

NYC
**Equal Employment
Practices Commission**

Cesar A. Perez, Esq.
Chair

December 19, 2013

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RE: C. Resolution #13/31-071: Final Determination Pursuant to the Audit and Analysis of the Department of Homeless Services' Equal Employment Opportunity Program from January 1, 2011 to June 30, 2013.

Dear Commissioner Ovesey:

On behalf of the Equal Employment Practices Commission (EEPC), I want to thank the Department of Homeless Services (DHS) for the December 18, 2013 response to our November 26, 2013 Preliminary Determination regarding the referenced audit and analysis.

As indicated in our Preliminary Determination, 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.

Our findings and required corrective actions are based on this Commission's audit methodology which 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;

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; Equal Employment Opportunity Commission's Instructions to Federal Agencies for EEO, Management Directive 715; Uniform Guidelines on Employee Selection Procedures (29 CFR §§1607.3 - 1607.7) and the equal employment opportunity requirements of the New York City Charter.



responses to the *EEPC Employee Survey* and the *EEPC Supervisor/Manager Survey*; 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*. Additional research and follow-up discussions or interviews were conducted, when appropriate.

After reviewing your response, our Final Determination is as follows:

Monitoring Required

Regarding your responses² to the following EEPC required corrective actions, the agency's implementation of the following required corrective actions will be monitored during the assigned compliance monitoring period.

Corrective Action #1

At minimum, indicate the agency is an equal opportunity employer in recruitment literature.

Agency Response:

The Agency will ensure that all recruitment literature, notices and advertisements indicate that The City of New York is an Equal Opportunity Employer, by requiring our Assistant Commissioners for Human Resources and Diversity & Employee Relations to approve all such documents prior to distribution. (p. 1)

EEPC Response: The EEPC accepts the agency's response to corrective action #1. Implementation of this corrective action will be monitored.

Corrective Action #2

Develop and implement a plan to demonstrate accessibility for facilities where accessibility is undetermined: identify the number of locations that are accessible/non-accessible; the distribution of the agency's accessible facilities throughout the City; the distribution of job titles among accessible/non-accessible facilities; barriers in non-accessible facilities and the efforts the agency has taken to determine whether removal of barriers is readily achievable, and if so, to remove them; the agency responsible for rendering non-accessible facilities accessible. State whether the agency has applied to Department of Buildings for a waiver of the requirements for the alteration of existing facilities or if facilities are exempt.

Agency Response:

These Bellevue, Clarke Thomas, Shwartz [sic], Atlantic, and Jamaica Checklists demonstrate the Agency's determination that 5 of the 8 above named facilities are accessible to employees/applicants with disabilities in accordance with the letter and spirit of the City EEO Policy, as well as applicable Federal, State, and City disability rights laws.

² Excerpts are italicized; page numbers are provided.



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Furthermore, as required by the Americans with Disabilities Act ("ADA") and the State and City Human Rights laws r'NYSHRA" [sic] and "NYCHRA"), DHS provides reasonable accommodations, when necessary, to address or remove architectural obstacles. When disabled employees or applicants request a reasonable a ccommodation, DHS makes its determinations on an individualized, case-specific basis, taking into account whether a proposed accommodation places an undue burden on the agency. When specific needs are identified by employees or applicants that cannot be met within a particular location and that do not place an undue burden on the Agency, DHS provides a reasonable accommodation.

As to the remaining 3 locations, renovation plans are in place that will increase accessibility, Our Linden facility, located at 501 New Lots Ave, Brooklyn, NY 11207, has a capital project planned for FY 15 to renovate the lobby to allow better access. In doing so, we are also installing an interior ramp between the lobby and the first floor and there is an elevator in the building. At 78 Catherine Street, NY, NY 10038, the Agency has plans in the forthcoming fiscal year to commence re-design and renovation of existing restrooms. The renovations will be made in accordance with ADA standards. The third facility, 681 Clarkson Ave, Building 6, Brooklyn, NY 11203, is not a City-owned facility. This location is owned by the State of New York. (p. 2-3)

EEPC Response: The EEPC acknowledges the agency's response to corrective action #2. It is this Commission's position that agencies develop appropriate action plans to demonstrate compliance with all federal, state, and local laws pertaining to persons with disabilities. We agree with the agency's action to implement future plans for renovation/re-design of 2 of the facilities stated. Requesting a facility assessment from the entity which manages the 3rd facility (i.e. New York State) would assist the agency in addressing/planning for inaccessible areas in the undetermined facility. We require further description of the agency's determination that 5 of the 8 facilities mentioned are accessible (i.e. accessible features of bathrooms at Bellevue and Atlantic; elevator(s) at Clark Thomas and Schwartz; and bathrooms and elevator(s) at Jamaica). Implementation of this corrective action will be monitored.

Conclusion

The Department of Homeless Services has 2 corrective actions which require monitoring.

As the EEPC concludes its audit of your agency's EEO Program, Chapter 36 Section 832.c of the New York City Charter, as amended, requires: 1) the agency provides a written response within 30 days from the date of this letter and 2) the EEPC assign a 6-month compliance period to monitor your agency's efforts to eliminate remaining required corrective actions. Your agency's compliance-monitoring period is scheduled for: January 2014 to June 2014.



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If no corrective actions are remaining: Your agency is exempt from the aforementioned monitoring period. However, as a last step, this Commission requires a final memorandum signed by the agency head which informs employees of the changes implemented pursuant to our audit/analysis 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 corrective actions are remaining: Your agency's response should indicate (with attached documentation) what steps your agency has taken, or will take, to implement the corrective actions. Upon your agency's completion of the final corrective action, and tender of the final memorandum, a *Determination of Compliance* will be issued.

If there are further questions regarding this Final Determination or the compliance process, please have the Principal EEO Professional call Judith Garcia Quiñonez, Deputy Director/ Agency Counsel at 212-615-8939.

Thank you and your staff for your continued cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Cesar A. Perez".

Cesar A. Perez, Esq.
Chair

- c: Mark Neal, Esq., Principal EEO Professional
- Charise L. Hendricks, PHR, EEPC Executive Director
- Judith Garcia Quiñonez, EEPC Deputy Director/Agency Counsel