

AUDIT REPORT

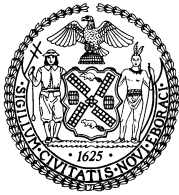


CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF MANAGEMENT AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Audit Report on the Compliance of the Equal Employment Practices Commission with Its Charter Mandate To Audit City Agencies

MD09-057A

May 29, 2009



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

WILLIAM C. THOMPSON, JR.
COMPTROLLER

To the Citizens of the City of New York

Ladies and Gentlemen:

In accordance with the responsibilities of the Comptroller contained in Chapter 5, §93, of the New York City Charter, my office has conducted an audit to determine whether the Equal Employment Practices Commission (EEPC) met its City Charter mandate to audit the equal employment practices and procedures of each City agency at least once every four years.

The EEPC is an independent City commission responsible for monitoring and evaluating the employment practices and procedures of all City agencies to ensure that agencies maintain effective affirmative employment programs of equal employment opportunity. Audits of City agencies such as this provide a means of ensuring that they are complying with City Charter mandates.

The results of our audit, which are presented in this report, have been discussed with EEPC officials, and their comments have been considered in preparing this report.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please e-mail my audit bureau at audit@comptroller.nyc.gov or telephone my office at 212-669-3747.

Very truly yours,

A handwritten signature in cursive script that reads "William C. Thompson, Jr.".

William C. Thompson, Jr.
WCT/ec

Report: MD09-057A
Filed: May 29, 2009

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*The City of New York
Office of the Comptroller
Bureau of Management Audit*

**Audit Report on the Compliance of the
Equal Employment Practices Commission
With Its City Charter Mandate To Audit City Agencies**

MD09-057A

AUDIT REPORT IN BRIEF

The audit determined whether the Equal Employment Practices Commission (the EEPC) met its City Charter mandate to audit the equal employment practices and procedures of each City agency at least once every four years.

The EEPC is an independent City commission responsible for monitoring and evaluating the employment programs, practices, policies, and procedures of all City agencies funded in whole or in part by the City. The aim of the EEPC is to ensure that agencies maintain an effective affirmative employment program of equal employment opportunity for protected groups (as identified in the City of New York Equal Employment Opportunity Policy) who are employed by or seek employment with New York City government. Chapter 36 of the New York City Charter mandates that the EEPC audit and evaluate every City agency at least once every four years and whenever requested by the Civil Service Commission or the Human Rights Commission.

Audit Findings and Conclusions

Although over the last few years the EEPC has increased the number of audits completed, it has not met its New York City Charter mandate to audit every City agency once every four years. For the most recent four-year cycle (calendar years 2005–2008), the EEPC had audited only 102 (65%) of the 156 agencies required to be audited by December 31, 2008. Audits for an additional 13 agencies were initiated but not completed by December 31, 2008.

Audit Recommendations

Based on our finding, we make two recommendations. EEPC officials should continue to request funds from the Mayor's Office for the additional staff members needed to meet the Charter mandate and should ensure that agencies not audited within the last four years are the next agencies scheduled to be audited.

EEPC Response

In their response, EEPC officials agreed with the audit's findings and recommendations.

INTRODUCTION

Background

The Equal Employment Practices Commission (the EEPC) is an independent City commission responsible for monitoring and evaluating the employment programs, practices, policies and procedures of all City agencies funded in whole or in part by the City. The aim of the EEPC is to ensure that agencies maintain an effective affirmative employment program of equal employment opportunity for protected groups who are employed by or seek employment with New York City government. The City of New York prohibits discriminatory actions against employees and applicants for employment based on race, color, national origin, alienage or citizenship status, religion or creed, gender, disability, age, military status, prior record of arrest or conviction, marital status, genetic predisposition or carrier status, sexual orientation, or status as a victim of domestic violence, a sex offense or stalking.

Chapter 36 of the New York City Charter mandates that the EEPC audit and evaluate every City agency at least once every four years and whenever requested by the Civil Service Commission or the Human Rights Commission. In addition, the EEPC is authorized to:

- Recommend procedures, approaches, measures, standards, and programs to be used by all City agencies to ensure a uniform, fair, and effective affirmative employment program of equal employment opportunity for minority group members and women.
- Hold public and private hearings, to compel the attendance of witnesses, if necessary, and administer oaths.
- Establish appropriate advisory committees.
- Publish an annual report to the Mayor and the City Council on the activities of the Commission.

The EEPC is responsible for auditing 156 City agencies, including 59 community boards. The agencies include all mayoral agencies, the City Council, City Comptroller, Public Advocate, the offices of the district attorneys and borough presidents, and the City University of New York's community colleges.

The EEPC has four commissioners, each serving a four-year term. Two commissioners are appointed by the Mayor, and two are appointed by the City Council. The Mayor and Council Speaker jointly appoint the Commission Chairperson.

