

# EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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July 12, 2007

Robert C. North, Jr.

Chief Actuary

Office of the Actuary

75 Park Place, 9<sup>th</sup> Floor

New York, NY 10007

Re: Resolution #07/09-008/Preliminary Determination Pursuant to the Audit of the Office of the Actuary's (OTA) Equal Employment Opportunity Program from January 1, 2005 through December 31, 2006

Dear Mr. North:

Pursuant to Chapter 36 of the New York City Charter, the Equal Employment Practices Commission (EEPC) is empowered 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, women and other protected classes. (New York City Charter, Chapter 36, sections 831(d)(2) and (5).)

The Charter defines 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 Office of the Actuary is funded by the City of New York and is therefore considered a city agency pursuant to Chapter 36, section 831(a) of the New York City Charter.

The audit measures the OTA's compliance with its Equal Employment Opportunity Policy, as well as Commission policies and EEO standards expressed in the 2005 Citywide EEO Policy. All recommendations for corrective actions are consistent with both the audit's findings

and the parameters set forth in the Citywide EEO Policy. The relevant sections of these guidelines and documents are cited in parenthesis, where applicable, at the end of each recommendation.

The purpose of this audit is to evaluate the agency's compliance with the standards cited above, not to issue findings of discrimination pursuant to the New York City Human Rights Law.

### **Scope and Methodology**

Audit methodology included a review of the OTA's Equal Employment Opportunity Policy and review of responses to a Commission Document and Information Request Form. The EEPC auditors also conducted an in-depth, on site interview with the EEO Officer. A survey of 38 people employed by the OTA during the audit period was distributed. Fifteen people (39.5%) responded. The results of these surveys are discussed in the proceeding pages and also attached. (Appendix 1) The survey methodology was established by the EEPC with the assistance of an academic expert from the City University of New York.

### **Description of the Agency**

The Office of the Actuary performs annual actuarial valuations of the assets and liabilities of the City's five actuarial retirement systems and other nonactuarial pension funds; computes employer contributions and members' benefits; determines suitability of actuarial assumptions and recommends changes when necessary; and provides services and information to City agencies, legislative bodies and active and retired employees.

### **Personnel Activity During the Audit Period**

During the audit period, 5 people were hired: 2 Caucasians, 1 Hispanic, and 2 Asians. Two of the hires were women. There were no promotions during the audit period. (Appendix 4)

The OTA reports that 3 employees were involuntarily separated during the period in review: 2 Caucasian males and 1 Asian male. Between January 1, 2005 and December 31, 2006, the total number of OTA employees increased by 7.7%, going from 39 to 42. There were percentage increases for Hispanics (100%), Asians (25%), and women (18.7%). (Appendices 2 and 3)

### **Discrimination Complaint Activity During the Audit Period**

Two internal discrimination complaints (both based on sex) were filed during the audit period, and both received a "probable cause" determination. One external discrimination complaint (based on sex and "pending" before the New York State Division of Human Rights) was filed during the period in review.

## PRELIMINARY DETERMINATION

Following are our preliminary determinations with required corrective actions and recommendations pursuant to the audit.

### **Plan Dissemination – Internally**

The OTA is in compliance with the following requirements:

1. The OTA has issued an EEO Policy (which includes an Anti-Discrimination Policy, Sexual Harassment Prevention Policy, Disabilities Policy, Anti-Retaliation Policy, Reasonable Accommodation Procedure, and a Discrimination Complaint Procedure), as well as a separate and undated Sexual Harassment Prevention Policy Statement.
2. The EEO Policy was distributed to all employees in 2004 and included in the new hire package. In addition, 73% of survey respondents indicated they were given the agency's EEO Policy Statement.
3. The Citywide EEO Policy Handbook (*About EEO: What You Need to Know*) was given to employees with their paychecks in 2006. In addition, 78.6% of survey respondents indicated they were given that document.
4. The OTA EEO Policy and separate Sexual Harassment Prevention Policy Statement are posted on the agency's bulletin board (in the pantry) and on the P Drive of the Local Area Network (LAN). The Citywide EEO Policy Handbook is also posted on the LAN.
5. The agencies EEO policies are available in large print on the P Drive of the LAN.
6. The EEO Officer informed the EEPC auditors that she periodically checks the bulletin board for continued posting of EEO documents.
7. The EEO Officer gives new employees an orientation session, which includes a discussion of the agency's EEO policies.

