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By Mail and Email

June 14, 2016

Frank Randazzo, Esq.
Public Administrator
Office of the Bronx County Public Administrator
851 Grand Concourse, Room 336
Bronx, NY 10451

Re: Preliminary Determination for Audit: Review, Evaluation and Monitoring of the Office of the Bronx County Public Administrator's Employment Practices and Procedures from January 1, 2013 to December 31, 2015.

Dear Public Administrator Randazzo:

On behalf of the members of the Equal Employment Practices Commission (Commission or EEPC), thank you and your agency for the cooperation extended to our staff during the course of this audit. This letter contains the Commission's findings and preliminary determinations pursuant to our audit and analysis of your agency's Employment Practices and Procedures for the period covering January 1, 2013 to December 31, 2015.

The New York City Charter, Chapter 36, Section 831(d)(5), empowers this Commission to audit and evaluate city agencies' employment practices, programs, policies and procedures, and their efforts to ensure fair and effective equal employment opportunity for employees and applicants seeking employment with city agencies. Section 832.c provides that this Commission may, pursuant to an audit, make a preliminary determination that any plan, program or procedure utilized by any city agency does not provide equal employment opportunity and recommend all necessary and appropriate procedures, approaches, measures, standards and programs to be utilized by agencies in these efforts.

The Office of the Bronx County Public Administrator, which may herein be referred to as "the agency," falls within the Commission's purview under Chapter 36, Section 831(a) of the New York City Charter, which delineates city agency as any "city, county, borough or other office, administration, board, department, division, commission, bureau, corporation, authority, or other agency of government where the majority of the board members of such agency are appointed by the mayor or serve by virtue of being city officers or the expenses of which are paid in whole or in part from the city treasury..."



The purpose of this audit and analysis is to evaluate the agency's Employment Practices and Procedures, not to issue findings of discrimination pursuant to the New York City Human Rights Law. This Commission has adopted *Uniform Standards for EEPC Audits*¹ and *Minimum Equal Employment Opportunity Standards for Community Boards* to assess agencies' EEO programs and policies for compliance with federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for municipal government employees and job applicants. These standards are founded upon and consistent with federal, state and local laws, regulations, procedures and policies including, but not limited to, the Citywide Equal Employment Opportunity Policy - Standards and Procedures to be Utilized by City Agencies; the New York City Human Rights Law (NYC Administrative Code §§8-107(1)(a) and (d), 8-107.13, and 8-107.1); the New York State Civil Service Law §55-a; the Uniform Guidelines on Employee Selection Procedures (29 CFR §§1607.3 - 1607.7); the Americans with Disabilities Act and its Accessibility Guidelines; and the equal employment opportunity requirements of the New York City Charter. Prescribed corrective actions are consistent with the aforementioned parameters.

Since this Commission is empowered to review and recommend actions which each agency should consider including in its annual plan of measures and programs to provide equal employment opportunity (Annual EEO Plan), the audited agency should incorporate required corrective actions in its current EEO Program and prospective Annual EEO Plans.

Scope and Methodology

This Commission's audit methodology includes collection and analysis of the documents, records and data the agency provides in response to the *EEPC Document and Information Request Form*; responses to the *EEPC Interview Questionnaires* for EEO professionals and others involved in EEO program administration; and, if applicable, review of the agency's *Annual EEO Plans* and *Quarterly EEO Reports* and analysis of workforce and utilization data from the *Citywide Equal Employment Database System* (CEEDS).

This Commission reviews the workforce statistics and utilization analysis information available via CEEDS to understand the concentrations of race and gender groups within an agency's workforce. (CEEDS may be unavailable for certain non-mayoral agencies. In such cases, the EEPC requests that the agency submit similar statistics and analysis.) EEO Program Analysts examine imbalances between the number of employees in a particular job category and the number that would reasonably be expected when compared to their availability in the relevant labor market. Personnel transactions are reviewed in order to ascertain the agency's employment practices. Where underutilization is revealed within an agency's workforce, EEO Program Analysts assess whether the agency has undertaken reasonable measures to address it.

EEO professionals (including, but not limited to, past or current EEO Officers, Deputy or Co-EEO Officers, EEO Counselors, EEO Trainers, EEO Investigators, Disability Rights Coordinators, Career Counselors, 55-a Program Coordinators) and others involved in EEO program administration such as the Principal Human Resources Professional are given a two-week deadline to complete and return their individual questionnaires. The Commission's EEO Program Analysts also conduct

¹ Corresponding audit/analysis standards are numbered throughout the document.



additional research and follow-up discussions or interviews with EEO professionals, when appropriate.

To encourage response, the EEPC requests that the head or deputy of each agency send emails to employees and to supervisors/managers that provide links to our questionnaires.

Description of the Agency

The Public Administrator administers the estates of deceased persons (“decedents”). There is a Public Administrator in every county in the City of New York. The Public Administrator of Bronx County administers the estates of Bronx residents who die without a will and without any heirs willing or able to administer the estates. The Public Administrator’s primary duty is to administer estates that would otherwise remain unadministered: to protect the decedent’s property from waste, loss or theft; make appropriate burial arrangements when no close relative is available to make the decisions; conduct thorough investigations to discover all assets; liquidate assets at public auction or distribute assets to heirs; pay the decedent’s bills and taxes; and to locate persons entitled to inherit from the estate and ensure that the legal distributees receive their inheritance.

The Office of the Bronx County Public Administrator had 11 employees at the end of the period in review. (Statistical profile of agency workforce attached as Appendix -1).

PRELIMINARY DETERMINATIONS AFTER AUDIT AND ANALYSIS

Following are the corresponding audit standards for each subject area along with the EEPC’s findings and required corrective actions, where appropriate:

I. ISSUANCE, DISTRIBUTION AND POSTING OF EEO POLICIES:

Determination: The agency is in partial compliance with the standards for this subject area.

1. Issue a general EEO Policy statement or memo reiterating commitment to EEO, declaring the agency's position against discrimination on any protected basis, advising employees of the names and contact information of EEO professionals, and attaching, or providing employees pertinent electronic links to, an EEO Policy/Handbook.
- ✓ On October 27, 2011, the agency issued a general EEO Policy statement that reiterated the Public Administrator’s commitment to EEO, declared the agency's position against discrimination on any protected basis, and advised employees of the name of the principal EEO professional; the statement also instructed employees to find the Department of Citywide Administration’s EEO Handbook, *About EEO: What You May Not Know*, which was posted on the agency’s bulletin board with the general EEO Policy statement.
 - The agency did not include the contact information of the EEO professional(s). In addition, the memo was not issued by the current agency head. **Corrective action required.**

Corrective Action #1: Issue a general EEO Policy statement or memo, from the current agency head, reiterating commitment to EEO, declaring the agency's position against discrimination on any protected basis, advising employees of the names and contact information of EEO professionals, and attaching, or providing employees pertinent electronic links to, an EEO Policy/Handbook.

2. Distribute/Post a paper or electronic copy of the *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies* – or an agency EEO Policy that conforms to city, state and federal laws – for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: a policy against sexual harassment; uniform and responsive procedures for investigating discrimination complaints and providing reasonable accommodations; an up-to-date list of protected classes under NYC and NYS Human Rights Laws; and current contact information for the agency's EEO professionals, as well as federal, state and local agencies that enforce laws against discrimination.
 - The agency did not distribute/post a paper or electronic copy of an agency EEO Policy that conforms to city, state and federal laws, or the *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies* for use by managers, supervisors, and legal, human resources and EEO professionals, or current contact information for the agency's EEO professionals. **Corrective action required.**

Corrective Action #2: Distribute/Post a paper or electronic copy of the *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies* – or an agency EEO Policy that conforms to city, state and federal laws – for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: a policy against sexual harassment; uniform and responsive procedures for investigating discrimination complaints and providing reasonable accommodations; an up-to-date list of protected classes under NYC and NYS Human Rights Laws; and current contact information for the agency's EEO professionals, as well as federal, state and local agencies that enforce laws against discrimination.

