.*,  
Plaintiffs,**

**V.**

**DEMOCRATIC ORGANIZATION OF  
COOK COUNTY, *et al.*,  
Defendants.**

**Case No. 69 C 2145**

# Wayne R. Andersen

**United States District Court Judge**

## DECEMBER 18, 2007 REPORT OF THE MONITOR

The Monitor, Noelle C. Brennan (“Monitor”), by and through her counsel, Ines Monte and Beth A. Davis of the law firm of Brennan & Monte, Ltd., submits this Report of the Monitor pursuant to the Order of the Court entered on August 2, 2005 and pursuant to the *Agreed Settlement Order and Accord* entered on May 31, 2007.

On August 2, 2005, the Court appointed the Monitor “to ensure future compliance” with the Court’s prior orders in *Shakman, et al. v. The Democratic Organization of Cook County, et al.*, Case No. 69 C 2145, in response to the Plaintiffs’ Application to Hold the City of Chicago and its Mayor in Civil Contempt for Violations of the Court Orders (“Plaintiffs’ Application for Contempt”). In order to resolve the Plaintiffs’ Application for Contempt and various other pending motions, the parties agreed to and the Court entered an *Agreed Settlement Order and Accord* (the “*Accord*”) on May 31, 2007. The *Accord* provides that the Monitor shall prepare and file semi-annual reports with the Court regarding ongoing compliance efforts by the City. This Report constitutes the first semi-annual report and the Monitor’s year-end report for 2007.

Following her initial appointment on August 2, 2005, the Monitor issued her “First Report” concluding, in part, that the City had been substantially non-compliant with many of the Shakman provisions for a significant period of time, and including “Recommendations for Immediate Implementation” to increase the City’s compliance with the Court’s previous Orders. The City implemented and/or agreed to implement many of the recommendations and those recommendations were incorporated into a Court Order entered on November 2, 2005. Since the September 6, 2005 First Report, the Monitor and her counsel have filed several status reports outlining some of the work conducted by the Monitor’s office, including an Annual Report of the Monitor for 2006. *See Appendix A.*

The Monitor's Annual Report for 2006 concluded, in part, that the City's compliance with the *Shakman* Decree had significantly increased since September of 2005. The 2006 Report also noted that the City's Department of Human Resources ("DHR") was screening all applicants and creating all referral lists and that "[t]he hiring departments no longer submit names of candidates to DHR or add names to referral lists." See Appendix A at page 2.

Since that filing, the Monitor has uncovered isolated instances in which certain hiring departments did, in fact, submit names of candidates to DHR and sought to, or actually did, add those names to referral/interview lists. Moreover, although the Monitor has not uncovered the *type* of wholesale overt manipulation of interviews presented in the criminal trial of *USA v. Sorich*, et al., other, more subtle, types of manipulations of the hiring process have surfaced. Thus, whereas the City's compliance had substantially increased during 2006, the same cannot be said for the City's compliance in 2007. Nevertheless, the City's overall compliance as compared to pre-2005 still shows a marked improvement over the conditions reported on in September of 2005.

This Report provides: (1) an overview of several key activities conducted by the Monitor and her staff pursuant to the *Accord*; (2) a description of systemic compliance initiatives; (3) a summary of specific violations and corrective actions undertaken in 2007; and (4) compliance deficiencies requiring immediate redress.

## **I. KEY ACTIVITIES OF MONITOR IN 2007**

The May 31, 2007 *Accord* supersedes and replaces the 1983 *Shakman* Consent Judgment. The 1972 *Shakman* Consent Judgment remains in effect. Under the *Accord*, the City continues to be prohibited from basing employment decisions on political reasons or factors. The Court retains jurisdiction for ensuring compliance with the *Accord* and the Monitor shall continue to engage in active oversight of the City's hiring and employment practices for the duration of the *Accord*. In addition to the Monitor's continuing oversight of the City's employment practices, under the *Accord*, the Monitor is to facilitate the development of the City's New Hiring Plan and adjudicate claims submitted by alleged victims of patronage and issue awards from a \$12 million settlement fund.

Additionally, the *Accord* provides that it will terminate on or after December 31, 2008 if the Court finds that the City is in substantial compliance with its terms. "Substantial Compliance" is defined as being met if the City can demonstrate that:

- 1) the City has implemented the New Plan, including procedures to ensure compliance with the New Plan and identify instances of non-compliance;
- 2) the City has acted in good faith to remedy instances of non-compliance that have been identified, and prevent a recurrence;

3) the City does not have a policy, custom or practice of making employment decisions based on political factors except for positions that are exempt under the *Accord*;

4) the absence of material noncompliance which frustrates the *Accord*'s essential purpose. The [Monitor] and the Court may consider the number of post-*Accord* complaints that the Inspector General found to be valid. However, technical violations or isolated incidents of noncompliance shall not be a basis for a finding that the City is not in substantial compliance; and

5) the City has implemented procedures that will effect long-term prevention of the use of impermissible political considerations in connection with City employment. *See Accord*, Section I.G.(8).

The City may initiate a Substantial Compliance review on or after December 31, 2008. To do so, the City must submit a Certification by the Commissioner of the Department of Human Resources stating that she finds the City in Substantial Compliance with the *Accord*. The City must also submit a Declaration by the Mayor stating that he believes the City is in Substantial Compliance with the *Accord*. Within thirty days thereafter, the Monitor must advise the Court whether, in her opinion, the City is or is not in Substantial Compliance with the *Accord*. If, in the Monitor's opinion, Substantial Compliance has not been achieved, the City may request a hearing. If, after such hearing, the Court finds that the Monitor's opinion is contrary to the "preponderance of the evidence," then the Court shall terminate the *Accord*. If, after such a hearing, the Court does not terminate the *Accord*, it shall remain in effect and the City may re-initiate the Substantial Compliance review in six months.

#### **A. Adjudication of Claims**

The *Accord* requires the City to establish a \$12 million fund to compensate Class Members for any and all injuries arising out of alleged violations of the 1972 or 1983 *Shakman* Consent Decrees between the period of January 1, 2000 and May 31, 2007.<sup>1</sup> Individuals seeking to recover a monetary award from the Claim Fund were required to complete and submit a signed Claim Form and Release to the Monitor's office by September 28, 2007. Each Claim Form was to include a sworn statement setting forth the individual's claims including: 1) the date of the alleged violation; 2) a description of the violation; 3) a description of the damages suffered; and 4) certain identifying information. Pursuant to the *Accord*, within ninety days thereafter the Monitor is to assess whether each Claimant is eligible for relief under the Claim Fund and, if so, the amount of relief to be awarded.

To date, the number of Claim Forms received totals approximately fifteen hundred. In assessing any award amount for each eligible Claim Form, the Monitor is to

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<sup>1</sup> There is a separate complaint and remedial process administered by the City of Chicago's Inspector General's Office for individuals that allege violations of the prohibition against patronage practices occurring after May 31, 2007.

consider all relevant factors and evidence regarding a particular claim, including, but not limited to: 1) the ratio of applicants to the actual number of positions filled; 2) the facts presented regarding the alleged violation; 3) the salary of the position sought; 4) the economic benefit of the action at issue and number of eligible recipients; 5) the strength of the evidence presented; 6) the amount of the Claim Fund; and 7) the number of claims submitted.

As Claim Forms were submitted to the Monitor's office, each Claim Form was logged into a computer system with certain tracking information including the following: an individual claim number; the name and social security number of the claimant; contact information; the date the Claim Form was received; and the department in which the alleged violation occurred. In addition, single page questionnaires were completed that summarized the nature of the complaint; the decision-maker accused of patronage; the beneficiary of the violation; whether the claimant complained previously to the Monitor's office (or the City); whether the complaint was within the liability period of January 2000 to May 31, 2007; whether the required documents were signed; and what, if any, other information the Monitor's office already possessed about the individuals or hiring sequences implicated.

At the close of the submission period, the Monitor and her counsel began conducting initial reviews and assessments of each Claim Form. The Claim Forms were initially separated by department (i.e., Aviation, Streets and Sanitation) and then assigned to a particular attorney. The initial review consists of determining whether the claimant alleges a timely violation against the City; the number of hiring sequences complained of; the type of hiring sequences (e.g., whether they are high volume "laborer" positions or low volume "general foreman" positions); the strength of any evidence presented (e.g., documents demonstrating that claimant applied for and was qualified for a particular position); and the specificity of the patronage evidence. The initial review also includes determining whether independent evidence relevant to the alleged violation exists. For example, were the complained of sequence(s) discussed in the testimony and/or exhibits from the *Sorich* trial? Did the Monitor's own investigations uncover evidence of improper practices during a particular hiring sequence? Did representatives from the Monitor's office attend interviews or tests regarding the complained of sequence? Does the complained of sequence involve individuals accused of wrongdoing in other instances? Finally, the initial review assesses whether the *complainant* was the beneficiary of patronage in other instances. Based on an analysis of the above-described information, each Claim Form is preliminarily assigned to one of five tiers. Tier One contains the weakest claims and Tier Five contains the strongest claims.

After the initial reviews are completed for each Claim Form, the Claim Forms will be reassessed to determine what, if any, additional investigation is required. Additional investigation methods may include: examining work histories; examining hiring packets, including eligibility lists, referral lists and interview rating forms; conducting interviews of complainants; and conducting interviews of other individuals with knowledge. Ultimately, assignment of monetary awards for each Claim Form will be based on an amalgamation of all relevant evidence.

Pursuant to the *Accord*, within ninety days of the Claim Form deadline the Monitor is to determine whether each claimant is eligible for recovery and if so, the specific monetary award for each eligible claimant. The deadline for these determinations is currently December 27, 2007. In light of the large number of Claim Forms received, however, the Monitor anticipates seeking an extension of ninety days from the Court. The motion for extension shall be filed before December 27, 2007.

## **B. Development of New Hiring Plan**

Pursuant to the *Accord*, the Monitor and her counsel have performed a substantial amount of work facilitating the development of a new hiring plan to replace the City's previous Detailed Hiring Provisions (the "New Plan"). The Monitor's work on the development of the New Plan, however, began well before the final entry of the *Accord*. In January of 2007, the Monitor and her counsel participated in the first of several in-depth meetings with City officials and a group of private consultants from Hewitt Associates retained by the City of Chicago's Law Department to draft the City's new hiring plan. The Monitor provided detailed input to these individuals, both verbally and in writing, regarding the key principles that should guide the formulation of the City's new hiring plan. These included recommendations that the City decrease its reliance on the interview process for selecting candidates in favor of an objective selection process utilizing written tests, skills tests, and lotteries where appropriate; streamline the job application process and create a more uniform and objective system for scoring applicants as minimally qualified for various positions; establish an effective recruiting component within the City's Department of Human Resources to attract and select the most qualified candidates for more specialized positions; and finally, that the City establish an effective monitoring system to minimize unlawful political patronage through the use of random auditing and monitoring of hiring decisions, on-going audits of compliance with the New Plan, and effective measures to detect and respond to any non-compliance.

Over the next several months, the Monitor, her counsel, City officials and representatives from Hewitt Associates continued to have regular meetings to discuss the content of the hiring plan. By late April of 2007, Hewitt Associates produced a highly technical report regarding a redesign of the City's hiring systems. This technical report proved to be somewhat cumbersome and the City, the Plaintiffs and the Monitor were all concerned that it would result in an ineffective replacement for the City's Detailed Hiring Provisions. Accordingly, with the consent of the parties, the Monitor and her counsel drafted and submitted a new hiring plan document in mid-May for the City and Plaintiff's review. Additional extensive deliberation, discussion, and redrafting continued regarding the various components within this new plan. The parties and the Monitor eventually reached agreement on the majority of components to be included within the City's redesigned hiring plan. These agreed upon components are reflected in the City's proposed "New Plan" which was filed with the Court on August 16, 2007.

The City's filing, however, failed to include two important features that had been strongly recommended by the Monitor and the Plaintiffs: (1) the placement of monitoring

and auditing of the City's compliance with the New Plan in the existing Audit Division of the Inspector General's Office; and (2) the requirement that all contacts by Alderman, the Mayor's Office or any other elected officials regarding the employment of a particular job seeker or employee remain transparent and reported. As required by the *Accord*, on September 27, 2007, the Monitor filed a detailed written report to the Court regarding the nature of these disputed issues along with recommendations for resolution of these issues for the Court's determination. The City's proposed New Plan, along with the Monitor's recommendations and the written response of the Plaintiffs and others, remain pending before the Court.

The City is currently in the process of implementing the agreed upon components of the New Plan. Part of this implementation involves the development and launch of its new "CAREERS" online job site. The new "CAREERS" online job site has been redesigned to: (1) give applicants better control of their application information, including immediate access to the status of their pending job applications, (2) provide "real-time" notification to applicants if they do not meet the minimum requirements for positions; (3) improve tracking capabilities for the City's overall hiring process; and (4) create a fully automated application system that should eventually lead to more effective and efficient hiring in the City and that should allow for the meaningful audit of the City's employment practices. The City is still transitioning from its previous on-line application and paper system to its new CAREERS system, which is still in development. Screening of "old" on-line applications that were "in process" when the new CAREERS system was recently launched has not been completed. The design, analysis, configuration, test and launch of the CAREERS system for all positions across the City are also still in process.

The City, the Monitor and her counsel have also been involved in other on-going projects required by the redesign of the City's hiring processes. For example, the Monitor has strongly supported the use of effective skills and/or knowledge tests to identify the most qualified applicants for certain positions in City government. The City's proposed New Plan adopts this principle and reflects an increased reliance on objective testing in the hiring process. However, the New Plan does not yet include the essential comprehensive list of job titles that will actually be filled with the use of such tests. The Monitor has pressed for the completion of a comprehensive job analysis of positions across the City. Such a job analysis is crucial for both designing and implementing any tests to fill various positions across the City. The Monitor and the City anticipate supplementing the New Plan with the actual titles that will be filled with the use of tests after the City completes its job audit.