The OTA is not in compliance with the following requirements:

The agency's EEO Policy does not contain the current list of "protected classes" under the New York City and New York State Human Rights Laws. Specifically, that documents fail to indicate that is illegal to discriminate on the basis of gender (*including gender identity*), predisposing genetic characteristics, military status, partnership status, and status as a victim of domestic violence, sex offenses or stalking. Corrective action is required.

Recommendation: The agency's EEO Policy should be revised to include all of the protected classes under the New York City and New York State Human Rights Laws.

Recommendation: The revised EEO Policy should be distributed to all current and new employees, and posted on the agency bulletin board and LAN.

### **Plan Dissemination – Externally**

The OTA is in compliance with the following requirement:

During the audit period, the OTA issued job vacancy notices for a certified local area network administrator, actuarial specialists, administrative actuaries, and secretary to the chief actuary. All of the notices indicate that the OTA is an equal opportunity employer.

### **EEO and Reasonable Accommodation for Persons with Disabilities**

The OTA is in compliance with the following requirement:

Although there were no requests for reasonable accommodations during the audit period, the agency did make a reasonable accommodation before the audit period: an employee with a knee injury was given a work schedule change.

The OTA is in partial compliance with the following requirements:

1. The OTA participates in the Section 55-A Program and has posted a program brochure on its bulletin board and LAN. It has not, though, distributed the brochure to employees. No OTA employee has enrolled in the program. Corrective action is required.

Recommendation: To ensure that employees are made aware of the Program, the Section 55-A Program brochures issued by the DCAS should be distributed to all new and current employees. (Sect. IIB, Citywide EEO Policy)

2. Although the EEO officer functions as the disabilities rights coordinator, she has not been formally given that title. Corrective action is required.

Recommendation: The EEO officer should formally be appointed the disabilities rights coordinator and employees should be notified in writing of that appointment. (Sect. VB, Citywide EEO Policy)

3. The building housing the OTA offices is privately owned. According to the EEO officer and the completed *Accessibility for Persons with Disabilities Checklist* (issued by the EEPC), the building is accessible to and usable by persons with disabilities: there is a level ground floor entrance, there are grab bars and strobe lights in the bathrooms, there are wide restroom stalls, and there is Braille and bells in the elevators. The EEO officer is uncertain, though, if the sinks in the bathrooms are low enough to accommodate a person in a wheelchair. Corrective action is required.

Recommendation: The agency should consult with the building owner to ensure that the bathroom sinks are low enough to accommodate a person in a wheelchair. (Sect. IIB, Citywide EEO Policy)

### **EEO Complaint and Investigation System**

The OTA is in compliance with the following requirements:

1. The OTA appointed individuals of both genders (female EEO officer and male EEO counselor) to receive and investigate discrimination complaints.
2. The OTA maintains a monthly discrimination complaint log that is used to record and update EEO complaints.
3. Seventy-one percent of survey respondents indicated they know how to file an EEO complaint.

The OTA is in partial compliance with the following requirement:

The EEO officer completed the DCAS training program for EEO professionals in 2004. Due to a death in his family and the difficulty in rescheduling a make-up session, the male EEO counselor (who retired after the audit period), however, did not complete that program. The individual recently selected to replace the former EEO counselor—also a male--will be enrolled in the Cornell University EEO Studies Certificate Program.

The OTA is not in compliance with the following requirement:

The EEO officer told the EEPC auditors that she did not have regularly scheduled meetings with the former EEO counselor. She plans, though, to have monthly meetings with that individual's successor. Corrective action is required.

Recommendation: The EEO officer should follow-up on her pledge and meet with the new EEO counselor at least at quarterly intervals to ensure that he is carrying out his EEO functions satisfactorily and is kept abreast of internal and external EEO developments. (Citywide EEO Policy, sect. VC)

### **EEO Training**

The OTA is not in compliance with the following requirement:

The OTA has not conducted EEO training for its employees. In addition, 92% of survey respondents indicated they had not received such training. The EEO officer informed the EEPC auditors that she "has been in touch" with an official at Cornell University about having that institution provide on-site EEO training for the OTA employees—probably in the summer of 2007. Corrective action is required.