NOTE ON POLICY UPDATES: Subsequent to the audit period, the following protected categories were added to the New York City's Human Rights Law: "caregiver status" (effective May 4, 2016); and "pregnancy" (enforcement guidance released on May 16, 2016). All EEO policies/flyers and related documents must reflect these updates.

II. EEO TRAINING FOR AGENCY:

Determination: The agency is not in compliance with the standards for this subject area.

3. Establish and implement an EEO training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on unlawful discriminatory practices under local, state and federal EEO laws; EEO rights and/or responsibilities; discrimination complaint and investigation procedures; prevention of sexual harassment; and reasonable accommodation procedures.

- The agency did not demonstrate that new and existing employees received training on unlawful discriminatory practices under local, state and federal EEO laws; EEO rights and/or responsibilities; discrimination complaint and investigation procedures; prevention of sexual harassment; or reasonable accommodation procedures. **Corrective action required.**

Corrective Action #3: Establish and implement an EEO training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on unlawful discriminatory practices under local, state and federal EEO laws; EEO rights and/or responsibilities; discrimination complaint and investigation procedures; prevention of sexual harassment; and reasonable accommodation procedures.

III. EMPLOYMENT PRACTICES (Recruitment, Hiring & Promotion):

Determination: The agency is in **partial compliance** with the standards for this subject area.

4. The principal EEO Professional, HR Professional, and General Counsel, review the agency's statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender), the annual number of EEO complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required to correct deficiencies.
- ✓ The agency reported that during the period in review, the principal EEO professional also served as the principal HR professional, and conducted a review of the agency's statistical information.
 - The agency did not demonstrate that the principal EEO/HR Professional reviewed the agency's employment practices, policies and programs on an annual basis to identify whether there were barriers to equal opportunity within the agency and determine what, if any, corrective actions were required to correct deficiencies. **Corrective action required.**

NOTE: During the period in review, the agency did not have a General Counsel position. Additionally, the agency reported that it did not receive any EEO complaints.

Corrective Action #4: Ensure that the principal EEO/HR Professional reviews the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to correct deficiencies (e.g. underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.

5. Ensure that human resources professionals, managers, supervisors, and other personnel involved in recruiting and hiring are trained to consider EEO laws/policies and use uniform, job-related techniques to identify, interview and select the most capable candidates (e.g. structured interview training or guide).

- The agency did not demonstrate that all human resources professionals, managers, supervisors, and other personnel involved in recruiting and hiring were trained to consider EEO laws/policies and use uniform, job-related techniques to identify, interview and select the most capable candidates, or receive a structured interview guide. **Corrective action required.**

Corrective Action #5: Ensure that all human resources professionals, managers, supervisors, and other personnel involved in recruiting and hiring are trained to consider EEO laws/policies and use uniform, job-related techniques to identify, interview and select the most capable candidates (e.g. structured interview training or guide).

6. Promote employees' awareness of opportunities for promotion and transfer within the agency, and ensure that employees are considered for such opportunities.
 - ✓ The agency promoted employees awareness of job opportunities within the agency by posting paper copies of the Job Vacancy Notices via a bulletin board. During the period in review, the Job Vacancy Notice for the position of *Case Manager (Collections Agent/Administrative Assistant)* was posted on the agency's bulletin board.
7. At minimum, indicate the agency is an equal opportunity employer in recruitment literature.
 - ✓ During the period in review, the agency reported that it advertised for one (1) position, *Case Manager (Collections Agent/Administrative Assistant)* (October 27, 2014). The job vacancy notice included the EEO tag line: "*The Public Administrator of Bronx County is an Equal Opportunity Employer.*"
8. Use and maintain an applicant/candidate log or tracking system which, at minimum, includes the *position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition)* of each applicant, and *recruitment source*. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.
 - The agency did not use or maintain an applicant/candidate log or tracking system which, at minimum, included the *position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition)* of each applicant, and *recruitment source*. **Corrective action required.**

Corrective Action #6: Use and maintain an applicant/candidate log or tracking system which, at minimum, includes the *position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition)* of each applicant, and *recruitment source*. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.

IV. CAREER COUNSELING:

Determination: The agency is in partial compliance with the standards for this subject area.

9. Designate a professional (may be referred to as the Career Counselor) with appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling to employees upon request. Remind employees of the identity/type of guidance available from the Career Counselor at least once each year.
- The agency did not designate a professional with appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling to employees upon request. **Corrective action required.**

Corrective Action #7: Designate a professional (may be referred to as the Career Counselor) with appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling to employees upon request. Remind employees of the identity/type of guidance available from the Career Counselor at least once each year.

10. The Human Resources professional distributes the identity of the agency Career Counselor and ensures that all employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings; ensures that all new employees are advised of the EEO policies, their rights and responsibilities under such policies and the discrimination complaint procedures; informs the principal EEO professional of the number of 55-a program participants and efforts the agency has made to employ, promote or accommodate qualified individuals with disabilities; involves the principal EEO professional in EEO-related matters; and promptly consults with the principal EEO professional if informed of, or suspects that a violation of the EEO Policy has occurred.
- ✓ During the period in review, the principal Human Resources professional also served as the principal EEO professional. The principal EEO professional/HR professional was responsible for all EEO-related matters and ensured that, upon hire, all new employees were advised of the EEO policies, their rights and responsibilities under such policies and the discrimination complaint procedures. The principal EEO/HR professional was also responsible for the 55-a program and efforts the agency made to employ, promote and accommodate qualified individuals with disabilities.

NOTE: The agency reported no 55-a program participants during the period in review. (See §IV.9 for career counselor information).

- The agency did not demonstrate that employees had access to information regarding job responsibilities, performance evaluation standards, examinations, and training opportunities. **Corrective action required.**

Corrective Action #8: Ensure that the Human Resources Professional ensures that all employees have access to information regarding job responsibilities, performance evaluation standards, examinations, and training opportunities.

V. EEO AND REASONABLE ACCOMMODATIONS FOR EMPLOYEES/
APPLICANTS FOR EMPLOYMENT WITH DISABILITIES:

Determination: The agency is in partial compliance with the standards for this subject area.

11. Ensure that information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures is made available in appropriate alternative formats (i.e., large print, audio tape and/or Braille) upon request to employees and applicants for employment with disabilities.

- The agency did not demonstrate that information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures was made available in appropriate alternative formats upon request to employees and applicants for employment with disabilities. Corrective action required.

Corrective Action #9: Ensure that information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures is made available in appropriate alternative formats (i.e., large print, audio tape and/or Braille) upon request to employees and applicants for employment with disabilities.

12. Document reasonable accommodation requests and their outcomes.

- ✓ The agency reported that requests for reasonable accommodation were to be submitted, via electronic mail, to both the principle EEO professional and the Public Administrator. During the period in review, the agency reported that it received no requests for reasonable accommodation.

VI. RESPONSIBILITY FOR EEO PLAN IMPLEMENTATION - EEO PROFESSIONALS:

Determination: The agency is in partial compliance with the standards for this subject area.

13. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. The principal EEO Professional is trained and knowledgeable regarding city, state and federal EEO laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination complaints.

- ✓ Prior to the period in review, the agency appointed the principal HR professional as the principal EEO professional to implement EEO policies and standards within the agency. On November 18, 2009, the principal EEO/HR Professional completed the City of New York Department of Citywide Administration Services Division of Citywide Equal Employment Opportunity's *Basic Training for Equal Employment Opportunity Representatives Training*.

14. Ensure that EEO professionals are trained in EEO laws and procedures and know how to carry out their responsibilities under the EEO Policy.

- ✓ Prior to the period in review, in addition to the principal EEO professional, the agency appointed an auxiliary EEO professional.

- The agency did not demonstrate that the auxiliary EEO Professional was trained in EEO laws and procedures.

NOTE: In March of 2013, the auxiliary EEO professional resigned from the agency. For the remainder of the period in review, the agency maintained one (1) EEO professional. (see §VI.13).

15. The principal EEO Professional reports directly to the agency head (or an approved direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities.

- ✓ During the period in review, the agency's principal EEO professional reported directly to the agency head in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities. This reporting relationship was reflected in the agency's organizational chart.