As also noted in the New Plan presented by the City to the Court on August 16, 2007, a specific hiring process for sworn and uniformed titles in the City's Police and Fire Departments remains to be developed and presented for Court approval. Historically, the City has used outside vendors for the development and administration of tests to establish eligibility and promotion lists for various sworn and uniformed titles in these departments. These hiring processes have not been problem-free. For example, in June of 2007, the Monitor's office received several complaints regarding alleged



problems with the Police Lieutenant Oral Examination that had been administered without notice to the Monitor in January of 2007. In mid-June, the City scheduled a “redo” of this oral examination that was open to all previous test-takers and that would use the same questions from the previous exam. The Monitor’s office received complaints alleging that individuals with political connections might have access to the correct answers for purposes of the redo. The Monitor’s office raised concerns about the possibility of manipulation of the hiring process directly to the Mayor’s office and the Department of Law, and requested that the City consider an alternative resolution. The City declined and proceeded with the “redo” using the previous questions.

Other potential problems with the hiring processes in the City’s Fire and Police Departments continue to surface. As noted in the Monitor’s Annual Report for 2006, some problems involve the testing process used for selecting fire battalion chiefs and other supervisory level employees in the City’s Fire Department and the use of merit promotions for police officers. All of these areas will require close attention during the development of the new hiring plan for these two departments.

### **C. Ongoing Monitoring of Hiring Processes**

As described in the 2006 Annual Report, the Monitor’s activities continue to include information gathering and active oversight of the City’s hiring process. The Monitor and her staff continue to meet on a weekly basis with officials from the City of Chicago to discuss a variety of hiring-related issues, including ongoing efforts to improve the hiring process and any recently identified hiring irregularities. The Monitor and her staff have developed a system whereby the City is informed of any problematic hiring sequences and/or practices during the weekly meetings and/or through memorandum or letters.

#### **1. Overseeing Interviews and Tests**

Much of the information regarding problematic hires, promotions and/or processes continues to be gleaned from the Monitor staff’s presence at interviews and tests. As previously reported, individuals from the Monitor’s staff attend interviews to help ensure that there is no collusion in scoring; that rating sheets are filled out individually; and that each applicant is treated fairly and questioned consistently. Moreover, at the conclusion of each interview series, all rating sheets are collected and copied so that there can be no alterations after the conclusion of the interview process. After each interview series, a memo is prepared identifying any pertinent information and is shared with the rest of the Monitor’s staff.

Since the Annual Report filed on December 4, 2006, more than 1820 interviews have been audited. In total, the percentage of the interviews audited by the Monitor’s staff is approximately 30% of the interviews conducted by the City overall.

**INFRASTRUCTURE DEPARTMENT INTERVIEWS AUDITED**

AVIATION	316
FLEET	14
GENERAL SERVICES	32
STREETS AND SANITATION	12
TRANSPORTATION	34
WATER MANAGEMENT	142

**OTHER CITY DEPARTMENT INTERVIEWS AUDITED**

Administrative Hearings	11	Animal Care and Control	4
BIS	15	Budget Management	13
Buildings	33	Business Affairs and Licensing	85
CYS	55	City Clerk	60
Construction and Permits	14	Consumer Services	10
Cultural Affairs	13	Environment	12
Finance	19	Fire	74
Graphics	4	Health	43
Housing	85	Human Relations	8
Human Resources	93	Human Services	32
Library	4	Mayor's Office	1
MOPD	4	MOSE	43
MOWD	5	OEMC	118
OMP	17	Planning	39
Police	252	Procurement	15
Revenue	86	Zoning	4

In addition, approximately 1775 tests have been audited by the Monitor's staff since the Annual Report was filed on December 4, 2006. As explained above, at the Monitor's suggestion, the City has started the process of replacing and/or supplementing interviews with tests in order to help ensure that the best qualified candidates are selected. The tests audited range from mass group exercises at the Mayor's Office of Special Events and Police, to MTD driving tests and trade specific exams given as part of the new Foreman Promotional Process.

**CITY DEPARTMENT TESTS AUDITED**

AVIATION	91
FLEET	41
MOSE	850
POLICE	550
STREETS AND SANITATION	144
TRANSPORTATION	8
WATER	90



## 2. Auditing Hiring Documents

Aside from overseeing interviews and tests, a member of the Monitor's staff continues to be based at the City's Department of Human Resources on a full time basis. This role is critical for identifying and investigating irregularities in the hiring process. Duties performed by this individual include: a thorough examination of each referral list sent to each department, including reviewing the criteria for each position to be filled; comparing the minimum requirements to the job descriptions; reviewing and assessing any changes to the minimum requirements and/or hiring/screening criteria; ensuring that positions are posted for the requisite period of time; verifying use of and fairness of the lottery process; ensuring all applicants for given position are scored; reviewing history of eligibility list; reviewing DHR analysts' screening data and assessments; verifying removal of any political references on candidates' resumes; and investigating any prior rejections of other referral lists. Similarly, when reviewing hiring packets for the selected candidates, the Monitor's DHR auditor examines each packet to ensure *Shakman* certifications are complete; the rating sheets are complete; information on the rating sheets is consistent with the selection made; the selected candidate's resume supports the selection choice; the memos and notes from the interviews support the selection choice and that no other irregularities occurred during the selection process. When the vacant position involves a test, the DHR auditor reviews the test results and ensures the test results are consistent and accurate.

## 3. Processing Complaints

Finally, the Monitor's office continues to receive a fair number of complaints regarding alleged *Shakman* violations, including allegations of rigged interviews and of violations of the City's Acting-up policy. To date, the Monitor's office has received more than 685 complaints for review. The *Accord* provides that complaints of patronage practices occurring after May of 2007 should be presented to the Inspector General's Office for investigation. In light of the Monitor's and the Inspector General's respective but overlapping mandates, each newly received complaint is reviewed for appropriate action. First, the Monitor's office advises each new complainant that he or she should contact the Inspector General's office directly. Second, a determination is made regarding whether the complaint falls under the jurisdiction of the Inspector General, the Monitor or both. For example, a complaint alleging a rigged hiring sequence is relevant to both the Inspector General's and the Monitor's duties. Thus, although the Monitor's office refers the complaint to the Inspector General for investigation, the Monitor's office may simultaneously put a hold on the suspect hiring packet to prevent any further violation. In some instances, the Monitor's office will conduct an initial investigation and then forward its results to the Inspector General's Office for additional investigation. In other instances, the Inspector General's office will defer the investigation to the Monitor's office.

As discussed in the Monitor's September 27, 2007 Report and Recommendations Regarding City of Chicago's Proposed "New Plan," the centralization of the monitoring and investigation functions of the City's new hiring plan would likely increase efficiency

and effectiveness. If, however, those functions are ultimately split between the new Office of Compliance and the Inspector General's office, the two departments should establish a formal protocol for the sharing of information.

## **II. SYSTEMIC COMPLIANCE INITIATIVES**

During the course of overseeing the City's hiring and promotion practices, the Monitor's office has identified certain systemic deficiencies. The City and the Monitor have worked together to remedy these deficiencies and have worked to institute certain broad-based reforms. Key examples include the creation of a Foreman Promotional Process, the institution of attendance and discipline standards for employees seeking promotion, and the establishment of rules prohibiting the manipulation of City hires through the use of outside contractors.

### **A. Creation of Foreman Promotional Process**

Information gathered through complaints, interview auditing and through other evidentiary sources suggests that some promotions to foreman in the various trade positions were subject to political manipulation during the interview process. Beginning in late 2006, the City and the Monitor's office sought to create a new process that would inject an objective measure of skill into the foreman selection process. The Monitor and her counsel held a series of meetings with individuals from the Mayor's Office and the Law Department in an attempt to draft a new Foreman Promotional Process. The Monitor initially proposed that the selection process be limited to testing. Because the positions at issue are all skilled trade positions, using a test to fill these slots would guarantee selection of the individual with superior technical skills. The City, however, sought to retain an interview component in the selection process because of the supervisory skills necessary for these positions.

In an effort to assess both technical and supervisory skills, the Monitor and City agreed to a three part process comprised of two tests and an interview. *See* Foreman of Laborers Promotional Plan, attached as Appendix B. The City has agreed to use this process for all Foreman Titles, attached as Appendix C. Part I of the process is a twenty question multiple choice and true/false test covering three topics: Personnel Rules; Ethics; and *Shakman* Compliance. For any given test, the questions will be drawn from a pool of questions in order to help ensure that the same test is not used twice. This test is designed to ensure candidates have a basic level of knowledge that is essential to a manager/supervisor role. Only those individuals with a score of 70% or higher will advance to the next stage of the process.

Part II is a practical application test that measures basic aptitude for supervisory skills and technical skills. This test is a five question short answer test that covers three areas: the ability to use and complete forms and reports (i.e., a Report of Occupational Injury or Illness Form or Vehicle/Equipment Crash/Damage Report Form); key responsibilities and/or expectations of employees the applicant will supervise; and technical questions designed by each department to test the applicant's knowledge of the

particular skill required by the applicant. Only the applicants with a score of 70% or higher will advance to the next stage of the process.

Part III of the Foremen Promotional Process is the interview stage. A pool of questions on supervisory ability maintained by DHR will be available for the departments to select, depending on their respective needs. Other questions that are more department specific may also be added, upon approval by DHR. The interview will consist of five questions each with a value of 20 points and 70% shall be deemed a passing score. Any department is free to opt out of the Part III interview stage, so long as the department notifies DHR in advance of any administering of tests.

Each applicant that received passing scores for all three (or two if interviews are waived) parts will have a final score that is the average of the three individual scores. Scores are then ranked with scores greater than or equal to 90 deemed "Most Qualified," scores greater than or equal to 80 and less than 90 deemed "Highly Qualified" and scores greater than or equal to 70 and less than 80 deemed "Qualified." Selections will first be made from the Most Qualified category in order of seniority, and subsequently from the Highly Qualified and Qualified categories in seniority order, as needed.

To date, the City has administered approximately ten hiring sequences pursuant to the Foremen Promotional Process. During the Monitor's auditing of these tests, problems have been identified with the scoring of some of the Part II written tests. In some cases, two test proctors independently score each test answer booklet and when finished the two scores are averaged to produce a final number that determines whether or not the candidate proceeds to the final round of the process (Part III). However, due to the form of the questions, each proctor can subjectively determine how to score the answers, and this process has led to some inconsistent scores for the same answer. Thus, one scorer will have a candidate passing the test, but another scorer will fail the same candidate. Another problem identified is that in some Part II tests no technical skills questions are included at all. Because the purpose of the Part II test is to evaluate technical and practical skills related to the trade position at issue, the lack of technical questions seriously undermines the objectivity of the test. After alerting the City of these problems, the Monitor and the City have worked on improving the system. In order to account for the scoring problem, the Department of Human Resources will rescore any problematic tests already completed and will be responsible for scoring all tests going forward. With respect to the content of the tests, the City has committed to revising Part II tests to ensure the inclusion of technical questions. It is likely that additional modifications are required and those should be addressed going forward. For example, the Monitor has suggested the City use multiple choice questions for Part II tests to eliminate subjectivity in scoring. In addition, she has recommended that Part II questions focus more heavily on technical skills. It is anticipated that these recommendations will be instituted in the future.

## **B. Institution of Uniform Attendance and Discipline Criteria**

Prior to 2007, the City did not use uniform guidelines regarding attendance or discipline when assessing an individual's promotional consideration. In 2006, the City, in conjunction with the Monitor's office, developed guidelines for utilizing the attendance and discipline history of candidates who were selected for promotion through the interview and/or testing process. Under the new policy, any individual with the equivalent of seven (7) cumulative days of unexcused absences or seven (7) cumulative days of disciplinary absences during the previous twelve (12) months is ineligible for promotion. Thus, employees with a recent history of attendance and/or discipline deficiencies will not be rewarded with promotions. Clearly the use of some objective attendance and disciplinary standards is an improvement over the past practice. Since the implementation of this policy, however, two issues have been highlighted that should be addressed.

First, the Monitor recently suggested that the City revise the policy after reviewing a hire packet. The current policy permits an individual with 6.5 days of unexcused absences *plus* 6.5 days of disciplinary suspension to be eligible for promotion, although an individual with 7.5 days of unexcused absences and *no* disciplinary suspension days would be ineligible. This discrepancy was not considered prior to the City's implementation of the policy, and such an outcome was not the intended consequence of the new policy.

Second, the Monitor also recently discovered that City departments were given the *option* to "opt out" of using the attendance and discipline criteria for promotions within their departments. After discussions between the City and the Monitor's office, the City has determined that it will require *all* departments to use the criteria beginning in 2008, unless a collective bargaining agreement requires otherwise. Notably, nothing in the policy prevents any department from using a *more* restrictive policy, so long as it applies that policy uniformly.

Despite the concerns raised above, the institution of this policy helps ensure that employees' attendance and disciplinary history is taken into account when determining promotions. The City's decision to make this policy mandatory will help to increase fairness and equity in promotion decisions.

## **C. Prohibition Against Using Contractors to Subvert Hiring Rules**

Another systemic reform recently instituted is a formal rule prohibiting City employees from using contract assignments to subvert City hiring rules. This issue came to the Monitor's office attention when the office conducted an investigation into a suspect hiring sequence in the Department of Planning ("Planning") after discovering the following events. In March of 2007, Planning conducted interviews of two internal City candidates for a Senior Research Assistant. Neither candidate was offered a position due to a purported lack of qualifications. Subsequently, Planning requested a new referral

list<sup>2</sup> that would include outside applicants. Planning received a new interview list of four candidates. During the regular auditing of the second series of interviews for the position, the Monitor's office detected evidence of potential pre-selection. Specifically, based on the answers to the questions, the predetermined qualifications and the work product that the interviewees brought to the interview, the selection of the successful candidate appeared suspect. At the Monitor's request, the City agreed to redo the interviews. The third round of interviews produced the same results and raised the same concerns regarding pre-selection.

