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BY MAIL AND E-MAIL

August 31, 2015

Maria Torres-Springer
President
New York City Economic Development Corporation
110 William Street
New York, NY 10038

Re: Audit: Preliminary Determination: Review, Evaluation and Monitoring of the NYC Economic Development Corporation's Employment Practices and Procedures from January 1, 2012 to December 31, 2014.

Dear President Maria Torres-Springer:

On behalf of the members of the Equal Employment Practices Commission (Commission or EEPC), thank you and your agency for the cooperation extended to our staff during the course of this audit. This letter contains the Commission's findings and preliminary determinations pursuant to our audit and analysis of your agency's employment practices and procedures for the period covering January 1, 2012 to December 31, 2014.

The New York City Charter, Chapter 36, Section 831(d)(5), empowers this Commission to audit and evaluate city agencies' employment practices, programs, policies and procedures, and their efforts to ensure fair and effective equal employment opportunity for employees and applicants seeking employment with city agencies. Section 831(d)(2) provides that this Commission may, pursuant to an audit, make a preliminary determination that any plan, program or procedure utilized by any city agency does not provide equal employment opportunity and recommend all necessary and appropriate procedures, approaches, measures, standards and programs to be utilized by agencies in these efforts.

The New York City Economic Development Corporation is a public benefit corporation. In recognition of the importance of promoting equal employment opportunity practices, the EDC consents to the EEPC's audit and evaluation of its EEO Program.



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The purpose of this audit and analysis is to evaluate the agency's employment practices and procedures. 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. These standards are 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; the New York City Human Rights Law (NYC Administrative Code §§8-107(1)(a) and (d), 8-107.13, and 8-107.1); the New York State Civil Service Law §55-a; the Equal Employment Opportunity Commission's Instructions to Federal Agencies for EEO, Management Directive 715; the Uniform Guidelines on Employee Selection Procedures (29 CFR §§1607.3 - 1607.7), the Americans with Disabilities Act and its Accessibility Guidelines, and the equal employment opportunity requirements of the New York City Charter. Prescribed corrective actions are consistent with the aforementioned parameters. This Commission does not issue findings of discrimination pursuant to the New York City Human Rights Law.

Since this Commission is empowered to review and recommend actions which each agency should consider including in its annual plan of measures and programs to provide equal employment opportunity (Annual EEO Plan), the audited agency should incorporate required corrective actions in its current EEO Program and prospective Annual EEO Plans.

Scope and Methodology

This Commission's audit methodology 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, 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 (CEEDS)*.

This Commission reviews the workforce statistics and utilization analysis information available via CEEDS to understand the concentrations of race and gender groups within an agency's workforce. (CEEDS may be unavailable for certain non-mayoral agencies. In such cases, the EEPC requests that the agency submit similar statistics and analyses.) EEO Program Analysts examine imbalances between the number of employees in a particular job category and the number that would reasonably be expected when compared to their availability in the relevant labor market. Personnel transactions are reviewed in order to ascertain the agency's employment practices. Where underutilization is revealed within an agency's workforce, EEO Program Analysts assess whether the agency has undertaken reasonable measures to address it.

¹ Corresponding audit/analysis standards are numbered throughout the document.



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EEO professionals (including, but not limited to, past or current EEO Officers, Deputy or Co-EEO Officers, EEO Counselors, EEO Trainers, EEO Investigators, Disability Rights Coordinators, Career Counselors, 55-a Program Coordinators) and others involved in EEO program administration such as the Principal Human Resources Professional are given a two-week deadline to complete their individual questionnaires and return any items requested. The Commission’s EEO Program Analysts also conduct additional research and follow-up discussions or interviews with EEO professionals, when appropriate.