16. To ensure the integrity and continuity of the EEO Program, maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.

- The agency reported that no EEO-related meetings were held during the period in review. In addition, the agency did not demonstrate that it maintained documentation of communication between the principal EEO professional and the agency head regarding decisions that impact the administration and operation of the EEO program. **Corrective action required.**

Corrective Action #10: Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.

VII. RESPONSIBILITY FOR EEO PLAN IMPLEMENTATION – SUPERVISORS/MANAGERS:

Determination: The agency is not in compliance with the standards for this subject area.

17. Establish and administer an annual managerial/non-managerial performance evaluation program to be used for probationary periods, promotions, assignments, incentives and training.

- The agency did not establish or administer annual managerial or non-managerial performance evaluation programs. **Corrective action is required.**

Corrective Action #11: Establish and administer an annual managerial/non-managerial performance evaluation program (with timetable) to be used for probationary periods, promotions, assignments, incentives and training.

18. The managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

- The agency did not evaluate managers on implementing EEO-related responsibilities. **Corrective action is required.**

Corrective Action 12: Ensure that the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

VIII. REPORTING STANDARD FOR AGENCY HEAD:

Determination: The agency is not in compliance with the standards for this subject area.

19. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports² (up to 30 days following each quarter) on efforts to implement the plan.

- During the period in review, the agency did not submit an Annual Plan of measures and programs to provide equal employment opportunity or quarterly reports on efforts to implement the plan. **Corrective action is required.**

Corrective Action #13: Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports (up to 30 days following each quarter) on efforts to implement the plan.

After implementation of the EEPC's corrective actions, if any:

1. The agency head distributes a memorandum informing employees of the changes implemented in the EEO program pursuant to the EEPC's audit/analysis and re-emphasizing the agency head's commitment to the EEO program.

Final Action: Distribute a memorandum signed by the agency head informing employees of the changes implemented in the EEO program pursuant to the EEPC's audit/analysis and re-emphasizing the agency head's commitment to the EEO program.

²Submission of *Quarterly Reports on EEO Activity* is optional for non-Mayoral agencies.



Conclusion

The agency has 13 required corrective action(s) at this time.

Pursuant to Chapter 36 of the New York City Charter, your agency has the *option* to respond to this *preliminary determination*, but must respond to our Final Determination if corrective action is required.

Optional Response to preliminary determination: If submitted, your optional response should indicate, with attached documentation, what steps your agency has taken or will take to implement the prescribed corrective actions, and must be received in our office within 14 days from the date of this letter. No extensions will be granted for the *option* to respond to the *preliminary determination*.

(Optional Conference) During the Optional Conference, we will discuss the immediate steps your agency should take and address questions regarding your agency's implementation of the prescribed corrective action(s).

(No Response Option) If your agency does not respond to this preliminary determination within 14 days, it will become the EEPC's Final Determination.

Mandatory Response to Final Determination: Following this preliminary determination, the EEPC will issue a Final Determination where we may modify or eliminate the corrective actions based on verified information; identify remaining action which requires further monitoring in order to ensure implementation; and assign a mandatory compliance-monitoring period of up to 6 months for this purpose. Pursuant to Chapter 36 of the New York City Charter your agency must respond to our Final Determination within 30 days. Your response to the Final Determination will initiate the compliance monitoring period.

In closing, we want to thank you and your staff for the cooperation extended to the Equal Employment Practices Commission's EEO Program Analysts during the course of our audit and analysis.

Respectfully Submitted by,

A handwritten signature in black ink, appearing to read "Nathan P. Conway".

Nathan P. Conway, EEO Program Analyst

Approved by,

A handwritten signature in blue ink, appearing to read "Charise L. Terry".

Charise L. Terry, PHR
Executive Director

c: Kely Espinal, Principal EEO Professional

Appendix - 1

Office of the Bronx County Public Administrator

Statistical Profile of Agency Workforce
(End of audit period)

Statistical Profile of Agency Workforce

Number of Employees End of Audit Period	
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Male	<u>4</u>
Female	<u>7</u>

White	<u>5</u>
Black	_____
Hispanic	<u>6</u>
Asian	_____
Native American	_____
Unknown	_____

Total # of Employees	<u>11</u>
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BY MAIL AND EMAIL

July 6, 2016

Frank Randazzo, Esq.
Public Administrator
Office of the Bronx County Public Administrator
851 Grand Concourse, Room 336
Bronx, NY 10451

RE: Audit Resolution #2016/942: Final Determination Pursuant to the Review, Evaluation and Monitoring of the Office of the Bronx County Public Administrator's Employment Practices and Procedures from January 1, 2013 to December 31, 2015.

Dear Public Administrator Randazzo:

On behalf of the members of the Equal Employment Practices Commission (Commission or EEPC), thank you and your agency for the cooperation extended to our staff during the course of this audit.

As the EEPC did not receive the Public Administrator of Bronx County's response to our June 14, 2016 Preliminary Determination within 14 days from the date of its issuance, and consistent with the audit protocol referenced therein, the attached Determination is now Final.

As indicated in our Preliminary Determination, this Commission has adopted uniform standards¹ to assess agencies' employment practices and programs for compliance with federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for municipal government employees and job applicants. The attached Determination contains the Commission's findings and required corrective actions pertaining to the referenced review, evaluation and monitoring of your agency's employment practices and procedures.

Chapter 36, Section 832.c of the New York City Charter requires that: 1) the EEPC assign a 6-month compliance period to monitor

¹ Founded upon and consistent with federal, state and local laws, regulations, procedures and policies including, but not limited to, the Citywide Equal Employment Opportunity Policy - Standards and Procedures to be Utilized by City Agencies; New York City Human Rights Law (NYC Administrative Code, §§8-107.1(a) and 8-107.13(d)); New York State Civil Service Law §55-a; Uniform Guidelines on Employee Selection Procedures (29 CFR §§1607.3 - 1607.7) and the equal employment opportunity requirements of the New York City Charter.



your agency's efforts to eliminate remaining required corrective actions; and 2) the agency provide a written response within 30 days from the date of this letter indicating corrective action taken.

The assigned compliance-monitoring period is: JULY 2016 to DECEMBER 2016.

If corrective actions remain: Your agency's response should indicate what steps your agency has taken, or will take, to implement the corrective actions during the designated period. Documentation which supports the implementation of each corrective action shall be uploaded to TeamCentral, the EEPC's Automated Compliance-Monitoring System. Your agency will be monitored monthly until all corrective actions have been implemented. Instruction on how to access and navigate TeamCentral is attached. Upon your agency's completion of the final corrective action, this Commission requires that your agency upload a final memorandum signed by the agency head which informs employees of the changes implemented pursuant to our audit and re-emphasizes commitment to the EEO program. Upon receipt of the final memorandum, the EEPC will issue a *Determination of Compliance*.

If no corrective actions remain: Your agency is exempt from the aforementioned monitoring period. However, this Commission requires a final memorandum signed by the agency head which informs employees of the changes implemented pursuant to our audit and re-emphasizes commitment to the EEO program. This will be considered your agency's final action. Upon receipt of the memo, a *Determination of Compliance* will be issued.

If there are further questions regarding this Final Determination or the compliance-monitoring process, please have the Principal EEO Professional call Marie E. Giraud, Esq., Agency Attorney/Director of Compliance Monitoring at 212-615-8942.

Thank you and your staff for your continued cooperation.

Sincerely,


Charise L. Terry, PHR
Executive Director

c: Keli Espinal, Principal EEO Professional



FINAL DETERMINATION

7/6/2016

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Since this Commission is empowered to review and recommend actions which each agency should consider including in its annual plan of measures and programs to provide equal employment opportunity (Annual EEO Plan), the audited agency should incorporate required corrective actions in its current EEO Program and prospective Annual EEO Plans.

Scope and Methodology

This Commission's audit methodology includes collection and analysis of the documents, records and data the agency provides in response to the *EEPC Document and Information Request Form*; responses to the *EEPC Interview Questionnaires* for EEO professionals and others involved in EEO program administration; and, if applicable, review of the agency's *Annual EEO Plans* and *Quarterly EEO Reports* and analysis of workforce and utilization data from the *Citywide Equal Employment Database System* (CEEDS).