The Monitor's office conducted an investigation that revealed that the successful candidate had been a student intern in Planning from November 2004 until January 2007, where he performed the duties of Senior Research Assistant. In January of 2007, the Commissioner of the Department of Human Resources began more strictly enforcing the rule that student interns actually be students. As a result, the intern was forced to vacate his position because he was no longer a student and had not been enrolled in any courses since February of 2006. Also in January of 2007, the department decided to "outsource" that same position to an outside contractor. The outside contractor hired the former intern and he continued to perform the duties he had previously performed as a student intern, which were the same duties as the now vacant Senior Research Assistant position. The investigation also revealed that supervisors in Planning had expressly directed the contractor to hire the Planning intern because the department was no longer permitted to employ him. During his transition from a City "student" intern to an employee of the outside contractor, the individual in question never left his duties or his desk at Planning. When Planning sought to fill the Senior Research Assistant position permanently, the former intern was selected on both occasions. The Monitor's investigation concluded that the hiring sequence had been manipulated in contravention of the City's hiring rules.

This issue arose again when the Monitor's office conducted an investigation into a hiring sequence in the Mayor's Office of Special Events ("MOSE"). In this instance, the Department of Human Resources' Compliance Division alerted the Monitor's office to a suspicious hiring sequence in MOSE. MOSE originally sought to fill a Special Events Coordinator ("SEC") III position in early summer 2006. It appeared that MOSE had delayed requesting an interview list for this position until one of its interns graduated from college in May of 2006. Despite the fact that the intern did not meet the qualifications for the SEC III position, due to an error in DHR, the intern was referred for the position, interviewed, and then selected by MOSE. DHR's Compliance Department rejected the hire packet after noticing that both of the interviewers involved in the selection process were listed as that candidate's employment references. Subsequently, DHR discovered the candidate did not meet the minimum qualifications for the position in the first instance, and should not have been eligible to even interview for the position.

After DHR rejected the candidate and informed MOSE it could not hire the former intern, MOSE sought to reclassify the position as an SEC II, a position that would more closely align with the intern's years of experience. The Monitor's investigation

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<sup>2</sup> A "referral" list is the equivalent of an "interview" list. These terms are used interchangeably herein.

revealed that the department specifically sought to downgrade the position to award the slot to the former intern. However, DHR's review of the criteria for the downgraded position revealed that the former intern *still* did not qualify for the position and she was not included on the list of candidates referred to MOSE for interviews. Instead of choosing a candidate from the list provided by DHR, a list that had produced several qualified candidates for selection, MOSE requested another referral list. This request was denied.

At this point, a Deputy Director in MOSE explicitly stated in an e-mail to DHR that he was awaiting the institution of the Senior Manager Hire Process before filling the position so that he could personally place the former intern on the referral list. (The Senior Manager Hire Process is part of the new *Accord* and allows departments to recommend candidates based on the presumption that the positions filled under this process are high level manager positions). Careful wording in the subsequent Senior Manager posting, including a new Spanish language fluency requirement, allowed the former intern to meet qualifications she did not meet previously. The Deputy Director requested that the former intern be included on the senior manager hire referral list and she was referred to MOSE for interview.

While this was happening, the intern could no longer continue in her position at the City due to her graduation. She was then placed on the payroll of an organization that contracted with the City. During that period, the former intern continued to perform duties in MOSE, retaining her City work phone number, email and job title. She has remained on the contractor's payroll for more than a year-and-a-half while MOSE has repeatedly attempted to manipulate the hiring process in order to provide her with a permanent position.

Upon notification of these two instances of manipulation of hiring sequences through the use of contractors, the City instituted a formal rule prohibiting City employees from "subvert[ing] the City's hiring process, procedures and prohibitions by seeking to have a City contractor hire an employee or a subcontractor." Memorandum from Lori Healey to Department Heads, dated August 14, 2007. Moreover, the City forwarded these investigative results to the Inspector General's office. The Inspector General's office has not concluded its investigation. The Inspector General has stated, however, that the City is free to take corrective action, so long as the Inspector General's office is given an opportunity to weigh in first. To date, the City has taken no disciplinary action.

### **III. SPECIFIC VIOLATIONS AND CORRECTIVE ACTIONS**

In addition to the systemic reforms discussed above, the Monitor's office regularly reports specific incidents of actual or apparent *Shakman* violations to the City. Depending upon the nature of the incident, the Monitor makes a recommendation for specific corrective action, a request for additional information, and/or a request that the City conduct its own investigation. Since the Monitor's 2006 Annual Report, the Monitor's office has identified and investigated many specific incidents of hiring improprieties, including hiring sequences in the Department of Fleet Management, the



Department of Housing, the Department of Transportation and the Fire Department, as summarized below.

#### **A. Department of Fleet Management**

During late 2006 and 2007, the Monitor's office has identified several instances of *Shakman* violations in the Department of Fleet Management. In one instance, Fleet managers manipulated bid lists, let valid interview lists expire and collaborated with an individual in the Department of Human Resources in an effort to hire two specific candidates for Equipment Dispatcher positions. When Fleet initially sought to fill the two slots in late 2005, the two preferred candidates lacked the minimum requirement of one year's experience and thus did not appear on the list of interviewees. Notably, despite the fact that these candidates failed to meet the minimum qualifications for the Equipment Dispatcher position, each candidate was "acting" as an Equipment Dispatcher at the time. Because the candidates did not qualify for the job at that time, Fleet let the list expire and requested a new list after the two candidates had met the one year requirement. The candidates still did not appear on the list, and Fleet allowed that list to expire. In late 2006, Fleet requested yet another list and the preferred candidates both appeared on the list. These two candidates were selected for the two Equipment Dispatcher positions they had been, at that point, acting into for a year and a half despite being the least senior of all the candidates who bid for the title. A Deputy Commissioner in Fleet was involved in the manipulation of this sequence.

After the Monitor's office relayed the results of its investigation to the City, the City agreed to redo the hiring sequence and forwarded the Monitor's investigative results to the Inspector General's Office. Despite the obvious manipulation of this hiring sequence, the Monitor's office later discovered that the two pre-selected employees were permitted to continue "acting up" into the Equipment Dispatcher position for an additional three months and in violation of the City's Acting Up policy. The individuals were finally removed from the acting positions after an additional complaint was raised by the Monitor. The Inspector General's office has not concluded its investigation. To date, the City has taken no corrective action.

#### **B. Department of Housing**

In late 2006 and 2007, the Monitor's office has identified instances of *Shakman* violations in the Department of Housing. In one instance, the Monitor's office conducted an investigation that revealed that Housing had manipulated an interview sequence in order to ensure selection of a particular candidate by rejecting a valid interview list, manipulating the content of an interview list and communicating inappropriately with DHR. Specifically, in 2006, the Department of Housing sought to fill the position of Housing Director of Rehabilitation Construction. Before any interviews were even conducted, Housing contacted DHR about being "dissatisfied" with the list and asking for additional candidates. At the same time, Housing asked DHR to modify the screening criteria and re-run the eligibility list. By doing that, Housing was ensuring that a current Housing employee could be included on the new eligibility and interview list. Indeed, a

note made by the DHR analyst indicates that the Housing Personnel Director told her that she wanted a particular candidate on the list. *Accordingly*, the new candidate, who had not originally even applied for the job, was placed on the referral list and then selected for hire. The two Deputy Commissioners that selected the candidate gave him perfect “5”s during the interview.

When the Monitor notified the City of the investigation results, the City proposed to redo the hiring sequence, and DHR Commissioner King disciplined the DHR employees involved in the situation. The Monitor’s office, however, had continued concerns about the involvement of Housing employees in this process and conducted additional investigation into the matter. That investigation revealed that in addition to the role that Housing’s personnel liaison played in manipulating the process to have an internal candidate placed on the referral list, senior management in the department had been involved in getting the internal candidate on the referral list as well. Some of those same managers went on to interview the candidates and select the internal candidate for hire. Upon notification of this additional information, the City suspended the department’s Personnel Liaison for a week. No action was taken with regard to the senior managers purportedly involved in the manipulation.

Also in 2006, the Department of Housing sought to fill the position of Housing Development Coordinator. An audit by DHR’s Compliance Unit revealed that candidates marked on the interview sheet submitted by the department to DHR as not being interested in interviewing had either never been contacted about the position or never given the opportunity to interview. Interviews conducted by the Monitor’s office in April of 2007 confirmed this fact. In particular, one candidate who was alleged to have declined the interview had previously been told that the department already had a candidate “in mind” for the job. Another candidate who was alleged to have declined to interview stated that she was never contacted about the Housing Development Coordinator position. Another candidate who was alleged to have declined the interview stated that his interview was cancelled the day it was scheduled to take place. Finally, the candidate that Housing *did* offer the position to was a former Mayor’s Office employee. As noted above, Housing’s Personnel Liaison was suspended as a result of this issue in conjunction with the hiring sequence mentioned above. The City also agreed to redo this hiring sequence. No other corrective action was taken.

### **C. Department of Transportation**

The Monitor’s office was notified by the City’s *Shakman* Complaint officer of *Shakman* violations in the Department of Transportation in January of 2007. At that time, DOT was seeking to fill four specific positions: Project Manager; Project Coordinator; Projects Administrator; and Coordinating Engineer II. Prior to the posting and interviewing for any of these positions, a Deputy Commissioner sent an email identifying the four pre-selected candidates she intended to hire for each position. The email stated in pertinent part:

The Project Manager at \$84,264 that we are trying to get for [name omitted]. Human Resources was supposed to post an announcement to fill that specific position ... [name omitted] checked through the month of December and never saw it posted.

The Project Coordinator at \$51,228 for [name omitted]. I wanted to get an idea when this one will be authorized.

The Projects Administrator at \$58,884 for [name omitted]. I wanted to get an idea when this one will be authorized.

The Coordinating Engineer II for [name omitted]. I wanted to get an idea when this one will be authorized. ...

During the course of the Monitor's office investigation, the Deputy Commissioner admitted that she had, in effect, "promised" these positions to the candidates she intended to select. Upon questioning, the Deputy Commissioner denied knowing that she had done anything wrong or violated any rules. In response, the City suspended the Deputy Commissioner for one week and provided her with *Shakman* training.

#### **D. Fire Department**

In mid-2007, the Monitor's office conducted an investigation into two related hiring sequences for the Administrative Assistant positions in Support Services and Administrative Services in the Fire Department. These positions are the equivalent of Battalion Chief and report directly to the Deputy Commissioner of the department. The Monitor's office reviewed these hiring sequences as a result of the following facts: each selected candidate waived her interview for the position in the alternate department; each selected candidate had been hand picked to perform the relevant duties in their respective departments prior to the posting of the position; and the Monitor's office received several complaints about these hires. During the course of the investigation, the Monitor's office discovered that one of the selected candidates had been ordered to work from home for several months in 2007 to evade detection for violation of the City's Acting Up policy. She was directed to do so by one of her superiors following increased monitoring of the Acting Up policy. As a result of this investigation, the City forwarded the information to the Inspector General's office. The Inspector General's office has not concluded its investigation. To date, the City has taken no corrective action.

#### **E. Other Departments**

In addition to the specific incidents and corrective actions described above, other problematic hiring sequences identified by the Monitor's office in 2007 have included:

- Department of Aviation, Assistant Commissioner: Selected candidate\*<sup>3</sup> had been acting up since October 2004; other candidates appeared better qualified for the position. City agreed, in early 2007, to redo hiring sequence. To date there has been no new selection.
- Department of Aviation, Operating Engineer A: One of the selected candidates\* had a history of acting up, had been in violation of the City's reformed Acting Up policy and was one of the least senior individuals that applied for the opening. The Monitor requested the interviews be redone. The City has proposed to re-conduct the entire sequence of hires.
- OEMC, Aviation Communications Operator: Two selected candidates did not meet minimum qualifications; one candidate's resume included a reference to political volunteer work; the other candidate had been previously terminated from a Security Officer position in Aviation. Upon notification by the Monitor's office, the Commissioner of DHR revoked the offers of employment.
- Department of General Services, C-Engineers: In response to the Monitor's notification that C-Engineers in DGS were in violation of the Acting Up policy, the City advised that these individuals were receiving increased pay for acting up into A-Engineer positions when unsupervised on the rotating shift. The City reclassified these C-Engineer positions as A-Engineer positions. The positions were filled based on seniority within DGS C-Engineers. The remaining vacancies were then opened to C-Engineers across the City.
- Aviation, Operating Engineers: A complaint received by the Monitor's office alleged that the assignment of shifts was used to reward and/or punish employees for political reasons or other purposes. The Monitor's office discovered that O'Hare's Chief Operating Engineer had complete discretion to assign Operating Engineers to work shifts, including coveted shifts referred to as "day jobs." The City agreed to utilize shift transfer requests submitted by employees and to honor them by seniority to fill these positions.

#### **IV. COMPLIANCE DEFICIENCIES REQUIRING IMMEDIATE REDRESS**

Although the Monitor's office continues to identify and address systemic and individual problems in the City's hiring processes, progress is hampered by the City's failure to: (a) remedy problems; (b) implement and enforce Acting Up Policy; (c) accurately report violations; and (d) meaningfully enforce consequences for non-compliance with hiring rules.