Recommendation: The OTA should follow-up on its pledge to provide EEO training to all employees. (Sect. IV, EEOP)

### **Recruitment and Selection**

The OTA is in compliance with the following requirement:

The EEO Officer analyzed her agency's workforce statistics and found no underrepresentation of women or minorities. The agency has female, Asian, and African-American actuaries, and their representation at the OTA surpasses their representation in the available workforce.

The OTA is not in compliance with the following requirement:

The EEO Officer and two other managers were involved in conducting job interviews. Only she, though, has received structured interview training. The EEO officer informed the EEPC auditors that she would "push" the agency head to enroll those two managers in the structured interview training provided by the DCAS. Corrective action is required.

Recommendation: The OTA should ensure that all employees involved in job interviewing receive structured interview training, either through internal training or training provided by the DCAS or another appropriate organization. (Sect. IV, Citywide EEO Policy)

### **EEO Officer Reporting Arrangement**

The OTA is in compliance with the following requirements:

1. The EEO officer reports to the agency head on EEO and non-EEO matters.
2. The EEO Officer maintains handwritten notes of those sessions.

### **EEO Officer Responsibilities**

The OTA is in compliance with the following requirements:

1. The EEO officer informed the EEPC auditors that she makes recommendations to the agency regarding recruitment strategies and selection of recruitment media.
2. Although the EEO officer (who is also the director of administration) devotes only 5-10% of her time to EEO matters, she told EEPC auditors that she has adequate clerical support staff to discharge her EEO responsibilities. The new EEO counselor will also provide additional assistance, including the investigation of discrimination complaints.

## Special Problem/Contingency

The OTA is not in compliance with the following requirement:

Sixty-four percent of survey respondents (all of whom were employed for at least one year) indicated they had not received annual performance evaluations. Corrective action is required.

Recommendation: All staff, managerial and non-managerial, should receive an annual performance evaluation. (DCAS, Rule 7.5.4(e) of the *Personnel Rules and Regulations of the City of New York*, and DCAS, *Managerial Performance Evaluation, Guidelines for Evaluating Managerial Performance in NYC Agencies*, p. 1.)

### SUMMARY OF RECOMMENDED CORRECTIVE ACTIONS

1. The agency's EEO Policy should be revised to include all of the protected classes under the New York City and New York State Human Rights Laws.
2. The revised EEO Policy should be distributed to all current and new employees, and posted on the agency bulletin board and LAN.
3. To ensure that employees are made aware of the Program, the Section 55-A Program brochures issued by the DCAS should be distributed to all new and current employees. (Sect. IIB, Citywide EEO Policy)
4. The EEO officer should formally be appointed the disabilities rights coordinator and employees should be notified in writing of that appointment. (Sect. VB, Citywide EEO Policy)
5. The agency should consult with the building owner to ensure that the bathroom sinks are low enough to accommodate a person in a wheelchair. (Sect. IIB, Citywide EEO Policy)
6. The EEO officer should follow-up on her pledge and meet with the new EEO counselor at least at quarterly intervals to ensure that he is carrying out his EEO functions satisfactorily and is kept abreast of internal and external EEO developments. (Citywide EEO Policy, sect VC)
7. The OTA should follow-up on its pledge to provide EEO training to all employees. (Sect. IV, EEOP)
8. The OTA should ensure that all employees involved in job interviewing receive structured interview training, either through internal training or training provided by the DCAS or another appropriate organization. (Sect. IV, Citywide EEO Policy)
9. All staff, managerial and non-managerial, should receive an annual performance evaluation. (DCAS, Rule 7.5.4(e) of the *Personnel Rules and Regulations of the City of*

*New York, and DCAS, Managerial Performance Evaluation, Guidelines for Evaluating Managerial Performance in NYC Agencies, p. 1).*

In addition to the above recommendations, during the compliance process, the Commission requires that the agency head distribute a memorandum to all staff informing them of the changes that are being implemented in the agency's EEO program pursuant to the audit. This memorandum should re-emphasize the agency head's commitment to the agency's Equal Employment Opportunity Program.

