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BY MAIL AND EMAIL

September 9, 2015

Carl Weisbrod
Director
Department of City Planning
22 Reade Street
New York, NY 10007-1216

RE: Resolution #: **2015/30**: Final Determination Pursuant to the Audit and Analysis of the Department of City Planning's Employment Practices and Procedures from January 1, 2012 to December 31, 2014

Dear Director Weisbrod:

On behalf of the members of the Equal Employment Practices Commission (Commission or EEPC), thank you for your August 13, 2015 response to our July 29, 2015 Preliminary Determination and for the cooperation extended to our staff during the course of this audit.

As indicated in our Preliminary Determination, this Commission has adopted uniform standards¹ 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. The attached Determination contains the Commission's findings and required corrective actions pertaining to the referenced audit and analysis 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 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.

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.



The assigned compliance-monitoring period is: October 2015 to March 2016.

If corrective actions remain: 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, 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. Once received, a *Determination of Compliance* will be issued.

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

Thank you and your staff for your continued cooperation.

Sincerely,

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

Charise L. Terry, PHR
Executive Director

c: Sarah Whitham, Principal EEO Professional

FINAL DETERMINATION

The Equal Employment Practices Commission's findings and required corrective actions are based on the 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; and, if applicable, responses to the *EEPC Employee Survey* and the *EEPC Supervisor/Manager Survey*, 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 the agency's response, if applicable, our Final Determination is as follows:

Agree

Regarding your responses² to the following EEPC required corrective actions, we *Agree* based on documentation that is attached to your reply.

Corrective Action #7:

Use and maintain an applicant/candidate log or tracking system which, at minimum, includes in addition to the above, *disability or veteran status, interview date, interviewers' names, reason selected/not selected (or disposition)* of each applicant, and recruitment source.

Agency Response: We have revised our selection and interview tracking process – please refer to the attached Candidate Log, which we will begin implementing immediately to replace our existing Selection Memo process.

EEPC Response: The EEPC accepts the agency's response as documentation that corrective action #7 has been implemented.

Corrective Action #11:

Indicate the reporting relationship between the principal EEO Professional and agency head (or a direct report other than the General Counsel) in the agency's organizational chart, EEO Policy and Annual EEO Plan.

Agency Response: During the audit period, the co-EEO Officers reported to the Executive Director, as reflected on the organization chart.

EEPC Response: The EEPC accepts the agency's response as documentation that corrective action #11 has been implemented.

² Excerpts are italicized

Corrective Action #13

Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity.

Agency Response: EEPC FY 2014 Annual Plan.

EEPC Response: The EEPC accepts the agency's response as documentation that corrective action #13 has been implemented.

Monitoring Required

The agency's implementation of the following required corrective actions will be monitored during the assigned compliance monitoring period.

Corrective Action #1

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.

Agency Response: EEO Training Plan for New & Existing Employees- Action Plan.

EEPC Response: The EEPC recognizes the agency's efforts. Documentation that the agency established and implemented an EEO plan will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Corrective Action #2

Assess recruitment efforts to determine whether such efforts adversely impact any particular group. To the extent that adverse impact is discovered, at a minimum, identify relevant professional and community organizations serving women, minorities, and other protected groups throughout the City, review and update listings of recruitment outreach sources, and contact these organizations when provisional positions become available or where the agency may otherwise use discretion in hiring.

Agency Response: We are focused on ensuring that our agency represents the diverse communities we represent and intend to proactively develop a diverse recruiting strategy to ensure job postings are reaching a diverse population of candidates. We have already begun exploring where we will test the impact of expanding our outreach for our FY 2016 new lines recruiting, which we are rolling out over the next several weeks. In addition, we have a new staff member, Monique Jones, who will be starting on August 31st and she will be working on developing the agency's Recruiting Strategy, focused on positively impacting diversity. Lastly, we are refreshing and updating the EEO training during New Hire Orientation. Belinda

French (DCAS), EEO Officer, has graciously shared her training materials and we will be leveraging her content to ensure we are covering all required topics, at a minimum.

EEPC Response: The EEPC recognizes the agency's efforts. An agency assessment of the recruitment efforts will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Corrective Action #3

Assess the manner in which candidates are selected for employment, to determine whether there is any adverse impact upon any particular racial, ethnic, disability, or gender group. To the extent that adverse impact is discovered, determine whether the selection criteria being utilized are job-related. Discontinue using criteria that are not job-related, and adopt methods which diminish adverse impact.

Agency Response: We are currently reviewing our interview processes, so that we can provide managers with better tools, including Structured Interview Guides and Candidate Evaluation Forms. We recently ran a pilot in our Planning Coordination Division for a Senior Planning Analyst role. These tools helped provide quantitative data for the Interviewing Panel to facilitate their decision on the most suitable candidate. In the next few weeks, we are rolling out a new Interview Process that will incorporate similar tools – to be adjusted based on the job specifications, minimum requirements and preferred skills – as well as larger Interview Panels to fill postings with multiple, similar openings for City Planner I roles. Our internship programs have provided strong feeder pools for open positions within the agency in the past.

EEPC Response: The EEPC recognizes the agency's efforts. An agency assessment of the selection procedures will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Corrective Action #4

If women, minorities, or other protected groups are underrepresented in titles where there is discretion in hiring, advertise in minority- or female-oriented publications; contact organizations serving women, minorities, and other protected groups; participate in career fairs/open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.