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<sup>3</sup> Where the selected candidate is asterisked, the individual appears on the so-called "Clout List" presented during the criminal trial of *USA v. Sorich, et al.*

### A. Failure to Remedy Problems

As reported in the Monitor's 2006 Annual Report, in many instances where the Monitor has reported problems and/or complaints regarding specific hiring sequences, the City agreed to suspend or redo those hiring sequences. Despite the agreement to suspend or redo a hiring sequence, however, the City in some cases permitted the improperly selected candidates to continue to "act" into the position (in some cases, for over a year). This "remedy" actually compounded the original violation or problem that required the hiring sequence to be redone or suspended. Some examples include:

- Department of Water, Foreman of Electrical Mechanics: Selected candidate answered the fewest number of technical questions correctly and had been acting in position for approximately four years. In early 2007, City agreed to redo hiring sequence. Recently, the Monitor discovered that the Water department allowed the improperly selected candidate to "act" into the position of Foreman of Electrical Mechanics for much of 2007 in violation of City's reformed Acting Up policy.
- Department of Water, Foreman of Pipe Yards: Selected candidate\* had history of acting up from Construction Laborer to Stores Laborer to Foreman of Pipe Yards for period of approximately five years. City agreed to redo hiring sequence in early 2007. The Monitor discovered that candidate was allowed to continue to "act" into position of Foreman of Pipe Yards for at least six months in 2007 and in violation of the City's reformed Acting Up policy. Sequence was repeated and same candidate was selected.
- Department of Water, Plumbing Inspector in Charge: One selected candidate\* and another selected candidate had history of acting up and Monitor raised concerns about interview process. City agreed to redo hiring sequence in early 2007. The Monitor discovered that both candidates were allowed to continue to "act" in position of Plumbing Inspector in Charge for several months after the sequence was halted and in violation of the City's reformed Acting Up policy.
- Office of Emergency Management Communications, Deputy Director of Internal Secure Operations: Selected candidate\* failed to meet the minimum qualifications for the position but had nonetheless been acting in position for two years. City agreed on January 10, 2007 to actively recruit for candidates that met the minimum qualifications. Recently, the Monitor discovered that OEMC allowed the candidate to continue to "act" into the position of Deputy Director of Internal Secure Operations for the entirety of 2007 in violation of City's reformed Acting Up policy. The City recently notified the Monitor that the position is now *Shakman* exempt and the originally selected candidate who did not meet the stated qualifications for the position will be formally promoted.
- Department of Fleet Management, Manager(s) of Vehicle Maintenance: Selected candidates had been "acting" into position for six and three years respectively,

referral list had been manipulated, and other candidate who was not selected appeared better qualified. In early 2007, City agreed to redo the hiring sequence. Subsequently, the Monitor discovered that Fleet allowed the two selected candidates to continue to “act” into the positions in violation of the City’s reformed Acting Up policy.

- Department of General Services, Foreman of Laborers: Selected candidate\* had history of “acting” up for period of seven years and problems were identified with interview process. City agreed, in early 2007, to redo hiring sequence. Recently, the Monitor discovered that DGS allowed the selected candidate to continue to “act” into the position of Foreman of Laborers after the sequence was halted in violation of City’s reformed Acting Up policy.

## **B. Failure to Implement and Enforce Acting Up Policy**

A major area requiring immediate redress is the implementation and enforcement of the City’s Acting Up policy. As discussed in the Monitor’s 2006 Annual Report and the more recent Report and Recommendations Regarding City of Chicago’s Proposed New Plan, “acting up” (the process by which individuals are selected to fill higher-rated titles without going through a competitive process, often receiving higher pay and an advantage in the eventual hiring process for the permanent position) has been one of the major areas in which political patronage has negatively affected City hiring practices. Many of the *Shakman* complaints received by the Monitor’s office have alleged that individuals are chosen to act up based on political connections, leading to systemic violations of the *Shakman* Decree that have gone unchecked for years.

As noted in the Monitor’s earlier filings, the Monitor first requested changes to this process in the spring of 2006. However, it was not until late 2006 that any prohibitions were put into place for departments with regard to acting up. In January of 2007 the City assured the Monitor that every long-term actor had been removed, yet in March of 2007, the Monitor and her staff discovered that hundreds of individuals who had been acting up for years remained in those roles, in violation of the Acting Up policy.

These violations continued because the City failed to audit departmental compliance with the Acting Up policy in any meaningful way for several months. After these violations were brought to the City’s attention by the Monitor, the City began to “audit” the process, but there was still very limited compliance. This was due in part to the fact that the audit functions were bounced back and forth between the Department Human Resources and the Department of Law, with no one ultimately accountable for the process.

To date, many employees have been acting for longer than the ninety (90) day period permitted under the Acting Up policy established in 2006.<sup>4</sup> For example, one particular employee in the Department of Fleet Management who had been acting since

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<sup>4</sup> In August of 2007, a revision of the Acting Up policy changed the ninety day (90) limit for each individual to act up per calendar year to an equivalent of five hundred and twenty (520) hours.



1995 was not removed from this acting up assignment until late March of 2007, only to be returned to the acting up position less than two months later. In the Department of Water, one individual has been awarded at least one hundred and sixty-five (165) days of Acting Up in 2007 alone, in clear violation of the policy.

Because there is no procedure in place for holding departments accountable for violations of the Acting Up policy and the City's internal auditing has been inadequate, departments regularly provided inaccurate information to City officials responsible for auditing compliance. For example, in a meeting with the Department of Law and the Department of Human Resources in April of 2007, one department's Personnel Director claimed that her department had no employees "acting up." This was not true. In fact, the Monitor and her staff discovered that the department has had more than fifty (50) employees acting up, many of whom were acting at the time the statement was made.

Since this issue was first raised in early 2006, the City has taken steps to correct the problems caused by Acting Up. It has modified the policy several times in response to concerns posed by the Monitor, it has conducted training for the departments to increase compliance with the policy, it has met with individual departments to address issues of functionality, it has removed some employees from acting up assignments upon notification that there was a violation, and it is in the process of developing a method for tracking Acting Up in the future. There are significantly fewer long-term acting-up employees today than there were one year ago, however, compliance remains inadequate.

The City's on-going failure to effectively monitor compliance with the reformed policy coupled with the failure to take any disciplinary action when violations occur is certain to result in on-going violations. Some steps the City could take to increase compliance include: (1) maintaining accurate records of acting up time for each employee, including the specific dates on which the employee acted and the number of hours acted on that day; (2) conducting monthly audits of departments to identify every individual who has acted up for greater than five hundred and twenty (520) hours in the past twelve (12) months; (3) issuing discipline to department officials who permit violations of the policy; and (4) taking prompt action to remove any employee who is in violation and to prevent further violations from occurring.

### **C. Failure to Accurately Report Violations**

As noted previously, in many instances the Monitor's office requests that the City conduct its own investigations into problematic hiring issues. The Monitor's office relies upon the results of these investigations in assessing whether a problem exists. Accordingly, it is crucial and expected that all information provided by the City is both truthful and complete. Recently, however, the Monitor's office has discovered serious breaches of the City's obligation to be truthful and complete when reporting on potential violations.

For example, on December 13, 2007, the Monitor's office discovered that senior members of the Department of Law provided materially misleading and inaccurate information to the Monitor in response to a request for an investigation. On October 9,

2007, the Monitor's office sent a memorandum to the City notifying the Law Department, the Mayor's Office and DHR of complaints received regarding promotions to Field Officer in the Fire Department. After conducting an initial investigation, the Monitor's office was concerned that eligible candidates from the existing Field Officer promotion list were not being promoted into budgeted and vacant positions. Rather, the City determined to conduct a new Field Officer test before making any hires, despite existing vacancies. The Monitor's initial investigation produced some evidence that the Fire Department's decision to not hire off of the existing list may have been made in order to favor new test takers.

In response to the Monitor's request that the City investigate these allegations, senior members of the City's Law Department provided a five-page memorandum with fifty pages of supporting documentation to the Monitor's office justifying the Fire Department's decision. In this memorandum, the City claimed the Fire Department's decision was dictated by the Collective Bargaining Agreement with the Union. In particular, the Law Department Memorandum stated that the City was bound, as of January 1, 2007, to establish a new Field Officer examination and eligibility list. Based on this Memorandum, the Monitor agreed to close her investigation. Subsequently, it was determined that the information provided by the City was false.

Other incidents of inaccurate reporting by the City have also been identified. For example, after the Monitor's September 27, 2007 Report, several members of the City's Law Department denied having any knowledge of the allegation of retaliation referenced in that Report. The Monitor's office, however, confirmed that the employee had sent an e-mail to individuals in the Law Department specifically complaining that she believed they were retaliating against her for having reported a violation to the Monitor's office.

Again, in a letter dated August 2, 2007, the Department of Law assured the Monitor's office that a particular individual had been removed from an acting up position. Despite that assurance, that individual actually continued to act up for several additional months. In another instance, the Department of Law advised the Monitor that several individuals had been removed from their acting roles, when a quick audit by the Monitor and her staff proved otherwise. In Streets & Sanitation, for example, at least seven individuals continued to act far beyond the March 2007 date on which the Department of Law maintained they had been removed.

In other cases, the City has knowingly allowed Acting Up policy violations to go unchecked. For example, the Office of Emergency Management and Communications ("OEMC") was in violation of the City's Acting Up policy for over a year without consequence. The City failed to report this ongoing violation, instead making an internal decision to allow the violations to continue.

#### **D. Failure to Enforce Consequences for Non-Compliance**

Appropriate corrective action in cases of past and present non-compliance with City hiring rules is critical for ensuring adherence to these rules and for deterring future hiring infractions. For that reason, an area of significant concern for the Monitor's office has been the City's lack of action with regard to current City employees that were directly implicated in *Shakman* violations as reflected in testimony provided during the criminal trial of *USA v. Sorich, et al.* and in affidavits or sworn admissions in related cases. After numerous discussions with the Monitor, although the City has relieved a few employees from any present involvement in hiring, few corrective or disciplinary actions have been taken, even after the City's own Inspector General has recommended termination as the appropriate disciplinary action for one such employee. To date, the Mayor's Office and the City's Law Department have reported that the City is still reviewing the appropriate corrective actions to take with respect to these current employees. The City had previously explained that it did not want to interfere with or affect any pending criminal prosecutions or investigations by the United States Attorney's office by taking employment or disciplinary actions against any such employees.

As of October 9, 2007, however, the City was formally advised by the United States Attorney for the Northern District of Illinois that the City *may proceed* with any employment and disciplinary decisions notwithstanding the pendency of federal prosecutions, as long as the City first appraises the U.S. Attorney's office of those individuals who might be investigated or disciplined by the City. As the City was informed, the United States Attorney's Office will request a delay in the City's action if there is any concern that it may adversely affect a particular federal investigation or trial.

Accordingly, there should be no impediment to taking appropriate corrective action for past and present hiring violations. It is imperative that the City do so as promptly as possible.

#### **V. CONCLUSION**

Pursuant to the Accord, the Monitor shall file her next semi-annual report in June of 2008. In the interim, the Monitor's office anticipates working collaboratively with the City to address the issues reported on herein.

Respectfully submitted this 18th day of December, 2007

\_\_\_\_/s/ Noelle C. Brennan\_\_\_\_\_

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**MICHAEL L. SHAKMAN and  
PAUL M. LURIE, *et al.*,  
Plaintiffs,**

**V.**

**DEMOCRATIC ORGANIZATION OF  
COOK COUNTY, *et al.*,  
Defendants.**

**Case No. 69 C 2145**

# Wayne R. Andersen

**United States District Court Judge**

## ANNUAL REPORT OF MONITOR FOR 2006

The Monitor, Noelle C. Brennan (“Monitor”), by and through her counsel, Ines M. Monte of the law firm of Brennan & Monte, Ltd. and Susan E. Cox of the Law Offices of Susan E. Cox, submits this Annual Report pursuant to the Order of the Court entered on August 2, 2005.

## I. APPOINTMENT OF *SHAKMAN* DECREE MONITOR

The principles embodied in the *Shakman* Decree are grounded in Constitutional rights guaranteed to all persons and apply to all government hiring. “Political belief and association constitute the core of those activities protected by the First Amendment,” the Supreme Court has explained. *Elrod v. Burns*, 427 U.S. 347, 355 (1976). Patronage, the Court explained, “can result in the entrenchment of one or a few parties to the exclusion of others” and “is a very effective impediment to the associational and speech freedoms which are essential to a meaningful system of democratic government.” *Id.* at 370-371. Thus, although some may espouse the view that patronage is a preferred system, supporting the implementation of such a system is tantamount to supporting the denial of rights guaranteed by the Constitution.

On August 2, 2005, the Court appointed a Monitor “to ensure future compliance” with the Court’s prior orders in *Shakman, et al. v. The Democratic Organization of Cook County, et al.*, Case No. 69 C 2145, in response to the Plaintiffs’ Application to Hold the City of Chicago and its Mayor in Civil Contempt for Violations of the Court Orders. Following the August 2, 2005 appointment, the Monitor and her counsel conducted a preliminary study of the City’s existing employment practices. Since that time, the Monitor and her staff have actively overseen the City’s hiring processes. Hiring at the City has not been impeded under the Monitor’s supervision. In fact, the City has hired significantly *more* employees under the Monitor’s oversight than in prior years. From August of 2005 through July of 2006, the City hired 6,231 employees, a substantial increase over the same period during the previous two years when the City hired only

5,304 individuals between August 2003 and July 2004 and 5,601 employees from August 2004 through July 2005.

The Monitor's initial objective was to investigate the City's existing employment practices in order to detect potential impediments to the City's ongoing compliance with the *Shakman* judgments and to identify systemic problems which may lead to such future noncompliance. On September 6, 2005, the Monitor issued her "First Report" that included "Recommendations for Immediate Implementation" as a means to increase immediate compliance with the Court's previous Orders. *See* Appendix A. The City agreed with many of these recommendations and they were formally incorporated into a Court Order entered on November 2, 2005. *See* Appendix B. Since the September 6, 2005 First Report, the Monitor and her counsel have filed several status reports outlining some of the work conducted by the Monitor's office. *See* Appendix C.

The Monitor's September 6, 2005 report concluded, in part, that that the City had been substantially non-compliant with many of the *Shakman* provisions for a significant period of time. Since that time, the City's compliance with the *Shakman* Decree has significantly increased. For example, the City's Department of Human Resources ("DHR") now conducts all screening of applicants and creates all referral lists. The hiring departments no longer submit names of candidates to DHR or add names to referral lists. There has been no evidence that DHR has received and/or acted upon any inappropriate recommendations from any individual in the Office of Intergovernmental Affairs or the Mayor's Office. There is no evidence that the type of overt manipulation of interviews presented during the criminal trial of *USA v. Sorich, et al.* continues to exist. As explained below, however, additional measures are necessary to increase compliance now and to ensure future compliance.