## **Conclusion**

Pursuant to Chapter 36 of the New York City Charter and the previously cited preliminary determinations relating to the EEPC's audit of the OTA's compliance with its Equal Employment Opportunity Policy, as well as Commission policies and EEO standards expressed in the Citywide EEO Policy, we respectfully request your response to the aforementioned preliminary determinations.

Your response should indicate what corrective actions your office will take to bring the agency in compliance with the aforementioned policies and which recommendations it intends to follow. As your EEO Officer informed us during the exit meeting of July 10, 2007, you have already implemented some of our recommended corrective actions. Please specify those corrective actions in your response. Please forward your response within thirty days of receipt of this letter.

Pursuant to Section 832 of the New York City Charter, if you do not implement all of these recommendations for corrective actions during a compliance period not to exceed six months, this Commission may publish a report and recommend to the Mayor the appropriate corrective actions that you should implement in your agency's EEO Plan.

In closing, we thank you and your staff for the cooperation extended to the Equal Employment Practices Commission auditors during the course of this audit. If you have any questions regarding these preliminary determinations, please let us know.

Sincerely,



Ernest F. Hart, Esq.  
Chair



Office of The Actuary  
EMPLOYEE SURVEY RESULTS

**A. GENERAL OVERVIEW**

1. Do you know who your agency's EEO Officer is?  
Yes (14)            No (1)
2. Is your agency's EEO Policy Statement posted on your agency's bulletin boards?  
Yes (13)            No (2)
3. Were you given the EEO Policy Statement?  
Yes (11)            No (2)            Do not remember (2)
4. Were you given a copy of the EEO Policy Handbook – *About EEO: What You Need to Know*?  
Yes (11)            No (3)
5. Do you agree with the principles of equal employment opportunity?  
Yes (14)            No (0)
6. Do you believe your agency practices equal employment opportunity?  
Yes (8)            No (5)
7. Do you know what the City's Equal Employment Opportunity Policy (EEOP) is?  
Yes (12)            No (1)
8. Has your supervisor emphasized his/her commitment to the agency's EEO policies at any staff meeting during the past 8 months?  
Yes (4)            No (5)            Do not remember (5)
9. When you started working at your agency, did you attend an orientation session?  
If No, please skip to question #11.  
Yes (4)            No (11)            Do not remember (0)
10. If hired within the past 12 months, did your orientation session include information on your rights and responsibilities under the EEO Policy?  
Yes (0)            No (0)            Do not remember (1)

**B. EEO COMPLAINTS**

11. Do you know how to file an EEO complaint?  
Yes (10)            No (4)
12. If you had an EEO complaint, would you bring it to your agency's EEO Office?  
Yes (9)            No (4)            Undecided (1)

**(AGENCY) SURVEY RESULTS CONTINUED**

13. Would you prefer to file an EEO complaint with an office outside your agency?  
Yes (5) No (4) Undecided (4)

14. Did you ever file an EEO complaint with your agency's EEO Office?  
If No, please skip to question #18.  
Yes (1) No (13)

15. What was the basis of the complaint?  
Age (0) Partnership Status (0)  
Alienage or Citizen Status (0) Predisposing genetic characteristic (0)  
Arrest or Conviction Record (0) Race (0)  
Color (0) Sexual Harassment (1)  
Creed (0) Sexual Orientation (0)  
Disability (0) Veteran's Status (0)  
Gender (incl. gender identity) (0) Victim of Domestic Violence,  
Marital Status (0) Stalking, and Sex Offenses (0)  
Military Status (0) Other (0)  
National Origin (0)

16. Were you satisfied with the manner in which your complaint was managed?  
Yes (0) No (1)

17. Was your manager or supervisor supportive of your right to file a complaint?  
Yes (0) No (1) Not Applicable (0)

**C. EEO TRAINING**

18. Did you receive EEO training? If No, please skip to question #20.  
Yes (1) No (12)

19. Did you find this training helpful?  
Very (1) Somewhat (0)  
Not really (0) Waste of time (0)

**D. JOB PERFORMANCE/ADVANCEMENT**

20. Did you see your agency's job postings on agency bulletin boards for vacant positions prior to the application deadline?  
Yes (11) No (1) Do not remember (2)

21. If you were employed at your agency for over one year, did you receive annual evaluations?  
If No, skip to question #24.  
Yes (5) No (9) Not employed for >1 year (0)