Description of the Agency

New York City Economic Development Corporation's mission is to encourage economic growth throughout the five boroughs of New York City by strengthening the City's competitive position and facilitating investments that build capacity, create jobs, generate economic opportunity and improve quality of life. New York City Economic Development Corporation (NYCEDC) is the City's primary vehicle for promoting economic growth, stimulating investment and broadening the revenue and employment base through development of real estate, administration of financing tools, oversight of transportation and infrastructure projects, management of the City's rail freight lines, food markets, and planning, development and management of waterfront properties.

(<http://a856-gbol.nyc.gov/GBOLWebsite/101.html>, July 2015.)

The agency has a headcount of 421. A statistical profile is provided in Appendix 1.

PRELIMINARY DETERMINATIONS AFTER AUDIT AND ANALYSIS

Following are the corresponding audit standards for each subject area along with the EEPC’s findings and required corrective actions, where appropriate:

I. ISSUANCE, DISTRIBUTION AND POSTING OF EEO POLICIES:

Determination: The agency is in compliance with the standards for this subject area.

1. Issue a general EEO Policy statement or memo reiterating commitment to EEO, declaring the agency's position against discrimination on any protected basis, advising employees of the names and contact information of EEO professionals, and attaching, or providing employees pertinent electronic links to, an EEO Policy/Handbook.
- ✓ The agency head issued an annual Equal Employment Opportunity Policy statement to all employees via email (April 18, 2012, May 8, 2013, and October 24, 2014). The statement reiterated the agency’s commitment to “*equal opportunity for all employees and applicants for employment by ensuring an environment free of illegal discrimination, including harassment, based on actual or perceived race, color, national origin, alienage or citizenship status, religion or creed, gender.*” It provided the names and contact information of the agency’s EEO Professionals, and pertinent electronic links to the agency’s *Equal Employment Opportunity Program and Anti-Harassment Policy*,



Complaint Form, and *Open Door Policy*. The EEO Policy statement was also printed and posted in a glass case which hangs on a wall near the human resources department hallway.

2. Distribute/Post a paper or electronic copy of the *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies* – or an agency EEO Policy that conforms to city, state and federal laws – for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: a policy against sexual harassment; uniform and responsive procedures for investigating discrimination complaints and providing reasonable accommodations; an up-to-date list of protected classes under NYC and NYS Human Rights Laws; and current contact information for the agency’s EEO professionals, as well as federal, state and local agencies that enforce laws against discrimination.
- ✓ A copy of the agency’s *Equal Employment Opportunity Program and Anti-Harassment Policy, Complaint Form, and Open Door Policy* was distributed via email along with the EEO policy statement. It included as addenda: a policy against sexual harassment; uniform and responsive procedures for investigating discrimination complaints and providing reasonable accommodations; an up-to-date list of protected classes under NYC and NYS Human Rights Laws; as well as federal, state and local agencies that enforce laws against discrimination. The EEO Policy was posted on the intranet page and new employees were informed of the location of the policy during new hire orientation.

II. EEO TRAINING FOR AGENCY:

Determination: The agency is in partial compliance with the standards for this subject area.

3. 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.
- ✓ The agency established an EEO training plan which mandated the completion of online *Preventing Harassment* training for supervisory and non-supervisory employees, as required in Section VI of the agency’s EEO Policy. The policy also required staff and managers to complete the Citywide *Diversity and Equal Employment Opportunity Computer Based Training* (CBT) administered by the Department of Citywide Administrative Services (DCAS).
 - The agency did not demonstrate that it implemented an EEO training plan during the audit period.



NOTE: Subsequent to the audit period, the agency submitted verification that 3203 employees completed *Diversity Inclusion* training in 2015, as indicated by the attendance log.

III. EMPLOYMENT PRACTICES (Recruitment, Hiring & Promotion):

Determination: The agency is in partial compliance with the standards for this subject area.