## **II. MONITOR'S ACTIVITIES**

### **A. Information Gathering**

A significant part of the Monitor's activities continue to focus on gathering information and viewpoints from multiple constituencies. The Monitor and her staff meet on a weekly basis with officials from the City of Chicago to discuss reform initiatives, issues related to specific hiring sequences, and a myriad of topics that relate to eliminating the unlawful use of political considerations in City employment. The Monitor and her staff also regularly meet with management and personnel at the Department of Human Resources. Notably, an individual from the Monitor's office is present and available at the Department of Human Resources on a daily basis.

The Monitor's office has also continued to meet with officials within individual City Departments, including the Department of Aviation, the Department of Water, Streets and Sanitation, the Department of General Services, the Chicago Public Libraries, the Fire and Police Departments, and others. Often, these meetings arise because of compliance issues or questions raised by the Departments. Similarly, the Monitor and her staff have met regularly with representatives from various unions, to discuss specific



union issues related to the City's compliance with the law and reform of employment practices. The Monitor's office regularly meets with the Plaintiffs' counsel to discuss these same issues. Finally, the Monitor has also met with the City Council's attorneys, the Black Caucus and their attorneys, and any other interested individuals who request a meeting.

Generally, the employees with whom the Monitor has worked with at the City of Chicago have been receptive to changing past employment practices. In particular, the Mayor's Chief of Staff and the Commissioner of the Department of Human Resources have been actively attempting to implement fair and open employment practices. Nonetheless, there remains an element of resistance to the *Shakman* principles expressed during a limited number of interviews and/or discussions with City employees and a small group of Aldermen. These individuals have openly expressed a preference for a patronage system and believe that the advantages of such a system outweigh any ill effects. Thus, these same individuals are adverse to the requirements of the *Shakman* Decree and its resultant restrictions on the employment practices at the City. The activities of the Monitor and her counsel are an attempt to counter these pockets of resistance.

#### **B. Oversight of City Hiring**

One of the primary findings in the Monitor's initial report was that the Department of Personnel (now known as "DHR") had abdicated its role under the existing Detailed Hiring Plan to screen qualified candidates for open City positions and create appropriate referral lists for the City Departments to use for their pool of qualified applicants to interview. Instead, City Departments were screening applicants for positions, sometimes with the motive of ensuring that favored candidates were included on the interview lists. Further, as the United States Attorney's federal prosecutions have made plain, improprieties often occurred in the interview and rating process of candidates. Finally, despite apparently widespread violations of the *Shakman* decree, the Monitor found no evidence of any investigation by the Department of Personnel into any complaints made regarding potential *Shakman* violations during her initial investigation into City hiring.

To address these concerns on a going-forward basis, the Monitor and her counsel retained several individuals to serve as auditors for all aspects of City hiring, including the proper notification of job opportunities; the creation of appropriate referral lists; proper conduct of interviews, testing, and scoring of candidates; and related actions. These auditors, who currently number six, are trained in both City hiring and the *Shakman* decree prior to beginning their work. One auditor is based at DHR and is responsible for performing a variety of crucial monitoring functions, including auditing hiring packets, reviewing referral lists, tracking all hiring sequences and interviews, and responding daily to issues and questions presented by the City's personnel analysts and personnel liaisons related to compliance with the *Shakman* decrees.

The Monitor requires forty-eight hour notification prior to the commencement of any interview.<sup>1</sup> The purpose of this notification is to allow the Monitor and her staff to assign an auditor to the hiring sequence if one is deemed necessary. Although there were difficulties with this requirement initially, most Departments have adapted to this requirement. The Monitor has the discretion to cancel an interview if sufficient notification is not given and has done so on occasion. Similarly, there have been a limited number of instances where no notice has been provided to the Monitor at all. Those interviews generally have to be repeated to allow for auditing.

As set out in the tables below, the Monitor's staff has audited close to 3,000 interviews to help ensure that the hiring is in accordance with the *Shakman* decree. Although the auditors have attended interviews in most departments, auditing activities have focused on the City's Infrastructure Departments, given their history of improprieties. In addition, when the Monitor and her staff are alerted to a potential problematic hiring sequence by a complainant, that hiring sequence is audited, if possible.

#### **INFRASTRUCTURE DEPARTMENT INTERVIEWS AUDITED**

AVIATION DEPARTMENT	771
FLEET MANAGEMENT	92
GENERAL SERVICES	105
STREETS AND SANITATION	394
TRANSPORTATION	86
WATER MANAGEMENT	776

#### **OTHER CITY DEPARTMENT INTERVIEWS AUDITED**

Administrative Hearings	4	Department on Aging	4
Department of Buildings	75	Business Aff. & Lic.	29
Children & Youth Serv.	15	City Clerk's Office	31
Construction & Permits	17	Consumer Services	13
Cultural Affairs	12	Environment	25
Finance	30	Fire Department	11
Health Department	41	Housing Department	27
Human Resources	26	Human Services	5
Inspector General Office	12	Law	11
Library	3	Mayor's Off. Spec. Events	8
Off. Emer. Manag. & Comm.	77	O'Hare Modernization Prog.	32
Planning	10	Police	161
Procurement	35	Revenue	34
Treasurer	4	Zoning	18

<sup>1</sup> The Monitor has recently requested, but not required, that she be provided one week notice of any interviews scheduled.

The auditors help ensure that there is no collusion in scoring; that rating sheets are filled out individually; and that each applicant is treated fairly and questioned consistently. The auditors collect the rating sheets and copy them immediately after the interview has concluded so that there can be no change to them after the conclusion of the interview process. These documents are kept in the Monitor's files. The auditors also assist in ensuring that each applicant meets the minimum requirements for the position as stated on the "A" form. The auditors do not question applicants, nor do they advise the interviewing panel on how they should score the applicants.

After each interview, the auditors draft a memo on the hiring sequence and include any questions which were directed to them by the interview panels. The auditors attach the appropriate paperwork for the hire, including the A form, referral list and rating sheets to the memorandum, which are circulated to the Monitor and her staff and kept in a file at the Monitor's office. Each week, the auditing team meets with the Monitor and her counsel to discuss the week's work and to discuss any problems which have occurred and to discuss possible solutions which have included, from time to time, a new set of interviews. Beginning recently, the auditor at DHR has also prepared a weekly memorandum reporting the status of those hires which have been questioned by members of the Monitor's staff. In this way, the Monitor can track DHR's response to issues raised. The Monitor and her counsel report problematic hiring sequences to the City.

Hiring sequences where the interviews are not actively audited are also reviewed. Specifically, the Monitor's DHR auditor reviews and tracks every "A" form (request for hire) and each referral list. Before a candidate's hire can be processed, the auditor reviews the entire "hire packet" including the referral list, the A form hiring criteria, the interview scoring sheets and the application or resume. If any of the steps in the hiring sequence are suspect, the auditor notifies both the Monitor and DHR and the hire is not processed until it can be further reviewed.

The auditors are an integral and necessary component of the Monitor's work. Their presence helps to prevent the practices which occurred in the past and which violated the decree. Their efforts, and those of DHR and new personnel in the departments responsible for hiring, have resulted in a much fairer and open hiring process. In fact, the hiring practices which were the subject of the federal prosecutions have been largely dismantled through these efforts. Although hiring errors still occur and institutional and other barriers persist, the presence of the auditors has done much to prevent further violations of the decree.

### **C. Complaint Investigations**

As noted in the Monitor's First Report, a significant deficiency in the City's employment system is the absence of an effective and credible internal City process for responding to complaints of unlawful politically-based employment practices. Beginning in September of 2005, the Monitor was tasked with investigating such complaints, with the agreement of both parties. Based on the Monitor's initial recommendations, the City also designated a new "*Shakman* Complaint Officer" in DHR to receive *Shakman*-related

complaints. Complaints received by the City's *Shakman* Complaint Officer are promptly forwarded to the Monitor's office for investigation. Current City employees have been notified about this new avenue for registering complaints. Complaints may also be submitted through email via the Monitor's website at [www.ShakmanMonitor.com](http://www.ShakmanMonitor.com). Finally, complaints often come directly to the Monitor's office. As part of the investigation process, the Monitor's office has implemented a comprehensive system for receiving, tracking, reviewing and responding to any complaints received regarding current or recent alleged *Shakman* violations in City employment.

To date, the Monitor's office has received more than 440 complaints for review. Not all complaints received by the Monitor fall within her jurisdiction. For an investigation to be undertaken, a complaint must allege specific conduct that: (1) relates to employment actions based on improper political factors; (2) is believed to have occurred since the Monitor's appointment on August 2, 2005; and (3) directly involves the City of Chicago and its departments. Over 175 complaints are currently under active investigation by the Monitor's staff. Files are assigned by department to an attorney on the Monitor's staff who directs the investigation. Paralegals assist in the investigative process. Investigations typically involve detailed interviews of the complainant, other witnesses, and other appropriate City personnel. Additionally, any relevant records related to the job action at issue are evaluated, along with any other available information or documents. The attorneys and staff involved in these investigations meet on a regular basis to discuss the status and progress of the investigations and to share information that may be useful in identifying and addressing systemic problems.

In certain cases the file is shared with the City's Inspector General Office. Typically, the Monitor's office prepares the complaint and its investigative results and then meets with a representative from the Inspector General. If the complaint is one that the Inspector General's Office believes is within its jurisdiction and is sufficiently timely, the Inspector General's Office assumes responsibility for investigating that complaint and the Monitor's investigation ceases. This work sharing agreement allows the Inspector General to recommend appropriate discipline where applicable and prevents duplication of efforts by both offices.

Significant benefits have been obtained as a direct result of this complaint process. As an initial matter, the City has been able to improve its on-going compliance with the *Shakman* Decrees and the Detailed Hiring Plan in the immediate short-term. In numerous cases where there has been an adequate basis to conclude that a complaint is well-founded, the Monitor has requested the City to take specific corrective action, as discussed below. Moreover, systemic problems have been identified and addressed.

#### **D. Development and Implementation of Reforms**

##### **1. SYSTEMIC REFORMS**

Information learned through auditing activities and complaint investigations has led to broad-based reforms in the City's employment practices. Key examples include

reforms to the hiring process for Motor Truck Drivers (“MTDs”), reforms in the hiring process for laborers, reform of an informal promotion practice known as “acting up,” and implementation of a City-wide system that identifies individuals previously terminated “for cause” by the City if or when such individuals reapply.

**a. Elimination of Interviews for MTD Positions/MTD Pools**

The City employs MTDs across several City departments. MTD drivers are needed at different times by different departments and are generally qualified to work in several departments. The City has also employed “seasonal truck drivers.” Some of these seasonal MTDs are hired for snow removal work, for example, and are laid off after the winter season. This has created a patchwork of different MTD positions within the different departments which employ MTDs.

A number of complaints regarding the hiring and promotion of MTDs have been brought to the Monitor’s attention. Complainants alleged that seasonal MTDs were promoted to permanent career service positions based on political connections rather than merit. Complainants have also alleged that the interview process for MTDs was used to hire “clouted” individuals over others, regardless of skill and/or experience.

The Monitor’s office raised these concerns with the City. The City, in turn, had been in the process of negotiating a new kind of MTD position: cross-departmental pool MTDs who could be utilized in four of the main departments which use MTDs as the needs of the City’s departments changed. These departments are Aviation, Transportation, Water Management and Streets and Sanitation. The pool concept would allow the City to dispense with hiring of seasonal MTDs who would be laid off and rehired yearly and instead (with certain limited exceptions), have qualified MTDs move from one department to another based on need.

Although the pool concept should eliminate many of the complaints regarding promotion from “seasonal” to permanent career service positions, it does not address the allegations of manipulation of the interview process. When the City conducted MTD interviews for the Department of Water Management in April of 2006, the Monitor formally requested that the City abolish interviewing for entry level MTDs. This request was prompted by a number of factors, including observations by the auditors of widely disparate scoring of candidates and the use of scoring criteria (such as “oral communication skills”) that were unrelated to the actual work performed by MTDs. In addition, a disproportionate number of selected candidates had very recent seniority dates with the City which were after December 2005. Finally, the Teamsters Union raised concerns that the City was violating its members’ seniority rights, but also that certain of the successful applicants were, in fact, political hires.

The Monitor concluded that there were enough “red flags” to require disposing of the list that had been generated from the interview process. None of the successful bidders had been notified about the results, thus redoing the hiring sequence should not have caused any disruption to these employees. The Monitor recommended that the City

agree to a process which would eliminate the need for interviews, but would focus on previous driving and work experience as a way of gauging qualifications for the job.

The newly agreed upon hiring process for MTDs is as follows. Internal applicants for the position will be ordered into a list by seniority. These bidders will then take a pass/fail driving test. The successful applicants' work histories then will be examined to determine whether their attendance is adequate by a pre-determined formula and whether they have been suspended from work based on discipline records. The successful applicants will then be selected in seniority order.<sup>2</sup> External pool applicants will be assessed similarly, but the list of those with the required licensure will be randomized (instead of ordered by seniority). These applicants also take a pass/fail driving test and those who pass will be selected for open positions by lottery order. The elimination of the interview process in favor of more objective measures will decrease the likelihood of manipulating the MTD hire process in the future.

**b. Creation of Lottery for Laborer Positions in City**

Among various recommendations made by the Monitor and agreed to by the City was the recommendation that the City purge all existing eligibility lists and referral lists that had been created by the City prior to January 1, 2004. *See* Appendix B. Such a purge was recommended due to significant concerns about the integrity of these lists. On May 3, 2006, the City's Corporation Counsel contacted the Monitor's office to advise that the City had actually not purged all eligibility lists as previously agreed. Specifically, the Monitor was advised that the City's eligibility list for the title of "Laborer" had not been purged. The Laborer eligibility list had been created more than six years earlier and contained approximately 20,000 names of job applicants who had applied for the title at that time.