22. Did your evaluation contain recommendations for improving your job performance?  
Yes (6) No (1)

**(AGENCY) SURVEY RESULTS CONTINUED**

23. Did your evaluation contain recommendations for career advancement with your agency?

Yes (1)                      No (5)

24. Do you know the name of the person in your agency who is responsible for providing career counseling?

Yes (2)                      No (11)

**E. AFFIRMATIVE ACTION FOR PERSONS WITH DISABILITIES**

25. Are your agency's facilities accessible for persons with disabilities?

Yes (5)                      No (2)                      Don't Know (5)

26. Did you ever ask for an accommodation for a physical or mental disability?

If No, skip to question #28.

Yes (1)                      No (10)

27. Did the agency accommodate you?

Yes (0)                      No (1)

**OPTIONAL**

28. What is your race/ethnicity?

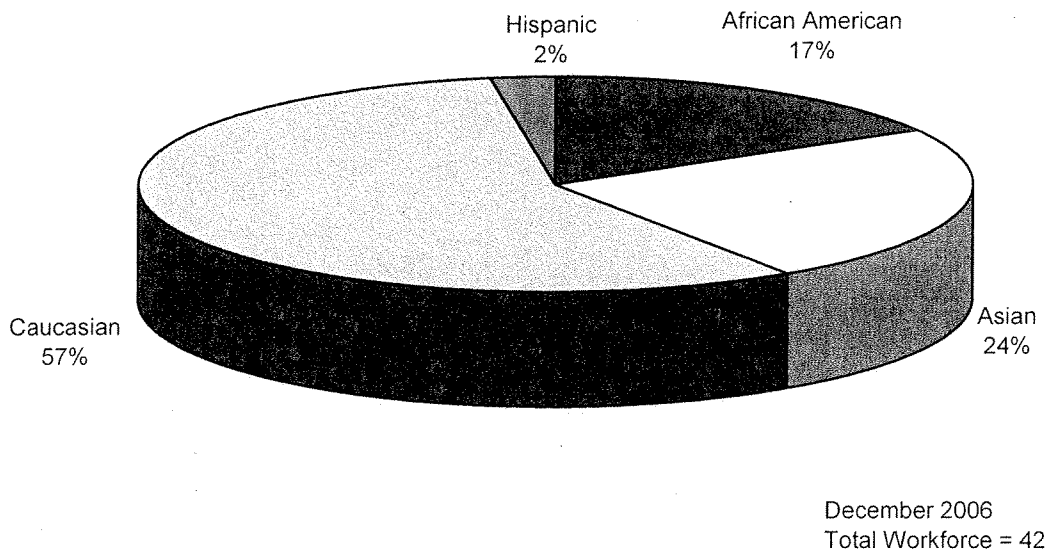
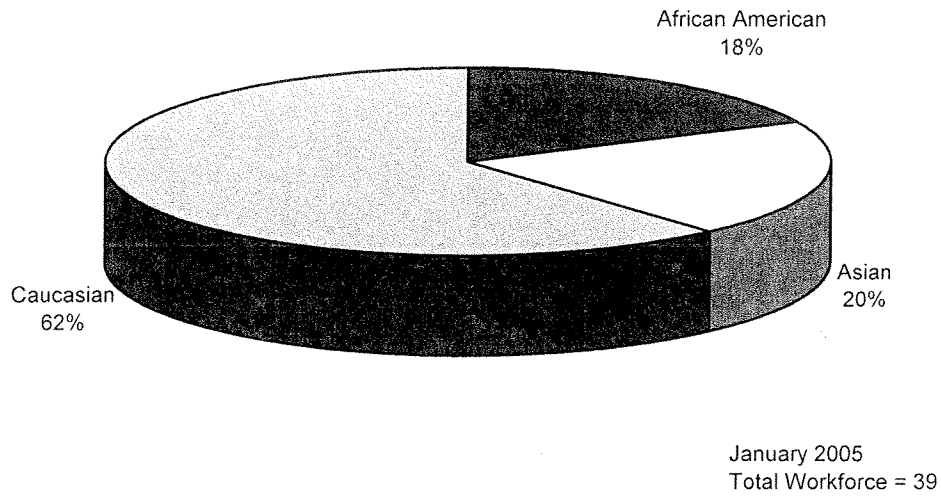
Asian (3)	Native American (0)
Black (2)	White (8)
Hispanic (1)	Other (0)