This Commission reviews the workforce statistics and utilization analysis information available via CEEDS to understand the concentrations of race and gender groups within an agency's workforce. (CEEDS may be unavailable for certain non-mayoral agencies. In such cases, the EEPC requests that the agency submit similar statistics and analysis.) EEO Program Analysts examine imbalances between the number of employees in a particular job category and the number that would reasonably be expected when compared to their availability in the relevant labor market. Personnel transactions are reviewed in order to ascertain the agency's employment practices. Where underutilization is revealed within an agency's workforce, EEO Program Analysts assess whether the agency has undertaken reasonable measures to address it.

EEO professionals (including, but not limited to, past or current EEO Officers, Deputy or Co-EEO Officers, EEO Counselors, EEO Trainers, EEO Investigators, Disability Rights Coordinators, Career Counselors, 55-a Program Coordinators) and others involved in EEO program administration such as the Principal Human Resources Professional are given a two-week deadline to complete and return their individual questionnaires. The Commission's EEO Program Analysts also conduct

¹ Corresponding audit/analysis standards are numbered throughout the document.

additional research and follow-up discussions or interviews with EEO professionals, when appropriate.

To encourage response, the EEPC requests that the head or deputy of each agency send emails to employees and to supervisors/managers that provide links to our questionnaires.

Description of the Agency

The Public Administrator administers the estates of deceased persons (“decedents”). There is a Public Administrator in every county in the City of New York. The Public Administrator of Bronx County administers the estates of Bronx residents who die without a will and without any heirs willing or able to administer the estates. The Public Administrator’s primary duty is to administer estates that would otherwise remain unadministered: to protect the decedent’s property from waste, loss or theft; make appropriate burial arrangements when no close relative is available to make the decisions; conduct thorough investigations to discover all assets; liquidate assets at public auction or distribute assets to heirs; pay the decedent’s bills and taxes; and to locate persons entitled to inherit from the estate and ensure that the legal distributees receive their inheritance.

The Office of the Bronx County Public Administrator had 11 employees at the end of the period in review. (Statistical profile of agency workforce attached as Appendix -1).

PRELIMINARY DETERMINATIONS AFTER AUDIT AND ANALYSIS

Following are the corresponding audit standards for each subject area along with the EEPC’s findings and required corrective actions, where appropriate:

I. ISSUANCE, DISTRIBUTION AND POSTING OF EEO POLICIES:

Determination: The agency is in partial compliance with the standards for this subject area.

1. Issue a general EEO Policy statement or memo reiterating commitment to EEO, declaring the agency's position against discrimination on any protected basis, advising employees of the names and contact information of EEO professionals, and attaching, or providing employees pertinent electronic links to, an EEO Policy/Handbook.
- ✓ On October 27, 2011, the agency issued a general EEO Policy statement that reiterated the Public Administrator’s commitment to EEO, declared the agency's position against discrimination on any protected basis, and advised employees of the name of the principal EEO professional; the statement also instructed employees to find the Department of Citywide Administration’s EEO Handbook, *About EEO: What You May Not Know*, which was posted on the agency’s bulletin board with the general EEO Policy statement.
 - The agency did not include the contact information of the EEO professional(s). In addition, the memo was not issued by the current agency head. **Corrective action required.**

Corrective Action #1: Issue a general EEO Policy statement or memo, from the current agency head, reiterating commitment to EEO, declaring the agency's position against discrimination on any protected basis, advising employees of the names and contact information of EEO professionals, and attaching, or providing employees pertinent electronic links to, an EEO Policy/Handbook.

2. Distribute/Post a paper or electronic copy of the *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies* – or an agency EEO Policy that conforms to city, state and federal laws – for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: a policy against sexual harassment; uniform and responsive procedures for investigating discrimination complaints and providing reasonable accommodations; an up-to-date list of protected classes under NYC and NYS Human Rights Laws; and current contact information for the agency's EEO professionals, as well as federal, state and local agencies that enforce laws against discrimination.

- The agency did not distribute/post a paper or electronic copy of an agency EEO Policy that conforms to city, state and federal laws, or the *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies* for use by managers, supervisors, and legal, human resources and EEO professionals, or current contact information for the agency's EEO professionals. **Corrective action required.**

Corrective Action #2: Distribute/Post a paper or electronic copy of the *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies* – or an agency EEO Policy that conforms to city, state and federal laws – for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: a policy against sexual harassment; uniform and responsive procedures for investigating discrimination complaints and providing reasonable accommodations; an up-to-date list of protected classes under NYC and NYS Human Rights Laws; and current contact information for the agency's EEO professionals, as well as federal, state and local agencies that enforce laws against discrimination.

NOTE ON POLICY UPDATES: Subsequent to the audit period, the following protected categories were added to the New York City's Human Rights Law: "caregiver status" (effective May 4, 2016); and "pregnancy" (enforcement guidance released on May 16, 2016). All EEO policies/flyers and related documents must reflect these updates.

II. EEO TRAINING FOR AGENCY:

Determination: The agency is not in compliance with the standards for this subject area.

3. Establish and implement an EEO training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on unlawful discriminatory practices under local, state and federal EEO laws; EEO rights and/or responsibilities; discrimination complaint and investigation procedures; prevention of sexual harassment; and reasonable accommodation procedures.

- The agency did not demonstrate that new and existing employees received training on unlawful discriminatory practices under local, state and federal EEO laws; EEO rights and/or responsibilities; discrimination complaint and investigation procedures; prevention of sexual harassment; or reasonable accommodation procedures. **Corrective action required.**

Corrective Action #3: Establish and implement an EEO training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on unlawful discriminatory practices under local, state and federal EEO laws; EEO rights and/or responsibilities; discrimination complaint and investigation procedures; prevention of sexual harassment; and reasonable accommodation procedures.

III. EMPLOYMENT PRACTICES (Recruitment, Hiring & Promotion):

Determination: The agency is in **partial compliance** with the standards for this subject area.

4. The principal EEO Professional, HR Professional, and General Counsel, review the agency's statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender), the annual number of EEO complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required to correct deficiencies.
- ✓ The agency reported that during the period in review, the principal EEO professional also served as the principal HR professional, and conducted a review of the agency's statistical information.
 - The agency did not demonstrate that the principal EEO/HR Professional reviewed the agency's employment practices, policies and programs on an annual basis to identify whether there were barriers to equal opportunity within the agency and determine what, if any, corrective actions were required to correct deficiencies. **Corrective action required.**

NOTE: During the period in review, the agency did not have a General Counsel position. Additionally, the agency reported that it did not receive any EEO complaints.

Corrective Action #4: Ensure that the principal EEO/HR Professional reviews the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to correct deficiencies (e.g. underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.

5. Ensure that human resources professionals, managers, supervisors, and other personnel involved in recruiting and hiring are trained to consider EEO laws/policies and use uniform, job-related techniques to identify, interview and select the most capable candidates (e.g. structured interview training or guide).

- The agency did not demonstrate that all human resources professionals, managers, supervisors, and other personnel involved in recruiting and hiring were trained to consider EEO laws/policies and use uniform, job-related techniques to identify, interview and select the most capable candidates, or receive a structured interview guide. **Corrective action required.**

Corrective Action #5: Ensure that all human resources professionals, managers, supervisors, and other personnel involved in recruiting and hiring are trained to consider EEO laws/policies and use uniform, job-related techniques to identify, interview and select the most capable candidates (e.g. structured interview training or guide).