The City alerted the Monitor that in attempting to fill approximately 60 "Hand Laborer" positions within the Department of Streets and Sanitation in the spring of 2006, the City had been using the unpurged Laborer eligibility list. Many of the individuals on this list were no longer viable job candidates, either because they could not be reached at their stated address or phone number, or they were no longer interested in or available for the job.

Based on numerous complaints of improprieties in filling Laborer positions in Streets and Sanitation, the Monitor concluded that the City's request to continue using the unpurged list must be brought to the attention of the Court and the Plaintiffs. The Monitor filed a motion related to this issue on May 4, 2006. *See* Appendix D. As a result, the parties entered into an agreement for filling these 60 Laborer openings that permitted filling the slots as expeditiously as possible, with adequate oversight. The Agreed Order entered by the Court on May 5, 2006 provided that the City would be allowed to utilize the unpurged eligibility list only for the purpose of filling those 60

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<sup>2</sup> Eventually, the City would like to also use previous work performance as part of the hiring criteria, but, until more objective and verifiable means are developed to determine performance, the Monitor's view is that this is inadvisable.



Hand Laborer openings in Streets and Sanitation, as long as the list was randomized anew in a manner that was open and transparent and that permitted review by the Court and the Monitor. *See* Appendix E.

Upon completion of these 60 hires, however, the City had to purge the list. In order to fill any future Laborer vacancies, the City was required to create a current eligibility list, so these vacancies could be filled expeditiously and fairly. The City proceeded with creation of a new eligibility list for the Laborer titles, with direct oversight from the Monitor's office. First, the City informed all affected individuals about the recently purged list. Purge notifications were sent by the City to the entire list of applicants on the old eligibility list advising the applicants of the need to reapply and of the new application period and locations. A Job Announcement for the Laborer title was prepared and the position was opened for application from May 14, 2006 through May 27, 2006. The City also used press announcements to publicize the opening of the title, in addition to using its normal job posting processes.

Over 15,000 individuals submitted new job applications for the Laborer title. The City, with oversight from the Monitor, used a lottery process to randomize the list of job applicants. Since the creation of the new Laborer lists<sup>3</sup> each of the Infrastructure Departments have hired Laborers from these lists, with the oversight of the Monitor. Although certain complaints regarding the hire of specific laborers have continued to be lodged with the Monitor, investigations conducted thus far indicate that these hires were completed pursuant to the lotterized list and were subject to political manipulation. Thus, although complaints will likely continue to be made regarding these coveted positions, both the City and the Monitor are now equipped to investigate quickly whether any improper influence occurred in any particular hiring sequence.

### **c. Reforms to the City's "Acting-Up" Practice**

"Acting Up" refers to the discretionary selection of certain City employees to perform higher level and/or higher paid positions. This City practice was particularly problematic because it violated the *Shakman* Decree's Detailed Hiring Plan. Significant numbers of employees had historically been hand-picked by supervisors to "act up" for extended periods of time, sometimes as long as several years, without any formal selection process or the use of any objective criteria. The Monitor received dozens of complaints alleging that certain employees had been selected to "act up" based on unlawful political considerations. Employees complained that individuals with greater seniority and better qualifications had been passed over for "acting up" assignments in favor of less qualified politically connected individuals. Union employees that are "acting up" receive additional pay for their work. Although non-union employees "acting up" may not receive additional compensation, they do gain valuable experience that can provide a decided advantage in permanently obtaining the higher position at a later date.

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<sup>3</sup> There are six different "Laborer" lists to account for the different Laborer titles.

The inherent problems with this informal promotion practice are clear. Managers and supervisors “promote” employees into these positions with unfettered discretion in this non-competitive selection process. As the following table demonstrates, between January 1, 2006 and October 15, 2006 at least 1,000 different employees within the City’s six infrastructure departments held “acting up” positions. These employees received additional pay and experience in the title as a result.

<b>Department</b>	<b>Total # People Acting Up</b>	<b>Total Payment Acting Up</b>
General Services	86	\$342,586.58
Fleet	100	\$140,399.06
Streets & Sanitation	402	\$576,893.79
CDOT	13	\$20,012.32
Aviation	91	\$83,501.91
Water	373	\$145,211.39
<b>Totals for Infrastructure</b>	<b>1,065</b>	<b>\$1,308,605.05</b>

Thus, in a period of ten (10) months the City paid over one million dollars for individuals that “acted up” into promotions for which they did not have to compete.

There are, however, benefits in allowing some form of “acting up” to be available in the City. In certain cases the ability to quickly select an employee to “act up” into a position may be critical for the City’s legitimate operational needs. For example, a position may need to be filled temporarily, as when an employee is selected to “act up” during an incumbent’s medical leave of absence.

After carefully studying the City’s existing “acting up” practice, the Monitor recommended certain reforms. As a result, the City recently agreed to and implemented a new City-wide “Procedure for Use of Acting Up.” *See* Appendix F. The key features of the new policy include: (1) limiting the total time any individual may be selected to act up within any given year; (2) providing employees notice of the anticipated “acting up” assignment and equal opportunity to express interest in the assignment; (3) requiring the use of objective and specific criteria for selecting employees who “act up”; (4) requiring employees “acting up” for more than ninety days as of November 24, 2006 to be removed from their “acting up” assignment; and (5) requiring the selected employee, all those involved in his or her selection and the respective commissioner or department head to complete *Shakman* certifications as part of the selection process. These reforms are intended to minimize the potential abuse of “acting up” while providing the City the flexibility to meet its operational needs. The City has begun educating departments on the new “Procedure for Use of Acting Up.” The Monitor intends to work cooperatively with the City to ensure on-going compliance with the new policy.

#### **d. Reform to DHR’s Screening Protocol**

The Monitor received a complaint alleging *Shakman* violations following a hiring sequence for Aviation Motor Truck Drivers in the fall of 2005, prior to the elimination of

interviews for these positions, discussed above. The complainant alleged that several individuals hired as MTDs had previously been terminated “for cause” by the City. The complainant asserted that these individuals were being favored for political reasons. During this investigation, it was determined that DHR had no system for identifying applicants who had been previously terminated for cause by the City if or when such individual reapplied to the City. Although individual departments often were aware of previous “for cause” terminations, that information was not shared with other departments. Thus, a person fired from Streets and Sanitation could be rehired in Aviation.

The Monitor investigated this complaint and obtained a list of all Aviation MTDs hired in the fall of 2005 who had previously been terminated by the City (i.e., before they were hired in the fall of 2005). The list contained seven individuals whose employment histories indicated that each had been terminated by the City for disciplinary reasons (marked under Termination Reason as “Termination – Disciplinary” or “Discharge”) and hired into Aviation in the fall of 2005. (These hires were distinct from MTDs who were previously “laid off” and designated as “terminated”-- but not for disciplinary reasons.) The Monitor’s office also interviewed individuals involved in that hiring sequence who confirmed that a manager had raised objections to the rehire of certain individuals and had brought those objections to a more senior hiring official. The more senior hiring official instructed the manager to process the questioned hires. (The more “senior hiring official” has since been removed from her position and reassigned to a position with no personnel responsibility.)

As a result of this investigation, the Monitor recommended that DHR implement a system whereby any individual previously terminated for cause could be identified before that individual was rehired by the City. DHR informed the Monitor that it had also recently identified this deficiency and had been working with the Inspector General’s Office to implement such a system. Further, the Monitor has recommended that any individual previously terminated for cause not be eligible for rehire with the City.

## **2. SPECIFIC CORRECTIVE ACTIONS**

Where possible, the Monitor’s office has made specific recommendations for discreet corrective action to avert or promptly correct possible *Shakman* violations discovered via monitoring or investigating complaints, especially when the hiring sequence at issue has not been completed. Thus, the violation, if there is one, can be averted *before* it actually happens. In some instances, these recommendations have involved specific adjustments in particular job actions.

Additionally, the Monitor has recently instituted a practice of preparing memos to the City outlining complaints and/or problems with recent or ongoing hiring sequences. In response, the City is given an opportunity to promptly review and correct problematic hiring decisions or sequences. In many instances, the City freezes the hiring sequence until remedial or corrective action, if appropriate, can be decided upon. For example, in approximately twenty different hiring sequences, the City has ordered that the entire

interview process be repeated. Often, where interviews are repeated, the City has mandated that different individuals conduct the new interviews to eliminate any potential impropriety. In other instances, referral lists have been corrected, and hiring decisions have been revisited. Similarly, information brought to the attention of the City by the Monitor has resulted in counseling and/or training of individuals involved in City hiring regarding proper procedures and, in other instances, the City has removed certain individuals from having any personnel decision-making authority. In still other instances, the City and the Monitor have agreed to postpone filling certain positions until appropriate remedial action can be agreed upon.

Some examples where corrective actions for discrete violations include a few instances where the Monitor discovered and notified the City that interviewers had altered their scores for specific candidates after the Monitor's auditor collected the original rating sheet. In response to one such instance, the City demoted one individual and provided training to another. In response to another such instance (where the alterations were minor and did not impact the candidate selected), the City counseled the individual. On one occasion, the Monitor discovered that interviewers altered the rating sheets for *all* candidates. The altered scores resulted in the selection of a different candidate than the one who had initially been deemed most qualified. Upon investigation by the City, the offending individual admitted that he and the other interviewer collaborated on their scores and altered the rating sheets. The City ordered that the hiring sequence be repeated. Although that interview sequence will be repeated, the failure by the City to discipline the offending individuals constitutes an inadequate response to the investigation. Thus, the Monitor has continued to investigate this matter.

Similarly, although the City is often willing to repeat interview sequences identified as problematic, it is reluctant to conclude that any substantive *Shakman* violation has occurred based on circumstantial evidence. Thus, without an admission from an employee that he or she explicitly relied upon prohibited political factors in taking an employment action, the City will not conclude that a substantive *Shakman* violation has occurred. This reluctance impedes the City's ability to ensure continuing and increased compliance in the future.

### **3. CHANGES TO HIRING BY THE IGO, CPL AND DHR**

In an effort to assist certain departments with extraordinary and/or unusual hiring needs and in response to requests by the City, including the Inspector General's Office and the Chicago Public Library, the Monitor's office provided direct assistance with screening and hiring and in obtaining Court approval to modify prior Orders in order to expedite hiring.

For example, the Inspector General contacted the Monitor in late 2005 seeking assistance in formulating a specialized hiring process that would both ensure expedited hiring capabilities and maintain independence for his office. Consequently, the Monitor facilitated an agreement between the parties on a new hiring process for the Inspector General's Office (IGO) to meet that office's specific needs. *See* Appendix G. Under that

plan, the IGO can recruit candidates directly, receive applications at their office, screen candidates independently, and conduct Hiring Committee meetings to discuss the candidates' qualifications after the interviewers have evaluated each candidate independently. As a result, the IGO's office has hired approximately thirty (30) new employees since late 2005.

The Monitor is permitted to sit in on all IGO Hiring Committee meetings at which candidates are discussed and reviews all paperwork related to the IGO hires. The Monitor also reviews all completed Hiring Files and retains this documentation. This collaboration has ensured that the IGO has the opportunity to fill its hiring needs in a prompt and efficient manner while protecting the integrity of the *Shakman* decree and its goals.

In late May of 2006, representatives from the Monitor's office were asked to meet with officials of the Chicago Public Libraries ("CPL") to discuss CPL's concerns about the City's process for screening job applicants for certain positions. CPL's primary concerns related to their need to fill numerous existing "Librarian" and "Library Associate" vacancies throughout the City's libraries before the close of the school year and the on-set of the summer reading season. Specifically, CPL officials had concerns that the referral lists generated by the Department of Human Resources (formerly known as the Department of Personnel) for interview purposes would not yield viable candidates for hiring purposes in a timely fashion because: (1) these referral lists have historically been outdated and have included job applicants who were no longer available or interested in the position to which they had applied; and/or (2) in the past, these referral lists have sometimes contained few or no viable candidates because the applications had not been properly screened for specific requirements for different positions.

After discussions with CPL and City officials including representatives from the City's Law Department, the Department of Human Resources, and the Mayor's Office, and with the agreement of the Plaintiffs, the Monitor's office agreed to assist CPL meet its hiring needs expeditiously by screening applicants for various Library Associate and Librarian I through Librarian IV vacancies for a limited period beginning in May of 2006 to the present. As part of this process, the Monitor's office reviewed all current on-line and paper applications and resumes of candidates for these positions and compiled referral lists of candidates for interviews for various vacant positions. To date, the Monitor's Office, with the full cooperation of the Department of Human Resources and CPL, has successfully created referral lists for numerous vacancies in the following vacant positions: Librarian I (Cataloguing), Librarian II (Cataloguing), Librarian III (Branch Manager), Librarian IV (Branch Manager) and Children's Library Associate. As a result, CPL has been able to interview, select and hire well-qualified candidates for numerous vacancies in a timely manner. The Court was advised of the parties' agreement to have the Monitor play this role.

### **E. Additional Activities of Monitor**

In addition to the foregoing work, the Monitor and her counsel were actively involved in the attempted resolution of motions and petitions filed in the case. Specifically, at the request of the Court and with agreement of the parties, the Monitor and her counsel engaged in substantive legal and mediation work in attempts to reach agreement between the parties on a number of disputed issues. Finally, the Monitor and her staff have also engaged in other activities, including:

- Requiring that the Department of Human Resources (DHR) conduct all scoring and screening for all *Shakman* covered positions;
- Ensuring that notice of the City's purging of applications submitted prior to January of 2004 was disseminated;
- Auditing of the *Shakman* Exempt position list and eliminating the City's former practice of moving *Shakman* Exempt positions from one department to another in violation of then existing Court orders;
- Auditing of the newly required *Shakman* certifications signed by each individual involved in each stage of hiring for *Shakman* covered positions and requiring the City to obtain the missing certifications where necessary;
- Maintaining a *Shakman* Monitor website for collecting and disseminating information about City employment practices;
- Providing training on *Shakman* principles to all Department Commissioners, personnel liaisons, DHR employees, the Mayor's Office and the City of Chicago Aldermen;
- Establishing a protocol for sharing information with the Inspector General's office regarding information and complaints received by the Monitor's office;
- Brokering agreements between the parties resulting in Agreed Orders presented to the Court.