4. 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.
- ✓ The agency's recruitment resources included sources serving women, minorities, and other protected groups throughout the City. The agency reported that job vacancies were posted during the audit period on Jobvite.com, City Limits, Idealist, Dice, Monster, Career Builder, and also on diversity sites such as National Black MBA Association, LatPro, DiversityJobs.com, Black Ivy League Alumni, Hispanic American Construction Industry Association, and Women in Technology.
5. The principal EEO Professional, HR Professional, and General Counsel, review the agency's statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender), the annual number of EEO complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required to correct deficiencies.
- ✓ The agency's Senior Vice President of Human Resources also serves as the principal EEO Professional. The agency conducted data analysis (workforce, hires, promotions, and separations by race/ethnicity and gender) which resulted in the reports outlined in no. 6 of this determination. The Senior Vice President of Human Resources was responsible for periodically reviewing the organization's employment practices, policies, and programs.
 - The aforementioned analysis did not include the agency's conclusion whether there are barriers to equal employment opportunity within the agency or what, if any, corrective actions are required to correct deficiencies. **Corrective Action Required.**



Corrective Action # 1: Identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required to correct deficiencies.

NOTE: During the audit period, the agency reported that no EEO Complaints were filed.

6. 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.
- ✓ The agency conducted data analysis during and subsequent to the audit period, which resulted in 3 reports by gender and ethnicity: *Diversity and Inclusion* (March 2014), *Workforce Metrics* (October 2014), and *Diversity Trends* (July 2015). The *Diversity and Inclusion* report paralleled the agency's workforce composition with New York State and local government data; compared title groups within the agency to Tri-State data; and provided an analysis of internal labor (career level, hires, actives, and voluntary exits). The *Workforce Metrics* report included January 2014 vs. October 2014 reviews of the agency's gender/ethnicity statistics in total, by title levels (Administrative, Professionals, Managers, Executives), and by promotion. The *Diversity Trends* report included a review of the agency's October vs. July gender/ethnicity statistics in 2014 and 2015 by title levels and by new hires.
 - The agency did not conclude whether any particular group experienced adverse impact in its selection processes or was underrepresented. **Corrective Action Required.**

Corrective Action #2: 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.

7. 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.

Refer to no. 6, which outlines the agency's data analysis efforts.

8. 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.

NOTE: The agency is a governmental non-profit corporation, and does not employ civil service employees; therefore, no further analysis was conducted in this area.

9. 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).
 - ✓ The agency conducted training entitled *Identify the Right Hire: Interview Skills* in March 2014 for 12 employees, as indicated by the attendance log.
10. Promote employees' awareness of opportunities for promotion and transfer within the agency, and ensure that employees are considered for such opportunities.
 - ✓ The agency's *Performance Management Manual* was designed to, "provide all employees with support and direction regarding the Performance Evaluation processes, career development practices and training opportunities in order to develop a high performance culture." The agency reported that it used an internal application process for transfers; and that it followed a merit based promotion process.
11. At minimum, indicate the agency is an equal opportunity employer in recruitment literature.
 - ✓ The agency advertised several job vacancies during the period in review including: *Junior Engineering Auditor, Senior Project Manager-Market Manager, Assistant Vice President-Strategic Planning, Administrative Coordinator, and Project Manager*. Each job vacancy notice included the EEO tagline: "The New York City Economic Development Corporation is an Equal Opportunity Employer."
12. Use and maintain an applicant/candidate log or tracking system which, at minimum, includes the *position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition)* of each applicant, and *recruitment source*. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.



**Equal Employment
Practices Commission**

- ✓ The agency used and maintained an online applicant/candidate tracking system which included applicants'/candidates' *Requisition ID, Status (position filled), Title (job title), Department, EEO Category (Professional, Administrative), Closed On, Disposition, Gender, and Race/ Ethnicity.*

NOTE: Subsequent to the audit period, in August 2015 the agency updated its online applicant/candidate tracking system to include *recruitment source and interview date.*

- The agency's applicant/ candidate log did not include the *applicants'/candidates' disability or veteran status, and interviewers' names.* In addition, information was recorded and maintained by the hiring manager. **Corrective Action Required.**

Corrective Action # 3: Use and maintain an applicant/candidate log or tracking system which, in addition to the above, includes the *applicants'/candidates' disability or veteran status, and interviewers' names.* Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.