29. What is your gender?

Male (7)                      Female (8)

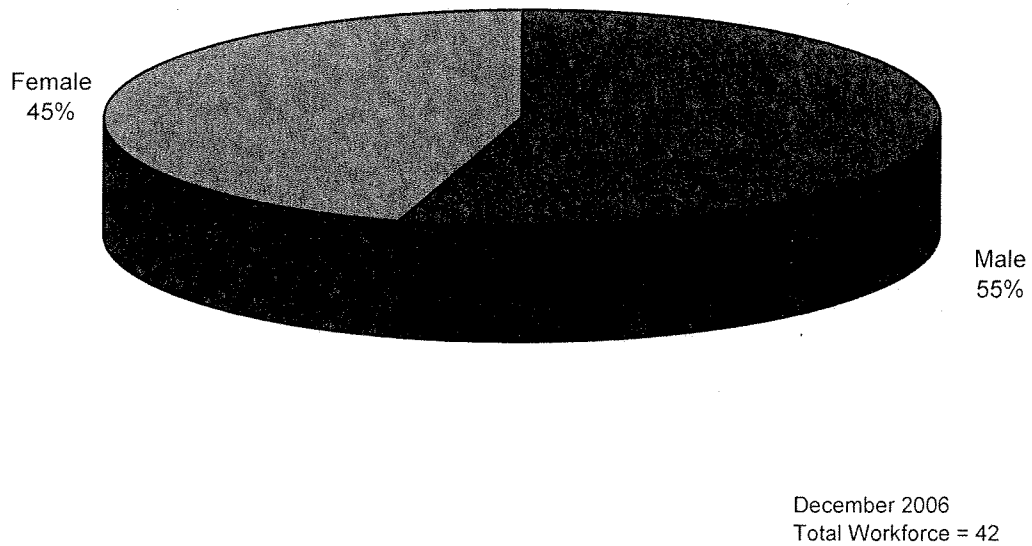
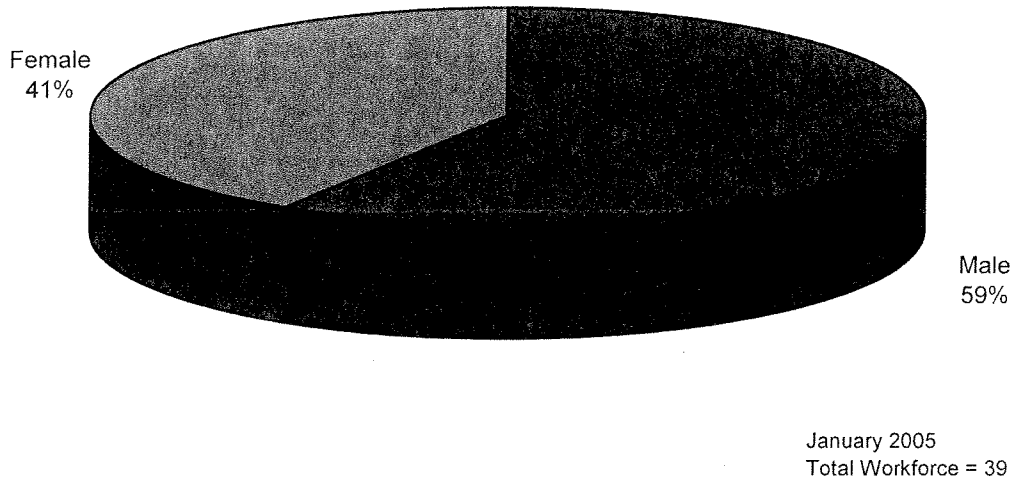
## Appendix - 2

### Office of The Actuary Workforce by Ethnicity



# Appendix - 3

## Office of The Actuary Workforce by Sex



## APPENDIX – 4

The following table indicates personnel activity during the audit period, January 1, 2005 through December 31, 2006.

### OFFICE OF THE ACTUARY

#### Hires by Sex and Ethnicity

Total Hires: 5

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Total
3	2	5	2	0	1	2	5

Source: Audit data supplied by the Office of the Actuary