## **III. ADDITIONAL REFORMS UNDER CONSIDERATION**

### **A. *Shakman* Exempt Positions/Senior Management Hires**

In her Initial Report to the court, the Monitor stated that she would further examine how the City was implementing its *Shakman* exempt list. She preliminarily concluded in her first Report that there were many titles included in the list which did not seem to meet the standard articulated in *Branti v. Finkel*, 445 U.S. 507, 518 (1980) which disallows political affiliation from consideration in employment unless it is an



appropriate requirement for the effective performance of the job positions. Her further review of the list revealed that there were many titles which in one department would be “exempt” from the requirements of the *Shakman* decree, but in another department would be covered. Further, the list had been amended so many times that the City had substantial difficulty producing a list which actually reflected the reality “on the ground” in the departments. Although the City was required to maintain such a list under the decree, the only list which could be generated was, in fact, highly inaccurate. To correct this, the plaintiffs agreed that the City could file an amended list with the Court which accurately set forth those positions filled in the City (or would be filled) which currently were *Shakman* exempt. The City filed such a list with the Court.

One reason that the *Shakman* list has been such a patchwork of titles is that the exemptions had been used by the City to allow managers maximum discretion to pick senior hires. That is, these applicants are not picked for their political affiliation *per se*, or because political affiliation is necessary to accomplish the job duties, but because the managers hiring them wanted discretion to pick whom they believed was best suited for the position without going through the requirements of the Detailed Hiring Plan.

The Monitor and the City, with substantial feedback from the Plaintiffs, began to work toward a plan which would allow managers to exercise discretion in picking the City’s senior management team, but would still provide enough safeguards (which then could be audited) to ensure that political factors were not guiding the hire. In that way, the *Shakman* exempt slots would be used for those positions which are truly political, and not simply to avoid the Detailed Hiring Plan.

The Monitor first drafted a proposal for Senior Manager Hires and a revised *Shakman* Exempt list in January 2006 which it presented to the City and Plaintiffs. Both sides offered revisions to these proposals. In March, the City and Plaintiffs, under the Court’s supervision, began to negotiate a settlement of the Plaintiffs’ claims against the City which would include an agreed *Shakman* exempt list, as well as a list of senior management hires to which a less restrictive hiring process would apply.

## **B. Hire Process for Foremen in Infrastructure Departments**

In addition to the reforms in hiring MTDs, the City has taken the lead in reforming and standardizing the process for hiring MTD foremen. Although this process is still being formalized, the City plans on using a combination of testing (written and oral) and interviews to select appropriate foremen for MTDs. The City has shared its proposed written testing materials with the Monitor and her counsel for comment. In addition, the City, the Monitor and her counsel and the affected unions have met regarding the implementation of the tests and to address fairness concerns. The City intends to roll out its MTD Foremen testing by the end of the year. The MTD Foremen testing is intended to be a pilot for using the same type of testing in other Foremen positions within the Infrastructure departments. The new testing proposed by the City for the Foremen positions, with proper oversight, will result in a significant improvement over the interview process currently in use.

### C. Fire and Police Potential Reforms

The Monitor has received several complaints alleging political discrimination in the Police and Fire departments. In the Fire Department, the complaints have centered on the testing procedures for fire battalion chiefs and other supervisory positions. Complainants allege that the Fire Department has failed to promote certain disfavored candidates on the battalion chief promotion list. The allegations asserted that although the Fire Department needed additional battalion chiefs, it elected to pay overtime to existing chiefs in order to avoid awarding any promotions. In 2005 the City paid \$2.9 million in overtime to existing fire battalion chiefs. In the spring of 2005, the Fire Department held a new exam for battalion chiefs which generated a new rank order list for that position. For that test, the oral component of the examination was weighted the same as the written test and seniority/experience for the first time, but the answers given by applicants were not recorded in any way. Complainants allege that the oral examination is deliberately scored higher for favored candidates to ensure a place on the promotion list even though their written test scores are not as high as other candidates. Because the oral test answers for candidates are not preserved, there is no way to test this allegation. Accordingly, the Monitor has recommended to the City that these oral examinations be recorded and preserved in the future.

With respect to the Police Department, almost all of the complaints that the Monitor has received deal with Merit Promotions. In the usual promotion process, sworn police officers seeking promotion up the ranks take a civil service exam (except for promotions to Captain for which the civil service exam has been abolished). Applicants do not receive the results of their exam but do receive their ranking on the promotion list, which is based on their exam score and on their seniority. Generally, promotions are subsequently made in the rank order.

The Merit Promotion system, however, allows 30% of promotions to occur outside the testing process and without regard to an individual's rank order. Thus, applicants at the bottom of the rank order list can jump ahead to the top. The rationale for this process is to reward those officers who do not test well, but nonetheless have proven to be commendable officers in the field. The Merit Promotion selections are made by exempt rank personnel (Commanders, Deputy Superintendents, and Deputy Chiefs). Their picks are reviewed by a Merit Board (comprised of the deputy superintendents) which narrows down the list and forwards it to the Superintendent who makes the final selections for merit promotions.

In response to complaints regarding the Merit System selection process, the Monitor discovered that there are no *Shakman* safeguards to ensure these selections are not politically motivated. Complainants allege that some individuals are promoted not based on ability but due to their relationship with the Superintendent's office, the Mayor or an alderman. One retired Commander reported that he received phone calls from an Alderman requesting that he nominate someone for a Merit Promotion. There is nothing, *per se*, improper about an Alderman recommending an individual for a Merit Promotion. In fact, many Aldermen may know the officers that work in their Wards and may be

making recommendations based on their observations and familiarity with that officer's work.

Notably, the Monitor is not aware of any actual *Shakman* violation with respect to the Merit Promotion system. Rather, she has merely received complaints of such violations. Nonetheless, because of the lack of *Shakman*-type safeguards with respect to the Merit Promotion system, she would recommend that the City review the process and institute such safeguards for future promotions.

#### **D. Chicago Public Library Hiring Plan**

The Chicago Public Library has proposed a hiring plan to centralize hiring within the Library itself for certain professional titles. The plan calls for more detailed bid forms and job postings, more targeted recruitment efforts, and for CPL's own human resources department to take over the screening of candidates and creation of referral lists for certain positions in order to expedite the hiring process and meet CPL's business needs. The proposed plan is under review and has not been finalized.

#### **E. Development of Standardized Procedures**

The City has recognized many of the problems which are outlined below in Section IV and has begun to address them with the Monitor's input. One important step in this direction is the development of uniform standards for the use of lack of attendance statistics and discipline data in promotion decisions which, until this development, had been applied differently throughout City departments. Similarly, the City has also developed written guidelines for conducting interviews which will improve the process and make it more uniform and fair throughout the City. Finally, the City has begun to use controlled testing in the infrastructure departments to assess skills required for certain titles.

### **IV. ONGOING COMPLIANCE BARRIERS**

#### **A. Interview Procedures**

Despite the Monitor's oversight of interviews and hiring sequences, certain areas of potential abuse remain in the City's current interview procedures. These areas permit potential manipulation of the interview process for prohibited purposes. The following issues continue to present compliance barriers and should be examined.

##### **1. Interview Bias**

The current interview process does little to prevent an interviewer from "assisting" a preferred candidate by steering the applicant to appropriate interview question responses. Additionally, it is not difficult for an interviewer to score a particular applicant very highly to skew the result in the applicant's favor.

## **2. Use of One Name Referral Lists**

On occasion, DHR will have only one qualified applicant or bidder apply for a position. When DHR provides a department with a “one name” referral list, the Monitor attempts to closely review the hiring sequence. In some instances, there are benign explanations for the one name referral list. However, a one name referral list might also be the product of the failure to adequately post the position in order to reduce the number of individuals competing against a favored applicant. Where there is an indication of such impropriety, the hiring sequence is redone.

## **3. Manipulation of Job Criteria**

Qualifying and hiring criteria for a given position are drafted by the departments where the vacancy exists. No mechanism currently prevents departments from manipulating the criteria in order to favor a particular applicant or provides any safeguards on this front. In cases where the qualifying or hiring criteria are suspect, Monitor has required a review of the criteria to help ensure that the criteria are not being improperly used to eliminate or reduce real competition for the position.

## **4. Manipulation of Referral Lists**

Another practice that can improperly influence the hiring process occurs when a department strikes a candidate from consideration for an interview. Currently, the department has the ability to review the referral list provided by DHR and to strike candidates from consideration, provided a justification is given. The auditors have encountered instances when candidates were stricken from the interview list though they appear qualified for the position based on their applications. In these cases, the justification for striking the applicant has been closely reviewed.

## **5. Interview Questions**

There are virtually no existing safeguards within the City designed to ensure that interview questions are appropriate and reflect the actual criteria for the positions. When departments rely on outdated or immaterial interview questions to evaluate applicants, the interview is ineffective and open to potential manipulation. For example, the City continues to subjectively rate applicants on interview questions that relate to a basic objective job requirements. Sometimes these questions are as basic as “do you live in Chicago?” and “do you have a valid license?” Subjectively rating candidates based on answers to such questions is inefficient and subject to abuse.

## **6. Discord Between Interview Questions and Rating Criteria**

A related problem in the City’s current interview procedures is that the hiring criteria used to rate an applicant’s interview does not correlate to the information solicited by the interview questions. For example, applicants are often rated on their writing skills, without any method of measurement. Similarly, interviewers often assess

and score hiring criteria such as “previous satisfactory performance in positions involving similar duties within the City” even if the interviewer is unfamiliar with an applicant’s prior performance. Consequently, this provides an avenue for manipulating an applicant’s interview score.

### **B. Aldermanic Recommendations**

Another problematic area in ensuring on-going compliance with *Shakman* involves Aldermanic recommendations for employment actions. A number of the City’s Aldermen have raised concerns about their ability to recommend applicants and employees for hire or promotion at the City. During *Shakman* training provided to the Aldermen and in conversations with various Aldermen, the Monitor has consistently informed the Aldermen that recommendations based on personal knowledge of an individual’s job-related skills, work experience, or other job-related qualifications are permissible. Recommendations based on political activities, associations and/or views, however, are clearly prohibited from being considered for *Shakman* covered positions.

In order to eliminate even the appearance of impropriety, the Monitor has suggested (although not required) that Aldermen submit job recommendations in writing. Despite all of this, however, certain Aldermen continue to make job recommendations that are not in writing and/or that do not appear to be based on relevant job-related factors. For example, in one case, an Alderman recommended an employee for transfer based on the employee’s purported “excellent work record” even though that employee had just received a disciplinary suspension. Another Alderman simply instructed the Department of Streets and Sanitation to promote a recently hired Motor Truck Driver from “seasonal” to “permanent” (a highly coveted promotion) without any justification at all. In another instance, an Alderman requested the rehire of a recently laid off employee based on the employee’s status as a “good employee” despite the fact that the employee had received two separate disciplinary suspensions within the prior six months. Thus, despite *Shakman* compliance by the vast majority of Aldermen in the practice of recommending hires and promotions, there must be a system in place to audit Aldermanic recommendations which may improperly interfere with a hiring sequence.

### **C. City’s Compliance with Agreements**

A recurring difficulty in monitoring City hiring arises from a lack of cohesiveness in the City. Thus, although the Monitor may reach agreements with the Mayor’s Office, DHR and the Law Department, those agreements are not always adhered to by all departments within the City. For example, despite repeated directives from the Mayor’s Office to each department that notice of any interviews must be given to the Monitor at least 48 hours in advance, some departments still fail to comply with this agreement. Similarly, despite the City’s agreement that all interviews will be conducted by more than one individual and that all rating sheets will be individually and contemporaneously completed, some departments continue to conduct interviews with one only interviewer and/or fail to contemporaneously complete the rating sheets. In fact, on a few occasions, despite explicit instructions from the Mayor’s Office, DHR and/or the Law Department,

interviewers have altered scores for particular candidates after the Monitor collected the original rating sheets.

The City also failed to honor an agreement reached between members of the Mayor's Office, the Law Department and the Monitor. As described above, after numerous concerns were raised regarding the Water Department's interviews for career service Motor Truck Drivers in April of 2006, the Monitor requested and the City agreed to eliminate interviews from the hiring process for MTDs and rely instead, upon testing and other objective factors. That agreement was explicitly intended to apply to those Water Department MTD hires in April of 2006. After these MTDs were hired and notified of the hire, it was discovered that the City had, despite the agreement with the Monitor, relied upon the suspect interview scores in making the MTD hires. As a result, those hires had to be rescinded causing significant disruption to the workers who believed they were selected for the MTD positions.

There have also been breaches of agreements that have been formalized in different Court Orders. For example, despite the Order that all applications and lists from before 2004 be purged, the City failed to purge the Laborer's list discussed above. As a result, there was a delay in hiring and need to modify the Court's order. This also resulted in a substantial amount of additional work on the part of the Monitor's office. Similarly, as discussed in the Monitor's Status Report of March 23, 2006, the City also initially failed to comply with the requirement that *Shakman* Certifications be signed *prior* to the hiring of any individual. As a result, the Monitor's office and the City were required expend hundreds of hours reviewing *Shakman* Certifications to identify and obtain missing or incomplete certifications. Thus, the Monitor's role has included not simply making recommendations and reaching agreements with the City on reforms in hiring, but has also required auditing compliance with even these agreements.