6. Promote employees' awareness of opportunities for promotion and transfer within the agency, and ensure that employees are considered for such opportunities.
 - ✓ The agency promoted employees awareness of job opportunities within the agency by posting paper copies of the Job Vacancy Notices via a bulletin board. During the period in review, the Job Vacancy Notice for the position of *Case Manager (Collections Agent/Administrative Assistant)* was posted on the agency's bulletin board.
7. At minimum, indicate the agency is an equal opportunity employer in recruitment literature.
 - ✓ During the period in review, the agency reported that it advertised for one (1) position, *Case Manager (Collections Agent/Administrative Assistant)* (October 27, 2014). The job vacancy notice included the EEO tag line: "*The Public Administrator of Bronx County is an Equal Opportunity Employer.*"
8. Use and maintain an applicant/candidate log or tracking system which, at minimum, includes the *position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition)* of each applicant, and *recruitment source*. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.
 - The agency did not use or maintain an applicant/candidate log or tracking system which, at minimum, included the *position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition)* of each applicant, and *recruitment source*. **Corrective action required.**

Corrective Action #6: Use and maintain an applicant/candidate log or tracking system which, at minimum, includes the *position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition)* of each applicant, and *recruitment source*. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.

IV. CAREER COUNSELING:

Determination: The agency is in partial compliance with the standards for this subject area.

9. Designate a professional (may be referred to as the Career Counselor) with appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling to employees upon request. Remind employees of the identity/type of guidance available from the Career Counselor at least once each year.
- The agency did not designate a professional with appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling to employees upon request. **Corrective action required.**

Corrective Action #7: Designate a professional (may be referred to as the Career Counselor) with appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling to employees upon request. Remind employees of the identity/type of guidance available from the Career Counselor at least once each year.

10. The Human Resources professional distributes the identity of the agency Career Counselor and ensures that all employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings; ensures that all new employees are advised of the EEO policies, their rights and responsibilities under such policies and the discrimination complaint procedures; informs the principal EEO professional of the number of 55-a program participants and efforts the agency has made to employ, promote or accommodate qualified individuals with disabilities; involves the principal EEO professional in EEO-related matters; and promptly consults with the principal EEO professional if informed of, or suspects that a violation of the EEO Policy has occurred.
- ✓ During the period in review, the principal Human Resources professional also served as the principal EEO professional. The principal EEO professional/HR professional was responsible for all EEO-related matters and ensured that, upon hire, all new employees were advised of the EEO policies, their rights and responsibilities under such policies and the discrimination complaint procedures. The principal EEO/HR professional was also responsible for the 55-a program and efforts the agency made to employ, promote and accommodate qualified individuals with disabilities.

NOTE: The agency reported no 55-a program participants during the period in review. (See §IV.9 for career counselor information).

- The agency did not demonstrate that employees had access to information regarding job responsibilities, performance evaluation standards, examinations, and training opportunities. **Corrective action required.**

Corrective Action #8: Ensure that the Human Resources Professional ensures that all employees have access to information regarding job responsibilities, performance evaluation standards, examinations, and training opportunities.

V. EEO AND REASONABLE ACCOMMODATIONS FOR EMPLOYEES/
APPLICANTS FOR EMPLOYMENT WITH DISABILITIES:

Determination: The agency is in partial compliance with the standards for this subject area.

11. Ensure that information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures is made available in appropriate alternative formats (i.e., large print, audio tape and/or Braille) upon request to employees and applicants for employment with disabilities.

- The agency did not demonstrate that information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures was made available in appropriate alternative formats upon request to employees and applicants for employment with disabilities. Corrective action required.

Corrective Action #9: Ensure that information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures is made available in appropriate alternative formats (i.e., large print, audio tape and/or Braille) upon request to employees and applicants for employment with disabilities.

12. Document reasonable accommodation requests and their outcomes.

- ✓ The agency reported that requests for reasonable accommodation were to be submitted, via electronic mail, to both the principle EEO professional and the Public Administrator. During the period in review, the agency reported that it received no requests for reasonable accommodation.

VI. RESPONSIBILITY FOR EEO PLAN IMPLEMENTATION - EEO PROFESSIONALS:

Determination: The agency is in partial compliance with the standards for this subject area.

13. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. The principal EEO Professional is trained and knowledgeable regarding city, state and federal EEO laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination complaints.

- ✓ Prior to the period in review, the agency appointed the principal HR professional as the principal EEO professional to implement EEO policies and standards within the agency. On November 18, 2009, the principal EEO/HR Professional completed the City of New York Department of Citywide Administration Services Division of Citywide Equal Employment Opportunity's *Basic Training for Equal Employment Opportunity Representatives Training*.

14. Ensure that EEO professionals are trained in EEO laws and procedures and know how to carry out their responsibilities under the EEO Policy.

- ✓ Prior to the period in review, in addition to the principal EEO professional, the agency appointed an auxiliary EEO professional.

- The agency did not demonstrate that the auxiliary EEO Professional was trained in EEO laws and procedures.

NOTE: In March of 2013, the auxiliary EEO professional resigned from the agency. For the remainder of the period in review, the agency maintained one (1) EEO professional. (see §VI.13).

15. The principal EEO Professional reports directly to the agency head (or an approved direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities.

- ✓ During the period in review, the agency's principal EEO professional reported directly to the agency head in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities. This reporting relationship was reflected in the agency's organizational chart.

16. To ensure the integrity and continuity of the EEO Program, maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.

- The agency reported that no EEO-related meetings were held during the period in review. In addition, the agency did not demonstrate that it maintained documentation of communication between the principal EEO professional and the agency head regarding decisions that impact the administration and operation of the EEO program. **Corrective action required.**

Corrective Action #10: Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.

VII. RESPONSIBILITY FOR EEO PLAN IMPLEMENTATION – SUPERVISORS/MANAGERS:

Determination: The agency is **not in compliance** with the standards for this subject area.

17. Establish and administer an annual managerial/non-managerial performance evaluation program to be used for probationary periods, promotions, assignments, incentives and training.

- The agency did not establish or administer annual managerial or non-managerial performance evaluation programs. **Corrective action is required.**

Corrective Action #11: Establish and administer an annual managerial/non-managerial performance evaluation program (with timetable) to be used for probationary periods, promotions, assignments, incentives and training.

18. The managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

- The agency did not evaluate managers on implementing EEO-related responsibilities. **Corrective action is required.**

Corrective Action 12: Ensure that the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

VIII. REPORTING STANDARD FOR AGENCY HEAD:

Determination: The agency is **not in compliance** with the standards for this subject area.

19. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports² (up to 30 days following each quarter) on efforts to implement the plan.

- During the period in review, the agency did not submit an Annual Plan of measures and programs to provide equal employment opportunity or quarterly reports on efforts to implement the plan. **Corrective action is required.**

Corrective Action #13: Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports (up to 30 days following each quarter) on efforts to implement the plan.

After implementation of the EEPC's corrective actions, if any:

1. The agency head distributes a memorandum informing employees of the changes implemented in the EEO program pursuant to the EEPC's audit/analysis and re-emphasizing the agency head's commitment to the EEO program.

Final Action: Distribute a memorandum signed by the agency head informing employees of the changes implemented in the EEO program pursuant to the EEPC's audit/analysis and re-emphasizing the agency head's commitment to the EEO program.

²Submission of *Quarterly Reports on EEO Activity* is optional for non-Mayoral agencies.



FINAL DETERMINATION

7/6/2016

Conclusion

The agency has 13 required corrective action(s) at this time.

Pursuant to Chapter 36 of the New York City Charter, your agency has the *option* to respond to this *preliminary determination*, but must respond to our Final Determination if corrective action is required.

Optional Response to preliminary determination: If submitted, your optional response should indicate, with attached documentation, what steps your agency has taken or will take to implement the prescribed corrective actions, and must be received in our office within 14 days from the date of this letter. No extensions will be granted for the *option* to respond to the *preliminary determination*.

(Optional Conference) During the Optional Conference, we will discuss the immediate steps your agency should take and address questions regarding your agency's implementation of the prescribed corrective action(s).

(No Response Option) If your agency does not respond to this preliminary determination within 14 days, it will become the EEPC's Final Determination.

Mandatory Response to Final Determination: Following this preliminary determination, the EEPC will issue a Final Determination where we may modify or eliminate the corrective actions based on verified information; identify remaining action which requires further monitoring in order to ensure implementation; and assign a mandatory compliance-monitoring period of up to 6 months for this purpose. Pursuant to Chapter 36 of the New York City Charter your agency must respond to our Final Determination within 30 days. Your response to the Final Determination will initiate the compliance monitoring period.