Agency Response: We are planning to extend our outreach beyond planning schools we have worked with in the past to target minority, female and other underrepresented groups of candidates. We will test these tools, recruiting sources and processes, comparing the results to past practices and will adjust as needed on an ongoing, proactive basis to ensure we are impacting our diversity recruiting efforts. Similarly, we will apply these same proactive methods towards all open positions, but with additional effort focused around underrepresentation in specific titles, as identified in the CEEDS Reports. Lastly, our internship programs have provided strong feeder pools for open positions within the agency in the past. We will plan to capture voluntary EEO information from our interns on a go

forward basis, so that we may also identify any underutilization or overutilization of protected classes.

EEPC Response: The EEPC recognizes the agency's efforts. Implementation of this corrective action will be monitored. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Corrective Action #5:

If women, minorities, or other protected groups are underrepresented in *civil service* (list) titles, review the competencies, skills and abilities required (as presented in job vacancy notices and notices of examination) for available positions to ensure that these standards are updated, job-related and required by business necessity. (This includes working with DCAS or the Civil Service Commission if applicable). Then advertise in minority- or female-oriented publications, contact organizations serving women, minorities, and other protected groups; participate in career fairs or open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.

Agency Response: We will work with DCAS to review competencies, skills and abilities included in job specifications for the six job groups that indicated underutilization on the CEEDS Report, as needed. We have already connected with Jodi Bryon (DCAS), Director of Workforce Analytics, to gain a better understanding of the reports. The largest concentration of our staff fall under the City Planner title (Job Group 006/Social Scientists) and we anticipate that this exam will be developed during Fiscal Year 2016. As part of this process, a diverse, cross-section of our staff will participate in the examination preparation with DCAS through Job Analysis Questionnaires and Subject Matter Panels to ensure the civil service examination is focused on the right competencies, skills and abilities. Similarly, we are currently involved in assisting with the preparation of the City Planning Tech exam, where we were able to have all provisional employees in the title participate in the process.

EEPC Response: The EEPC recognizes the agency's efforts. Implementation of this corrective action will be monitored. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Corrective Action #6:

Ensure that human resources professionals, managers, supervisors, and other personnel involved in the recruitment and hiring process are trained in EEO and interviewing, selection, and hiring skills to enable such individuals to correctly identify the most capable candidates (i.e. structured interview training or guide).

Agency Response: Human Resources Professionals within City Planning that are involved in recruiting and selection are trained in EEO and interviewing, selection and hiring skills and act as coaches to hiring managers within the agency. We have identified a need to refresh our managers on EEO and interviewing and selection and identifying the most capable candidates. While we prepare for this training, we are rolling out the aforementioned Structured Interview Guides and Candidate Evaluation Forms over the next month for all

positions, which can be customized to focus on the competencies, skills and abilities required for specific roles.

EEPC Response: The EEPC recognizes the agency's efforts. Demonstration that the agency implemented training will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Corrective Action #8:

Re-distribute the identity of the Career Counselor to remind employees of the identity and type of career guidance available.

Agency Response: Since we have had a change in staff within the Human Resources function, we will include notification of the new Career Counselor (Dana Cohen) in the agency announcement to be sent by Director Carl Weisbrod in September that communicates the changes and upgrades within the overall agency EEO program, as well as reaffirming our commitment to Diversity & Inclusion. We will also update our new hire orientation and intranet to reflect this change and provide examples of the type of guidance available. We will also be implementing an annual process to communicate EEO information and results to the entire agency. As part of this annual communication, we will include the identity of the Career Counselor and the type of guidance available. Please note we will be updating the plan for FY 2016 with the Career Counselor's refreshed responsibilities.

EEPC Response: The EEPC recognizes the agency's efforts. Documentation of distribution will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Corrective Action #9:

Ensure and maintain documentation that 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; 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.

Agency Response: We have a communication plans that will ensure all staff is notified today of the identity of the Career Counselor, as well as inclusion in New Hire Orientation, on the intranet and part of an annual EEO communication to all staff on an ongoing basis. As part of ongoing and annual communications, we will continue to ensure that all staff are aware of job responsibilities, performance evaluations, training opportunities and job postings. Further, we will be focusing recruiting efforts on attracting qualified candidates with disabilities. We have identified a number of recruiting sources through CDEEO and will be reaching out to the Mayor's Office for People with Disabilities, as well as Frank Palmieri (DCAS) for best practices and guidance in this area. Lastly, we currently have only 1 55-a program participant within City Planning and both the EEO Professional (Sarah Whitham) and the Human Resources Professional (Dana Cohen) are aware.

EEPC Response: The EEPC recognizes the agency's efforts. Documentation of communication(s) will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Corrective Action #10:

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

Agency Response: Both co-EEO Professionals (Sarah Whitham and Edwin Marshall) attended EEO Training before they assumed their responsibilities. However, Mr. Marshall was unable to locate his certificate, as he attended the original training over 10 years ago. Although Dana Cohen assumed the Human Resources Professional role in April, she was unable to attend the EEO Training in July, due to agency-critical payroll issues. We have discussed this with Jocelyn Tan-Lobo, Executive Director of Compliance, and she has offered to provide individual training and has advised that the next EEO Training sessions are planned for Spring 2016 and Ms. Cohen will attend as soon as the training is offered again.

EEPC Response: The EEPC recognizes the agency's efforts. Documentation that EEO professionals received training will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Corrective Action #12:

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.

Agency Response: Starting at the end of this quarter, the Human Resources Professional and EEO Officer will meet with Executive Staff (Director, Executive Director, Chief Operations Officer, General Counsel) on a quarterly basis with a defined agenda to include, but not limited to, reviewing the following: CEEDS Report data (synthesized and presented in a more user-friendly format), new recruiting efforts and results/metrics, impact of outreach, etc. We will maintain a file of the agendas, minutes and follow up action items.

EEPC Response: The EEPC recognizes the agency's efforts. Documentation of communication will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Thank you and your staff for your continued cooperation.