## V. RECOMMENDATIONS

- **ESTABLISHMENT OF AN EFFECTIVE ANTI-PATRONAGE POLICY**
- **ON-GOING OVERSIGHT OF HIRING PROCESS**
- **IMPROVEMENTS IN JOB APPLICATION PROCESS**
- **COMPREHENSIVE SHAKMAN TRAINING FOR PERSONNEL EMPLOYEES**
- **INCREASED ACCOUNTABILITY FOR PERSONNEL EMPLOYEES**
- **COMPREHENSIVE AUDIT OF HIRING CRITERIA AND JOB POSITIONS**
- **IMPROVEMENTS IN INTERVIEW PROCESS**
- **INCREASED ACCOUNTABILITY FOR NON-COMPLIANCE**
- **PERFORMANCE MANAGEMENT FOR DHR**
- **REGULAR TRAINING FOR ALL EMPLOYEES ON SHAKMAN PRINCIPLES**
- **ELIMINATION OF INTERVIEWS FOR "WILLING AND ABLE" POSITIONS**
- **IMPROVEMENTS IN DHR'S SCREENING**



Respectfully submitted this 4<sup>th</sup> day of December, 2006

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**Foreman of Laborers Promotional Plan**

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The Foreman of Laborers promotional process will consist of three parts, which will be scored individually and then combined in a single score. The ranking will be used to place the applicant into categories of Most Qualified, Highly Qualified, Qualified, or Not-Qualified.

The commonly accepted standard for hiring in both private and public sectors is an evaluation of KNOWLEDGE, SKILL and ABILITY. This standard is the basis for the Foreman of Laborers promotional process.

**1.) Citywide Standards Examination (KNOWLEDGE)**

This stage tests for a basic level of knowledge that is essential to a managerial/supervisory role. The test will consist of 20 questions in each of three major areas, including:

- (a) Personnel Rules
- (b) Ethics
- (c) Shakman Compliance

The test is multiple choice and True/False. Each question is worth 5 points. A pool of questions on these topics will be available for the departments to make the selection of 20 to be used on the test. Therefore, the same test will not be used twice.

Only the applicants with a score of 70% or higher will advance to the next stage of the process.

**2.) Practical Application (SKILL)**

This stage tests for a basic aptitude for supervisory skill. The test will consist of 5 questions in areas including:

- (a) General scenarios with a sample report, i.e. Report of Occupational Injury or Illness Form and (or) Vehicle/Equipment Crash/Damage Report Form.
- (b) General description of the key responsibilities and/or expectations the applicant has of the people he or she will supervise.
- (c) Specific questions designed by the department. Technical questions can be developed by the Department and submitted to DHR for approval.

The test is a short answer, written test. Each question is worth 20 points, with a total possible value of 100.

Only the applicants with a score of 70% or higher will advance to the next stage of the process.

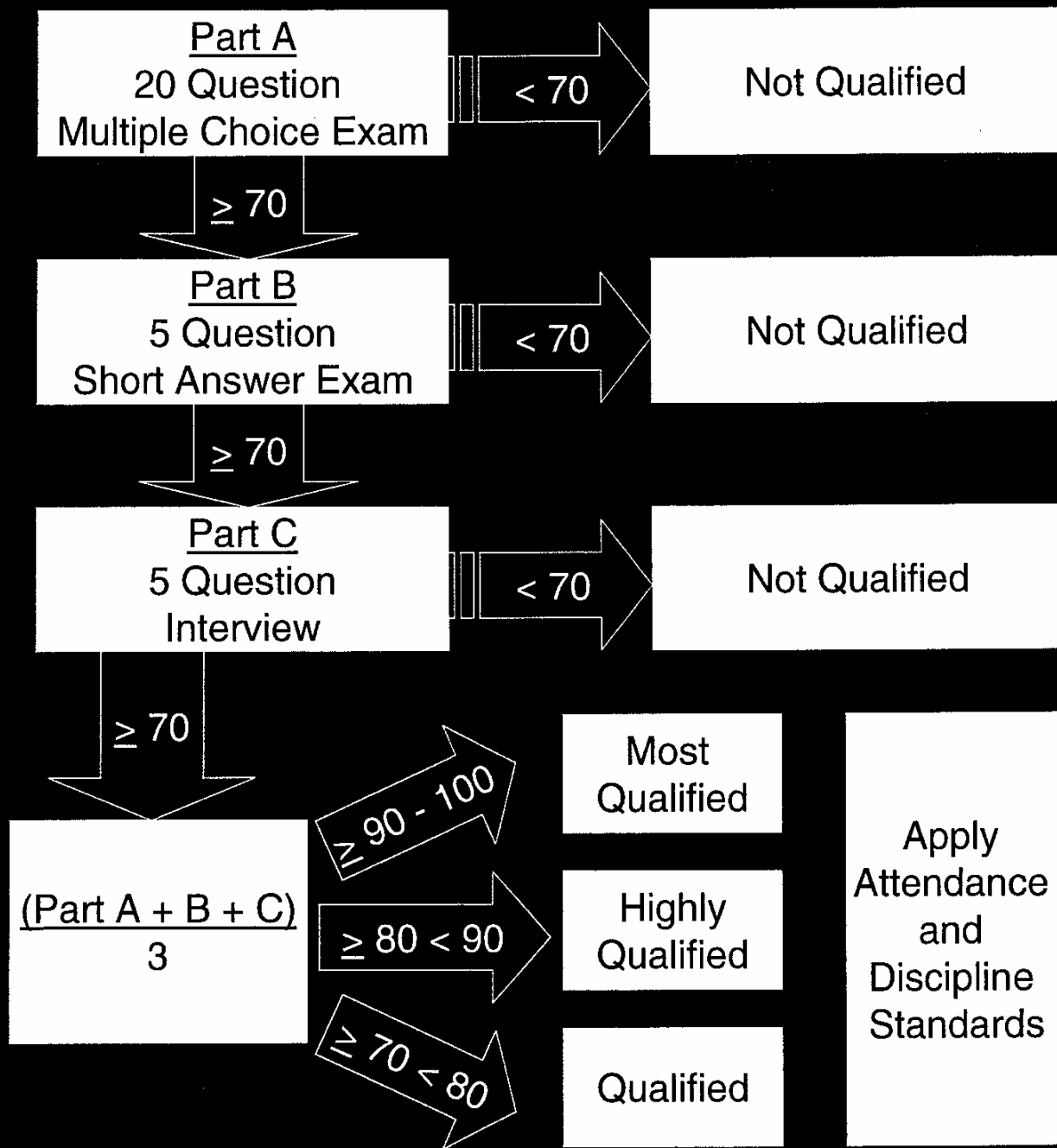
**3.) Interview (ABILITY)**

This stage ensures that applicants who do not do as well in a written portion can have a fair chance at demonstrating their ability to perform the job. A pool of questions on supervisory ability will be available for the departments to select, depending on their own needs. Other questions that are more specific to the department may be added as needed, but must also be approved by DHR.

The test will consist of 5 (five) questions, each with a value of 20 points. 70% is a passing score.

The individual's score shall be an average of the three passing scores. The scores will be ranked in order of highest to lowest, and scores greater than or equal to 90 will be considered Most Qualified, greater than or equal to 80 and less than 90 will be considered Highly Qualified, greater than or equal to 70 and less than 80 will be considered Qualified. Selections will first be made from the Most Qualified category in order of seniority, and subsequently from the Highly Qualified and Qualified categories in seniority order, as needed. Twelve month attendance and disciplinary history will be reviewed for those selected during that hiring sequence. Hires will be made in order of seniority within the appropriate category (Most Qualified first) as based on score, provided the individual also meets the attendance and discipline criteria.

# Promotional Process



Selections will first be made from the Most Qualified category in order of seniority, and subsequently from the Highly Qualified and Qualified categories in seniority order. Twelve month attendance and disciplinary history will be reviewed for those selected during that hiring sequence. Hires will be made in order of seniority within the appropriate category, provided the individual also meets the attendance and discipline standards.

## LIST OF FOREMAN TITLES

DEPT.	TITLE CODE	TITLE NAME
058 OEMC	5040	Foreman of Electrical Mechanics
058 OEMC	5084	Foreman of Linemen-Salaried
059 POLICE	5040	Foreman of Electrical Mechanics
057 FIRE	6733	Supervising Air Mask Technician
Health		Foreman of Motor Truck Drivers
Health		Supervisor of Building/Construction Inspector
General Services	8244	Foreman of Laborers
Streets and Sanitation		Foreman Motor Truck Driver
Streets and Sanitation		Foreman Laborer
Streets and Sanitation		Foreman Lineman
Streets and Sanitation		Foreman Traffic Signal Repair
Streets and Sanitation		Foreman Hoisting Engineer
CDOT		Asphalt Foreman
CDOT		Asst Chief Bridge Operator
CDOT		Field Supvy
CDOT		First Asst Supt Sign Division
CDOT		Foreman of Architectural Iron Workers
CDOT		FOREMAN OF BRICKLAYERS
CDOT		FOREMAN OF BRIDGE AND STRUCTURAL IRON WORKERS
CDOT		FOREMAN OF CARPENTERS
CDOT		FOREMAN OF CEMENT FINISHERS
CDOT		FOREMAN OF CONSTRUCTION LABORERS
CDOT		FOREMAN OF HOISTING ENGINEERS
CDOT		FOREMAN OF LABORERS
CDOT		FOREMAN OF MACHINISTS
CDOT		FOREMAN OF MOTOR TRUCK DRIVERS
CDOT		FOREMAN OF SHEET METAL WORKERS
CDOT		FOREMAN OF SIGN HANGERS
CDOT		FOREMAN OF SIGN SHOP
CDOT		GENERAL FOREMAN OF CARPENTERS
CDOT		GENERAL FOREMAN OF CONSTRUCTION LABORERS
CDOT		GENERAL FOREMAN OF ELECTRICAL MECHANICS
CDOT		GENERAL FOREMAN OF GENERAL TRADES
CDOT		GENERAL FOREMAN OF HOISTING ENGINEERS
CDOT		GENERAL FOREMAN OF LABORERS
CDOT		GENERAL FOREMAN OF MOTOR TRUCK DRIVERS
CDOT		GENERAL FOREMAN OF PAINTERS
CDOT		GENERAL SUPT OF STREETS AND SANITATION
Buildings		Supervisor Building/Construction Inspector
Revenue		Foreman of Laborers
Revenue		Supervisor of Parking Meeting Mechanic
Water	7125	ASST CHIEF EQUIPMENT DISPATCHER
Water	5516	ASST CHIEF FILTRATION ENGINEER
Water	7745	ASST CHIEF OPERATING ENGINEER
Water	2235	ASST CHIEF PLUMBING INSPECTOR
Water	8352	ASST DISTRICT SUPERINTENDENT



## LIST OF FOREMAN TITLES

Water	5687	A/Engr Water Distribution
Water	6086	A/Engr Water Pumping
Water	8343	ASST FOREMAN OF SEWER CLEANING
Water	6555	ASST SUPT OF WATER METERS
Water	7126	CHIEF EQUIPMENT DISPATCHER
Water	5517	CHIEF FILTRATION ENGINEER
Water	7747	CHIEF OPERATING ENGINEER
Water	8316	CHIEF MASON INSPECTOR
Water	1067	CHIEF WATER RATE TAKER
Water	8305	COORD TUGBOAT OPERATION
Water	8373	DISTRICT SUPERINTENDENT OF WATER DISTRIBUTION
Water	6087	ENGR OF WATER PUMPING
Water	5566	ENGR WATER PURIFICATION
Water	6088	ENGR OF ELECTRIC PUMPING
Water	6135	FIELD SERVICE DIRECTOR
Water	4405	FOREMAN OF BRICKLAYERS
Water	4303	FOREMAN OF CARPENTERS
Water	8246	FOREMAN OF CONSTRUCTION LABORERS
Water	4225	FOREMAN OF CUSTODIAL WORKERS
Water	5040	FOREMAN OF ELECTRICAL MECHANICS
Water	7635	FOREMAN OF HOISTING ENGINEERS
Water	6676	FOREMAN OF MACHINISTS
Water	7185	FOREMAN OF MOTOR TRUCK DRIVERS
Water	4636	FOREMAN OF PAINTERS
Water	1860	FOREMAN OF PIPE YARDS
Water	4404	FOREMAN OF SEWER BRICKLAYERS
Water	8345	FOREMAN OF SEWER CLEANING
Water	9592	FOREMAN OF STATION LABORERS
Water	4776	FOREMAN OF STEAMFITTERS
Water	8394	FOREMAN OF WATER PIPE CONSTRUCTION
Water	4566	GENERAL FOREMAN OF CONSTRUCTION LABORERS
Water	5042	GENERAL FOREMAN OF ELECTRICAL MECHANICS
Water	7636	GENERAL FOREMAN OF HOISTING ENGINEERS
Water	7187	GENERAL FOREMAN OF MOTOR TRUCK DRIVERS
Water	4757	GENERAL FOREMAN OF PLUMBERS
Water	5985	GENERAL SUPT OF SEWERS
Water	2233	PLUMBING INSPECTOR I/C
Water	7175	SUPERINTENDENT OF GARAGE
Water	7637	SUPERINTENDENT OF HOISTING ENGINEERS
Water	8350	SUPERINTENDENT OF SEWER OPERATIONS
Water	5616	SUPERVISING ENGINEER
Water	2147	SUPERVISING HOUSE DRAIN INSPECTOR
Water	5848	SUPT OF CONSTRUCTION AND MAINTENANCE
Water	6556	SUPT OF WATER METERS
Water	1064	SUPVSR OF WATER METER ASSESSORS
Water	1063	SUPVSR OF WATER RATE TAKERS
Water	2318	WATER QUALITY INSPECTOR I/C
Aviation		Airport Maintenance Foreman
Aviation		Foreman of Carpenters
Aviation		Foreman of Construction Laborers
Aviation		Foreman of Custodial Workers
Aviation		Foreman of Electrical Mechanics
Aviation		Foreman of Laborers
Aviation		Foreman of Machinists
Aviation		Foreman of Motor Truck Drivers

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