In closing, we want to thank you and your staff for the cooperation extended to the Equal Employment Practices Commission's EEO Program Analysts during the course of our audit and analysis.

Respectfully Submitted by,

A handwritten signature in black ink, appearing to read "Nathan P. Conway".

Nathan P. Conway, EEO Program Analyst

Approved by,

A handwritten signature in blue ink, appearing to read "Charise L. Terry".

Charise L. Terry, PHR
Executive Director

c: Kely Espinal, Principal EEO Professional

FINAL DETERMINATION
7/6/2016

Appendix - 1

Office of the Bronx County Public Administrator

Statistical Profile of Agency Workforce
(End of audit period)

FINAL DETERMINATION

7/6/2016

Statistical Profile of Agency Workforce

Number of Employees End of Audit Period
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Male	<u>4</u>
Female	<u>7</u>

White	<u>5</u>
Black	_____
Hispanic	<u>6</u>
Asian	_____
Native American	_____
Unknown	_____

Total # of Employees	<u>11</u>
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**EQUAL EMPLOYMENT PRACTICES COMMISSION
CITY OF NEW YORK**

RESOLUTION #2016/942: Final Determination pursuant to the Audit: Review, Evaluation and Monitoring of the Office of the Bronx County Public Administrator's Employment Practices and Procedures from July 1, 2012 through December 31, 2015.

Whereas, pursuant to Chapter 36, Section 831(d) (2) and (5) of the New York City Charter, the Equal Employment Practices Commission is authorized to audit and evaluate the employment practices, programs, policies, and procedures of city agencies and their efforts to ensure fair and effective equal employment opportunity for minority group members and women, and to make recommendations to city agencies to insure equal employment opportunity for minority group members and women; and

Whereas, pursuant to Chapter 36, Section 831(d)(2), this Commission has adopted *Uniform Standards for EEPC Audits* and *Minimum Equal Employment Opportunity Standards for Community Boards* to assess agencies' EEO programs and policies for compliance with federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination in employment within municipal government; and

Whereas, pursuant to its audit of the Office of the Bronx County Public Administrator's (BCPA) Employment Practices and Procedures, the Equal Employment Practices Commission (EEPC) issued a Preliminary Determination letter, dated June 14, 2016, setting forth findings and the following required corrective actions:

1. Issue a general EEO Policy statement or memo, from the current agency head, reiterating commitment to EEO, declaring the agency's position against discrimination on any protected basis, advising employees of the names and contact information of EEO professionals, and attaching, or providing employees pertinent electronic links to, an EEO Policy/Handbook.
2. Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies – or an agency EEO Policy that conforms to city, state and federal laws – for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: a policy against sexual harassment; uniform and responsive procedures for investigating discrimination complaints and providing reasonable accommodations; an up-to-date list of protected classes under NYC and NYS Human Rights Laws; and current contact information for the agency's EEO professionals, as well as federal, state and local agencies that enforce laws against discrimination.
3. Establish and implement an EEO training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on unlawful discriminatory practices under local, state and federal EEO laws; EEO rights and/or responsibilities; discrimination complaint and investigation procedures; prevention of sexual harassment; and reasonable accommodation procedures.

4. Ensure that the principal EEO/HR Professional reviews the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to correct deficiencies (e.g. underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.
5. Ensure that all human resources professionals, managers, supervisors, and other personnel involved in recruiting and hiring are trained to consider EEO laws/policies and use uniform, job-related techniques to identify, interview and select the most capable candidates (e.g. structured interview training or guide).
6. Use and maintain an applicant/candidate log or tracking system which, at minimum, includes the position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition) of each applicant, and recruitment source. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.
7. Designate a professional (may be referred to as the Career Counselor) with appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling to employees upon request. Remind employees of the identity/type of guidance available from the Career Counselor at least once each year.
8. Ensure that the Human Resources Professional ensures that all employees have access to information regarding job responsibilities, performance evaluation standards, examinations, and training opportunities.
9. Ensure that information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures is made available in appropriate alternative formats (i.e., large print, audio tape and/or Braille) upon request to employees and applicants for employment with disabilities.
10. Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.
11. Establish and administer an annual managerial/non-managerial performance evaluation program (with timetable) to be used for probationary periods, promotions, assignments, incentives and training.
12. Ensure that the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

13. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports (up to 30 days following each quarter) on efforts to implement the plan.

Whereas, the agency did not submit a response to the EEPC's Preliminary Determination letter within 14 days from the date of its issuance, and consistent with the audit protocol referenced therein, the Preliminary Determination became Final; and

Whereas, in accordance with Chapter 36, Section 832(c) of the New York City Charter, the EEPC issued the Final Determination on July 6, 2016, which indicated that corrective actions nos. 1 through 13 require compliance monitoring; and

Whereas, in accordance with Chapter 36, Section 832 (c) of the City Charter, the EEPC is required to monitor the agency for a period not to exceed six months, from July, 2016 through December, 2016, to determine whether it implemented remaining required corrective actions; and

Whereas, in accordance with Chapter 36, Section 832 (c) of the City Charter, the agency is required to respond in 30 days and make monthly reports thereafter to the Commission on the progress of implementation of such corrective actions; and

Whereas, all of the EEPC's corrective actions are required by, or are consistent with, federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination in employment within municipal government; Now Therefore,

Be It Resolved, that the Commission approves issuance of this Final Determination to Public Administrator Frank Randazzo, Esq. of the Office of the Bronx County Public Administrator.

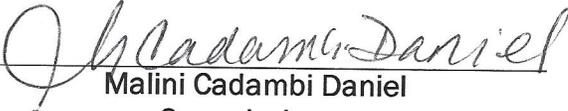
Approved unanimously on September 9, 2016.



Angela Cabrera
Commissioner



Arva Rice
Commissioner



Malini Cadambi Daniel
Commissioner

Absent

Elaine S. Reiss, Esq.
Commissioner

PUBLIC ADMINISTRATOR



BRONX COUNTY

FRANK C. RANDAZZO
PUBLIC ADMINISTRATOR

ROOM 336
851 GRAND CONCOURSE
BRONX, NEW YORK 10451-2979
(718) 293-7660
FAX: (718) 293-7851

ESTATE OF:

MATILDE B. SANCHEZ
DEPUTY PUBLIC ADMINISTRATOR

FILE NO:

Dear Equal Employment Practices Commission (“EEPC”):

In response to yours of 7/6/16 (i.e. “Final Determination regarding Audit #2016/942”), and specifically as to the “findings” and “required collective actions” set forth therein, the Bronx County Public Administrator’s Office (“BxPA”) notes that it is working with the EEPC and will continue to do so during the current 6-month compliance period of the next six months, and therefore the BxPA at this time more specifically responds as follows:

As to Finding #1 and the corrective actions associated therewith (#1 and #2), once the EEPC provides the Office of the Bronx Public Administrator with a suitable alternative contact (i.e. an alternative to the two in-house EEP Officers) we intend to issue and post a memo that reads substantially as follows:

“To: All PA employees
From: Frank Randazzo, Bronx P.A.
Date: , 2016

The Bronx County Public Administrator’s Office is committed to providing equal employment opportunities for all of its employees and opposing discrimination on any “protected basis” as set forth in New York City’s Human Rights Law.

Specifically, the City’s EEO policy was created to provide equal opportunity for all employees by ensuring that all workplaces in City agencies, including the Bronx Public Administrator’s Office, are free of illegal discrimination, including harassment based on race, color, national origin, religion, gender, age, disability, alienage or citizenship status, marital

status, prior record of arrest or conviction, genetic predisposition, carrier status, sexual orientation, pregnancy, caregiver status, or being a victim of domestic violence. The Office of the Bronx Public Administrator is strongly committed to insuring that our workplace is in full compliance with the City's EEO policy.