The EEPC's actual expenditures for Fiscal Year 2008, as reported in the Comptroller's Annual Financial Report, totaled \$539,077 for Personal Services and \$225,274 for Other Than Personal Services, of which \$159,729 was paid for rent. The EEPC is currently authorized to fill nine full-time permanent staff positions. As of December 2008, the EEPC had six full-time permanent staff members, two of whom were auditors. In addition, it had two non-permanent full-time auditors.

Objective

The objective of the audit was to determine whether the EEPC met its City Charter mandate to audit the equal employment practices and procedures of each City agency at least once every four years.

Scope and Methodology

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

We reviewed the EEPC's audit practices from January 1, 2007, to December 31, 2008. However, to determine whether EEPC had met its City Charter mandate to audit the equal employment practices and procedures of each City agency at least once every four years, we reviewed the list of audits it had conducted since 2005.

To obtain an understanding of EEPC efforts to meet its Charter mandate, we met with the Executive Director and the Senior Auditor/Compliance Officer. We reviewed the EEPC policy and procedures manual, the list of agencies required to be audited, and the list of agencies that had been audited. In addition, we reviewed prior audit reports on EEPC operations issued by the City Comptroller (*Audit Report on Certain Practices of the Equal Employment Practices Commission*, issued March 6, 1997; *Follow-up Audit on Certain Practices of the Equal Employment Practices Commission*, issued May 12, 1999; and *Audit Report on the Operating Procedures of the Equal Employment Practices Commission*, issued June 22, 2004).

To determine the completeness of the list of City agencies required to be audited, we compared the EEPC's listing to the Comptroller's Office list of City agencies.¹ We also reviewed the EEPC Annual Reports for Calendar Years 2005 and 2006 to determine which agencies the EEPC audited during those years. We obtained the audit resolution letters² as evidence of the completion of these audits. In addition, we received from EEPC officials a listing of audits completed during 2007 and 2008 and reviewed the audit resolution letters for these audits.

¹ Chapter 5, §93, of the New York City Charter requires the Comptroller to audit some aspect of every City agency at least once every four years. The Comptroller's Office therefore maintains its own list of agencies.

² The audit resolution letters, which are signed by the EEPC Chair, document the preliminary determination of the audit and signify the end of the audit testing.

For agencies identified by the EEPC as having had audits initiated but not completed by December 31, 2008, we obtained audit engagement letters and preliminary audit documentation, such as entrance conference memoranda and initial information requests, as evidence of those audits.

Discussion of Audit Results

The matters covered in this report were discussed with EEPC officials during and at the conclusion of this audit. A preliminary draft report was sent to EEPC officials and discussed at an exit conference held on February 18, 2009. On March 16, 2009, we submitted a draft report to EEPC officials with a request for comments. We received a written response from EEPC officials on April 2, 2009. In their response, EEPC officials agreed with the audit's findings and recommendations.

The full text of the EEPC response is included as an addendum to this report.

FINDINGS AND RECOMMENDATIONS

Although over the last few years EEPC has increased the number of audits completed, it has not met its New York City Charter mandate to audit every City agency once every four years, as discussed in greater detail below.

EEPC Is Not Meeting Its Charter Mandate To Audit City Agencies

For the most recent four-year cycle (calendar years 2005-2008), the EEPC had audited only 102 (65%) of the 156 agencies required to be audited by December 31, 2008. There were an additional 13 agencies for which audits were initiated but not completed by December 31, 2008. Although the EEPC in not meeting its mandate, it has increased the number of audits completed per year.

According to §831 of Chapter 36 of the City Charter, “The Commission shall . . . audit and evaluate the employment practices and procedures of each city agency and their efforts to ensure fair and effective equal employment opportunity for minority group members and women at least once every four years.”

The concern that the EEPC is not meeting its Charter mandate was cited in the last few audits conducted by the City Comptroller. EEPC officials informed us that they do not have sufficient staff to meet the mandate. The EEPC currently has eight full-time positions filled, four of which are for auditors. According to EEPC officials, in order to meet the mandate, they would need eleven full-time positions, including six for auditors.

The EEPC has requested funds from the City’s Office of Management and Budget (OMB) to hire the additional staff necessary to meet its City Charter mandate, to no avail. To compensate for the lack of funds, the EEPC developed a self-funded staff reorganization plan (plan)³ in the last quarter of Calendar Year 2006 and has been operating under this plan since April 2007. The goal of the plan was to increase the number of audits by increasing from two to four⁴ the number of lead auditors available to conduct audits. However, this reorganization plan relied upon the \$97,000 budget enhancement that the EEPC received from the City Council. In Fiscal Year 2007, these funds were used to hire two entry-level auditors. According to EEPC officials, the hiring of these two entry-level auditors combined with the staff reorganization plan has significantly increased the EEPC’s ability to increase its audit productivity.

