

**Rahul Merchant**  
Chief Information and Innovation Officer

August 24, 2012

Cesar Perez, Esq.  
Chair  
Equal Employment Practices Commissions  
40 Rector Street, 14<sup>th</sup> Floor  
New York, NY 10006

Re: EEPC Preliminary Determination Pursuant to the Audit of the Department of Information Technology and Telecommunications (DoITT) and its Compliance with the City's Equal Employment Opportunity Policy from July 1, 2008, through June 30, 2011

Dear Chair Perez:

Thank you for the opportunity to comment on the Equal Employment Practices Commission's Preliminary Determination dated July 26, 2012. I am pleased that EEPC staff found a very high level of compliance at DoITT with the City's Equal Employment Opportunity Policy during the audit period. This of course reflects the strength of DoITT's commitment to the principles of diversity and equal employment opportunity.

I am also pleased that the EEPC staff recommendations are technical and procedural – the staff found no substantive failings at DoITT. For the most part, as detailed below, we agree with those recommendations. Indeed, as we advised EEPC staff at our audit exit meeting on July 11, 2012, most of the recommendations had become moot because we had taken the recommended actions well before the audit exit meeting.

Following in more detail is our response to each of the EEPC staff recommendations:

1. **Recommendation:** All recruitment literature should indicate that the Agency and the City of New York is an Equal Opportunity Employer.

**Response:** EEPC staff correctly determined that all DoITT recruitment materials stated that "the City of New York is an Equal Opportunity Employer," but that those materials did not separately specify that DoITT is an equal opportunity employer. DoITT has manifested its commitment to the principles of diversity and equal employment opportunity in a variety of formats and forums, including DoITT's Web site. Consistent with this recommendation, DoITT has revised its job postings and all other recruitment

materials to specify not only that the City of New York, but also DoITT, is an equal opportunity employer.

2. **Recommendation:** The EEO Officer/Counselor should serve the respondent with a notice of complaint (or another document that includes the respondent's right to respond to the allegations and right to be accompanied by a representative of his/her choice) along with a copy of the complaint. The EEO Officer should keep receipts regarding the service of notice on the respondent in the complaint file.

**Response:** EEPC staff identified three instances during the audit period in which complaint files did not contain proof that written service of the complaint and of the right to respond to the complaint had been served on the respondent. It has always been the regular practice of the EEO and Diversity Office to serve a copy of the complaint along with a letter of notice to the respondent in person. The respondent is asked to sign a copy of the notice, and the notice is stored in the EEO file. I have emphasized to my staff the importance of unflinching adherence to this requirement.

3. **Recommendation:** In rare circumstances where an investigation cannot commence immediately, or where the confidential report cannot be issued within 90 days, a note should be made in the complaint file explaining the reason for the delay and projecting a time frame for completion of the report. The complainant, respondent and DCAS Citywide-EEO should be notified of the delay in writing.

**Response:** EEPC staff identified one instance during the audit period in which a "delay notification letter" was not sent to the complainant or the respondent. Investigation delays have been extremely rare, and all delays have been documented both to the file and in DoITT's quarterly EEO reports. I have emphasized to my staff the importance of unflinching adherence to the requirement that notice of the delay be sent to the complainant and the respondent.

4. **Recommendation:** The EEO Officer should notify the complainant and respondent, in writing, that the investigation by the EEO Officer has been transferred because of the filing of the external complaint.

**Response:** EEPC staff identified one instance during the audit period in which the complaint file did not contain proof that the complainant and the respondent had been given written notice that the complaint had been transferred from the EEO and Diversity Office to the Office of General Counsel. In that case, the complaint was transferred because the complainant filed an external complaint. Both the complainant and the respondent were aware of the external filing. Nonetheless, it has always been the regular practice of the EEO and Diversity Office to send such written notice to the complainant and the respondent, and I have emphasized to my staff the importance of unflinching adherence to this requirement.

5. **Recommendation:** To ensure that all employees are aware of the Disability Rights Coordinator- responsible for handling reasonable accommodation requests and ensuring compliance with all federal, state, and local laws, as well as City and agency policies, pertaining to persons with disabilities – the agency should redistribute to all employees in writing the name, location, and telephone number of this person.

**Response:** DoITT materials relating to employee disability issues, including DoITT's reasonable accommodation request form, have always indicated that disability issues may be addressed to the EEO and Diversity Office. Consistent with this recommendation, DoITT's materials have been updated to specify that the Disability Rights Coordinator is the Director of the EEO and Diversity Office.

6. **Recommendation:** Since agencies' HR Officers are responsible for reviewing statistical information (including total employment, new hires and promotions by race/ethnicity and gender), employment practices, policies and programs for purposes of identifying whether there are barriers to equal opportunity, and informing the EEO Officer of efforts that the agency has made to employ, promote, or accommodate qualified individuals with disabilities, DOITT's Human Resources Division should be assigned the responsibility of recording and maintaining information on the agency's applicant logs.

**Response:** DoITT respectfully rejects this recommendation. The Division of Human Resources is not responsible for facilitating employment interviews, and employment applicants do not generally meet with Human Resources until they have been tentatively selected for employment. Requiring the intervention of Human Resources staff at the interview stage of the hiring process would require a substantial new allocation of resources that DoITT believes to be unnecessary and unwise. Our view is that completion of the applicant log is best handled by the hiring managers.

I note that the City's Equal Employment Opportunity Policy does not require that an agency's Division of Human Resources complete applicant logs, and therefore I respectfully submit that this recommendation lies outside the proper scope of this audit. In addition, I note that this recommendation was not included in the draft audit report and was not discussed with DoITT at the audit exit meeting on July 11, 2012.

7. **Recommendation:** To ensure that all employees know the identity of the agency's Career Counselor, the personnel officer should re-distribute to all employees the identity and the type of guidance with is available from the Career Counselor. This should be done at least once a year.

**Response:** In 2011, DoITT formalized the creation of an Office of Professional Development, and that Office undertook a continuing series of professional development initiatives that have been well publicized to DoITT employees. Consistent with this recommendation, DoITT has designated a member of that Office as DoITT's Career Counselor, and DoITT materials have been updated to reflect this designation. The Division of Human Resources plans to roll out a series of trainings during the Fall of 2012 that covers career related topics.

8. **Recommendation:** The agency is required to file with the EEPC copies of finalized agency EEO/agency specific plans. The agency must also submit quarterly to the EEPC, a report on its efforts during the previous quarter to implement the agency specific plan. All reports should be submitted no later than thirty days following the reporting period.

**Response:** EEPC staff found that DoITT failed to submit reports and plans to EEPC during part of the audit period. These reports and plans were prepared and submitted to

DCAS EEO, but apparently some were not submitted to the EEPC. It has been the regular procedure of DoITT to file all such reports and plans, and all such reports and plans have been submitted to EEPC during my tenure as Director of the EEO and Diversity Office. I have emphasized to my staff the importance of unfailing adherence to this requirement.

In sum, with the exception of the sixth recommendation, DoITT has taken measures consistent with all of the EEPC staff's recommendations. I respectfully request that you include this response with your final report.

Sincerely,

A handwritten signature in black ink, appearing to read "Emily Johnson", with a long horizontal flourish extending to the right.

Emily Johnson  
Director of EEO and Diversity

Cc: Commissioner Rahul Merchant  
Charles Fraser  
Elissa Stein Cushman  
Galia Galansky