A copy of the City's "EQUAL EMPLOYMENT OPPORTUNITY POLICY, STANDARDS AND PROCEDURES TO BE UTILIZED BY CITY AGENCIES" is posted in the lunchroom and is also available at:

<http://www.nyc.gov/html/dcas/downloads/pdf/misc/eeo.pdf>

Additionally, a copy of the EEO Policy Handbook published by DCAS, entitled "About EEO: What You May Not Know", is also posted in the lunchroom and is available at:

http://www.nyc.gov/html/dcas/html/about/eeo_booklet.shtml

and further, the Office of the Bronx Public Administrator is specifically committed to combating sexual harassment and will address all complaints of same promptly and in the manner prescribed in the above-listed publications;

and further, in response to all complaints of discrimination made to any of the parties listed below the Office of the Bronx Public Administrator will have 1) ask to have the complaint reduced to writing and signed, 2) discuss the complaint with all relevant parties including, but not limited to, the alleged harasser and all alleged witnesses, 3) instruct the persons involved in the alleged incident to have no contact with each other, 4) provide the necessary personnel to insure that no contact need be had, and 5) process the complaint in accordance with the procedures set forth in the above-listed publications;

and further, the NYC and NYS Human Rights Laws guarantee protection from discrimination on the basis of one's race, color, national origin, religion, gender, age, disability, alienage or citizenship status, marital status, prior record of arrest or conviction, genetic predisposition, carrier status, sexual orientation, pregnancy, caregiver status, or being a victim of domestic violence,

and lastly, Kely Espinal (ext. 102; kespinal@bronxpa.nyc.gov) and I (ext. 100; frandazzo@bronxpa.nyc.gov) are the EEPC officers for the Office of the Bronx Public Administrator. You are urged to speak with either of us, or to [awaiting word from EEPC as to a suitable alternate contact] if you have any questions or to report what you believe is any type of discrimination is occurring in this office.

Further, and specifically in response to Finding #2 and the corrective actions associated therewith (#3), as soon as possible the Bronx County Public Administrator's Office intends to work with

the NYC EEPC to establish and implement an EEO training plan to insure that all BxPA employees on all of the topics listed in Finding 2.

Further, and specifically in response to Finding #3 and the corrective actions associated therewith (#4, #5 and #6), as soon as possible the Bronx County Public Administrator's Office intends to (#4) have its EEO personnel review our employment practices, policies, and programs (and to do so on an annual basis) to identify any barriers to equal opportunity within the BxPa's Office and determine what, if any, corrective actions might be required in order to correct deficiencies, and further, (#5) to ensure that ALL personnel involved in recruiting and hiring are trained to consider EEO laws/policies and use uniform, job-related techniques in the hiring process, and further, (#6) to use and maintain an applicant/candidate tracking system to include the candidate's name, identification number, ethnicity, gender, disability, and/or veteran status, interview date, interviewers' names, result, reason selected,/not selected (or disposition) of each applicant and recruitment source.

Further, and specifically in response to Finding #4 and the corrective actions associated therewith (#7 and #8), as soon as possible the Bronx County Public Administrator's Office, having less than 10 employees, intends to (#7) inquire of the EEPC as to assistance in locating a professional with appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling to BxPA employees upon request, and then the BxPA intends to post the identity of this person/agency, including the type of guidance available, and further to (#8) inquire of the EEPC as to how best advise its employees, and then so advise its employees, as to how they can access information regarding job responsibilities, performance evaluation standards, examinations and training opportunities.

Further, and specifically in response to Finding #5 and the corrective actions associated therewith (#9), as soon as possible the Bronx County Public Administrator's Office intends to inquire of the EEPC as to how best ensure that its employees, and then so ensure that its employees, have information regarding employee rights and obligations, and that the complaint, investigation and reasonable accommodation procedures is made available in appropriate alternative formats upon the request of employees and applicants for employment with disabilities.

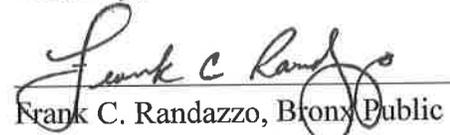
Further, and specifically in response to Finding #6 and the corrective actions associated therewith (#10), as soon as possible the Bronx County Public Administrator's Office intends to insure the integrity of the EEO program by conducting and then maintaining documentation of meetings and other communications between the PA or Deputy PA and the BxPA's principal EEO professional regarding decisions that impact the administration and operation of the EEO program.

Further, and specifically in response to Finding #7 and the corrective actions associated therewith (#11 and #12), as soon as possible the Bronx County Public Administrator's Office intends to

(#11) establish and administer an annual managerial and non-managerial performance evaluation program (with timetable) to be used for probationary periods, promotions, assignments, incentives and training, and further (#12) to ensure that the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or to treat others in an equitable and impartial manner).

Further, and specifically in response to Finding #8 and the corrective actions associated therewith (#13), as soon as possible the Bronx County Public Administrator's Office intends to submit to the EEPC an Annual Plan of measures and programs to provide equal opportunity, and quarterly reports (up to 30 days following each quarter) in efforts to implement the plan.

Sincerely,


Frank C. Randazzo, Bronx Public
Administrator

**EQUAL EMPLOYMENT PRACTICES COMMISSION
CITY OF NEW YORK**

RESOLUTION #2017AP/942NC-31: Determination of **Non-Compliance** by the Office of the Bronx County Public Administrator (BCPA) with the Equal Employment Practices Commission's required corrective actions pursuant to the audit and analysis of its Equal Employment Opportunity Program from January 1, 2013 – December 31, 2015.

Whereas, pursuant to Chapter 36, Section 831(d)(2) and (5) of the New York City Charter, the Equal Employment Practices Commission is authorized to audit and evaluate the employment practices, programs, policies, and procedures of city agencies and their efforts to ensure fair and effective equal employment opportunity for minority group members and women, and to make recommendations to city agencies to insure equal employment opportunity for minority group members and women; and

Whereas, pursuant to Chapter 36, Section 831(d)(2), this Commission has adopted *Uniform Standards for EEPAC Audits* and *Minimum Equal Employment Opportunity Standards for Community Boards* to assess agencies' EEO programs and policies for compliance with federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination in employment within municipal government; and

Whereas, pursuant to its audit and analysis of the Bronx County Public Administrator (BCPA). EPA (EEPC) issued a Preliminary Determination letter, dated June 14, 2016, setting forth findings and the following required corrective actions:

1. Issue a general EEO Policy statement or memo, from the current agency head, reiterating commitment to EEO, declaring the agency's position against discrimination on any protected basis, advising employees of the names and contact information of EEO professionals, and attaching, or providing employees pertinent electronic links to, an EEO Policy/Handbook.
2. Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies – or an agency EEO Policy that conforms to city, state and federal laws – for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: a policy against sexual harassment; uniform and responsive procedures for investigating discrimination complaints and providing reasonable accommodations; an up-to-date list of protected classes under NYC and NYS Human Rights Laws; and current contact information for the agency's EEO professionals, as well as federal, state and local agencies that enforce laws against discrimination.
3. Establish and implement an EEO training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on unlawful discriminatory practices under local, state and federal EEO laws; EEO rights and/or responsibilities; discrimination complaint and investigation procedures; prevention of sexual harassment; and reasonable accommodation procedures.
4. Ensure that the principal EEO/HR Professional reviews the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in

**EQUAL EMPLOYMENT PRACTICES COMMISSION
CITY OF NEW YORK**

order to correct deficiencies (e.g. underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.

5. Ensure that all human resources professionals, managers, supervisors, and other personnel involved in recruiting and hiring are trained to consider EEO laws/policies and use uniform, job-related techniques to identify, interview and select the most capable candidates (e.g. structured interview training or guide).
6. Use and maintain an applicant/candidate log or tracking system which, at minimum, includes the position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition) of each applicant, and recruitment source. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.
7. Designate a professional (may be referred to as the Career Counselor) with appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling to employees upon request. Remind employees of the identity/type of guidance available from the Career Counselor at least once each year.
8. Ensure that the Human Resources Professional ensures that all employees have access to information regarding job responsibilities, performance evaluation standards, examinations, and training opportunities.
9. Ensure that information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures is made available in appropriate alternative formats (i.e., large print, audio tape and/or Braille) upon request to employees and applicants for employment with disabilities.
10. Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.
11. Establish and administer an annual managerial/non-managerial performance evaluation program (with timetable) to be used for probationary periods, promotions, assignments, incentives and training.
12. Ensure that the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).
13. Submit to the EEOC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports¹ (up to 30 days following each quarter) on efforts to implement the plan.