According to EEPC officials, they requested but did not receive the above-mentioned budget enhancement from the City Council for Fiscal Years 2008 and 2009. To allow EEPC to keep the two-entry level auditors that were dependent on these additional funds from the City Council, it again requested from OMB, but did not receive, an increase to its baseline budget for Fiscal Years 2008 and 2009. However, according to an EEPC official, OMB provided the

³ The staff reorganization plan consisted of eliminating one staff position and reassigning the tasks and duties to the remaining staff positions.

⁴ The four lead auditor positions include the Deputy Director, the Senior Auditor/Compliance Officer, and the two Auditor/Compliance Officer positions.

necessary funds in Fiscal Year 2008 for the EEPC to keep the two entry-level auditors that were hired using the \$97,000 funds that were previously provided by the City Council, but only authorized the additional funding for the EEPC to keep one of the entry-level auditor positions for Fiscal Year 2009.

Starting in calendar year 2006, the EEPC has been able to increase the number of audits completed yearly, as can be seen in Table I below. However, EEPC officials stated that they would need to conduct audits of a minimum of 40 agencies a year to meet the four-year Charter mandate of auditing all 156 agencies, but without an increase in its budget and an increase in its number of full-time positions, it would not be able to meet its mandate. As of December 31, 2008, the EEPC had three vacant auditor positions—two lead auditor positions (the Deputy Director, who retired in August 2008, and the above-mentioned Auditor/Compliance Officer, who left in June 2008) and one of the three non-permanent entry-level auditor positions. Without additional funds, an EEPC official told us that they will not be able to fill these positions. An EEPC official told us that these additional three positions would bring the number of EEPC full-time auditor positions to seven.

Table I
EEPC Audits Completed, by Calendar Year

Calendar Year	Number of Audits Completed
2002	8
2003	16
2004	15
2005	16
2006	24
2007	33 (a)
2008	29

(a) This includes the 6 Community Colleges that were covered as part of the audit of the City University of New York.

If the EEPC is unable to meet its mandate, it will not be able to ensure that City agencies are maintaining effective affirmative employment programs that grant equal opportunity to protected groups.

Recommendations

EEPC officials should:

1. Continue to request funds from the Mayor’s Office for the additional staff members needed to meet the Charter mandate.

EEPC Response: “This Commission will continue to request from the Mayor and the City Council, the funds needed to hire sufficient staff to address our City Charter mandate.”

2. Ensure that agencies not audited within the last four years are the next agencies scheduled to be audited.

EEPC Response: “We will also continue to identify and include agencies not audited in the last four years in our annual plan.”



EQUAL EMPLOYMENT PRACTICES COMMISSION

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April 2, 2009

John Graham
Deputy Comptroller
Audits, Accountancy and Contracts
1 Centre Street
New York New York 10007-2341

Re: Draft Audit Report on the Compliance of the Equal Employment Practices Commission with Its City Charter Mandate to Audit City Agencies/MD09-057A

Dear Deputy Comptroller Graham:

On behalf of the members of the Equal Employment Practices Commission, I want to thank you for the referenced document and the opportunity to respond prior to its publication. The following is our response:

Comptroller's Finding:

EEPC is Not Meeting Its Charter Mandate To Audit City Agencies

EEPC Response

As you know, section 831(d)5 of the New York City Charter mandates the Equal Employment Practices Commission (EEPC) to audit every city agency at least once every four years. On January 15, 2009, we revised the total number of city agencies that meet the City Charter definition of city agency from 160 to 151. Accordingly, the EEPC must audit a minimum of thirty-eight agencies annually. To meet this mandate, as well as address our other responsibilities, the EEPC needs twelve permanent full-time employees: 3 auditors (entry-level);

2 auditors/compliance officers; 2 senior auditors/compliance officers; one budget/personnel coordinator; secretary, counsel, deputy director, executive director; and, a part-time IT professional. Our current full-time audit staff consists of one senior auditor/compliance officer, one auditor/compliance officer, and two entry-level auditors.

In fiscal year 2002, the EEPC's permanent headcount was twelve; our current permanent headcount is nine, our funded permanent headcount is eight. If the preliminary budget for fiscal year 2010 (\$56,000.00 reduction) is approved, our permanent headcount will be further reduced. Despite these headcount reductions our City Charter mandate has not changed. To meet this mandate, the EEPC needs twelve permanent full-time positions.

Comptroller's Recommendations

EEPC officials should:

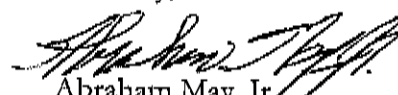
1. Continue to request funds from the Mayor's Office for the additional staff members needed to meet the Charter mandate.
2. Ensure that agencies not audited within the last four years are the next agencies scheduled to be audited.

EEPC Response

1. This Commission will continue to request from the Mayor and the City Council, the funds needed to hire sufficient staff to address our City Charter mandate.
2. We will also continue to identify and include agencies not audited in the last four years in our annual plan.

In closing, I wish to express my gratitude and appreciation to your staff for their courtesy and professionalism throughout the audit process.

Sincerely,


Abraham May, Jr.
Executive Director