¹ Submission of *Quarterly Reports on EEO Activity* is optional for non-Mayoral agencies.

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Whereas, the BCPA did not submit a response to the EEPC's Preliminary Determination letter within 14 days from the date of its issuance, and consistent with the audit protocol referenced therein, the Preliminary Determination became Final; and

Whereas, in accordance with Chapter 36, Section 832(c) of the New York City Charter, the EEPC issued the Final Determination on July 6, 2016, which indicated that corrective actions nos. 1 through 13 require compliance monitoring; and

Whereas, the BCPA submitted its response to the EEPC's final determination letter, on August 31, 2016; and

Whereas, in accordance with Chapter 36, Section 832(c) of the New York City Charter, the EEPC monitored the agency's implementation of the remaining corrective actions from July 2016 - December 2016, with no extension of the monitoring period; and

Whereas, the agency did not implement corrective action #3, #4, #5, #7, #8, #9, #10, #11, #12 and #13; and

Whereas, in accordance with Chapter 36, Section 832(c) of the New York City Charter, the EEPC informed Public Administrator Randazzo by letter, dated January 24, 2016, that 10 of the 13 corrective actions remained incomplete, informed him of the documentation required to demonstrate implementation of the remaining corrective actions for remediation of areas of non-compliance in its EEO program; and

Whereas, over the course of the compliance monitoring period the EEPC sent email correspondence to the agency on the following dates, concerning implementation: 9/12/2016, 9/26/2016, 9/27/2016, 10/12/2016, 10/18/2016, 10/21/2016, 10/24/2016, 11/9/2016, 11/15/2016, 12/13/2016, 12/29/2016; conference calls with the agency were conducted on 10/18/2016, 11/15/16, 11/18/2016, 12/2/2016, 12/12/2016, 12/13/2016, 12/15/2016, and 1/5/2017, wherein each corrective action, and requirement, was reviewed; and

Whereas, the BCPA submitted its last compliance report on January 27, 2017, which demonstrated that the BCPA implemented 4 of 13 required corrective actions; and

Whereas, despite the Commission's aforementioned efforts, as of the date of this Resolution, the BCPA has not implemented all of the prescribed corrective actions; and

Whereas, during its February 16, 2017 meeting, this Commission reviewed a Compliance Summary Report and determined that 9 of the 13 aforementioned recommendations have not been implemented to its satisfaction; and

Whereas, all of the EEPC's recommended corrective actions are required by, or are consistent with, federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination in employment within municipal government; and

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Whereas, the Equal Employment Practices Commission is empowered by the New York City Charter, Chapter 36, Section 832(c), to publish a report after the Commission determines that an agency has not taken appropriate and effective corrective action to correct non-compliance with the equal employment opportunity standards of this Commission and requirements of Chapters 35 and 36 of the New York City Charter; Now Therefore,

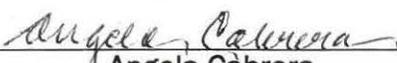
Be It Resolved, that the BCPA did not implement 9 corrective actions deemed necessary to ensure compliance with equal employment opportunity standards of this Commission and the requirements of Chapters 35 and 36 of the New York City Charter; and

Be It Further Resolved, that the Commission hereby adopts the position that it is appropriate, pursuant to Section 832(c) of the New York City Charter, to publish a report regarding the BCPA's Non-Compliance with the equal employment opportunity standards of this Commission and requirements of Chapters 35 and 36 of the New York City Charter; and

Be It Further Resolved, that the Commission will forward this Resolution Determination of Non-Compliance to Frank Randazzo, Esq., Public Administrator, Office of the Bronx County Public Administrator, formally informing him that Office of the Bronx County Public Administrator is Non-Compliant with the equal employment opportunity standards of this Commission and requirements of Chapters 35 and 36 of the New York City Charter because the Office of the Bronx County Public Administrator has not implemented all of the required corrective actions pursuant to the Commission's audit and analysis of the Office of the Bronx County Public Administrator's employment practices and procedures; and

Be It Finally Resolved, that pursuant to Section 831(d)(5) of the New York City Charter the Equal Employment Practices Commission may initiate another audit of the Office of the Bronx County Public Administrator prior to the conclusion of the four-year maximum timeframe mandated by the New York City Charter.

Approved unanimously on February 16, 2017.



Angela Cabrera
Commissioner



Arva Rice
Commissioner



Malini Cadambi Daniel
Commissioner



Elaine S. Reiss, Esq.
Commissioner



Angela Cabrera
Malini Cadambi Daniel
Elaine S. Reiss, Esq.
Arva R. Rice
Commissioners

Charise L. Terry, PHR
Executive Director

Judith Garcia Quiñonez, Esq.
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Deputy Director

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New York, NY 10007

212. 615. 8939 tel.
212. 615. 8931 fax

BY MAIL AND EMAIL

February 16, 2017

Frank Randazzo, Esq.
Public Administrator
Office of the Bronx County Public Administrator
851 Grand Concourse, Room 336
Bronx, NY 10451

Re: Resolution #2016AP/942NC-31: Pursuant to the Audit: Review, Evaluation and Monitoring of the Office of the Office of the Bronx County Public Administrator's Employment Practices and Procedures from January 1, 2013 - December 31, 2015.

Dear Public Administrator Randazzo:

The New York City Charter, Chapter 36, Section 831(d)(5) of the New York City Charter empowers this Commission to audit and evaluate the employment practices and procedures of city agencies and their efforts to ensure fair and effective equal employment opportunity for women and minority employees and applicants seeking employment. Section 832(c) authorizes this Commission to make a determination that any agency's plan, program, procedure, approach, measure or standard does not provide equal employment opportunity, require appropriate corrective action, and monitor the implementation of the corrective action it prescribes for up to 6 months.

After reviewing the Monthly Compliance Reports submitted by the Office of the Bronx County Public Administrator (BCPA) for the past 6 months (July, 2016 - December, 2016, this Commission has determined that BCPA did not implement the following corrective actions:

Required Action #3: Establish and implement an EEO training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on unlawful discriminatory practices under local, state and federal EEO laws; EEO rights and/or responsibilities; discrimination complaint and investigation procedures; prevention of sexual harassment; and reasonable accommodation procedures.

Required Action #4: Ensure that the principal EEO/HR Professional reviews the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to correct deficiencies (e.g. underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.



Required Action #5: Ensure that all human resources professionals, managers, supervisors, and other personnel involved in recruiting and hiring are trained to consider EEO laws/policies and use uniform, job-related techniques to identify, interview and select the most capable candidates (e.g. structured interview training or guide).

Required Action #7: Designate a professional (may be referred to as the Career Counselor) with appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling to employees upon request. Remind employees of the identity/type of guidance available from the Career Counselor at least once each year.

Required Action #8: Ensure that the Human Resources Professional ensures that all employees have access to information regarding job responsibilities, performance evaluation standards, examinations, and training opportunities.

Required Action #10: Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.

Required Action #11: Establish and administer an annual managerial/non-managerial performance evaluation program (with timetable) to be used for probationary periods, promotions, assignments, incentives and training.

Required Action #12: Ensure that the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

Required Action #13: Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports (up to 30 days following each quarter) on efforts to implement the plan.

In the letter dated January 24, 2017 the EEPC requested that your agency submit documentation, which demonstrates the implementation of the remaining corrective actions on or before Friday February 3, 2017 to avert issuance of a resolution determination of non-compliance. Accordingly, this Commission has issued the enclosed **Determination of Non-Compliance**, and will conduct a **follow-up audit within 1 year** to assess whether and how your agency has implemented the above-referenced corrective actions.

In addition, this serves as notification to the RCPA of this determination and that this Commission may also exercise the option to publish a report of the Commission's findings, as delineated in Section 832(c), Chapter 36 of the New York City Charter.

Sincerely,

A handwritten signature in black ink that reads "Malini Cadambi Daniel". The signature is written in a cursive style.

Malini Cadambi Daniel
Commissioner