IV. CAREER COUNSELING:

Determination: The agency is in partial compliance with the standards for this subject area.

13. Designate a professional (may be referred to as the Career Counselor) with appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling to employees upon request. Remind employees of the identity/type of guidance available from the Career Counselor at least once each year.

- ✓ The agency assigned each employee a Human Resources Business Partner as the Human Resources point of contact.

- The agency did not demonstrate whether it designated a professional with training, knowledge and familiarity with career opportunities to provide career counseling to employees upon request. **Corrective Action Required.**

Corrective Action # 4: Designate a professional (may be referred to as the Career Counselor) with appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling to employees upon request. Remind employees of the identity/type of guidance available from the Career Counselor at least once each year.

14. 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, training opportunities and job



postings; and informs the principal EEO Professional of the efforts the agency has made to employ, promote or accommodate qualified individuals with disabilities.

- ✓ The Human Resources Professional was responsible for providing employees information regarding job responsibilities and training opportunities, and informing employees about the performance evaluation standards.

NOTE: Subsequent to the audit period, the agency reported that the agency's Legal and Records Management Departments partnered with the AHRC New York City (a family governed organization committed to finding ways for people with intellectual and other developmental disabilities to build full lives), to help train and develop and potentially employ qualified individuals with disabilities.

**V. EEO AND REASONABLE ACCOMMODATIONS FOR EMPLOYEES/
APPLICANTS FOR EMPLOYMENT WITH DISABILITIES:**

Determination: The agency is in compliance with the standards for this subject area.

15. Ensure that information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures is made available in appropriate alternative formats (i.e., large print, audio tape and/or Braille) upon request to employees and applicants for employment with disabilities.

- ✓ The agency reported that it will provide the agency's policies in alternative formats upon review of the request. The agency reported that no requests for information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures were made during the audit period.

16. Document reasonable accommodation requests and their outcomes.

NOTE: The agency reported that no requests for reasonable accommodations were made during the audit period; therefore no further analysis was conducted in this area.

VI. RESPONSIBILITY FOR EEO PLAN IMPLEMENTATION - EEO PROFESSIONALS:

Determination: The agency is in partial compliance with the standards for this subject area.

17. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. The principal EEO Professional is trained and knowledgeable regarding city, federal and state EEO laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination complaints.



**Equal Employment
Practices Commission**

- ✓ The agency appointed the Senior Vice President of Human Resources as principal EEO Professional in October 2014. The principal EEO Professional completed *Citywide Diversity and Equal Employment Opportunity Basic Training* in June 2014.
18. Ensure that EEO professionals are trained in EEO laws and procedures and know how to carry out their responsibilities under the EEO Policy.
- ✓ In addition to the principal EEO Professional, the agency appointed two EEO Officers. One of the agency's EEO Officers completed *Diversity and Equal Employment Opportunity Basic Training* in November 2011, and both completed *Everybody Matters* training in February 2014.
19. The principal EEO Professional reports directly to the agency head (or an approved direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities.
- ✓ The principal EEO Professional reported directly to the Chief Financial Officer, a direct report to the agency head, as indicated in the agency's organizational chart.
20. To ensure the integrity and continuity of the EEO Program, 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.
- The agency did not maintain 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. **Corrective Action Required.**

Corrective Action #5: 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.

VII. RESPONSIBILITY FOR EEO PLAN IMPLEMENTATION – SUPERVISORS/MANAGERS:
Determination: The agency is in partial compliance with the standards for this subject area.

21. Establish and administer an annual managerial/non-managerial performance evaluation program to be used for probationary periods, promotions, assignments, incentives and training.
- ✓ The agency established and administered an online annual managerial/non-managerial performance evaluation program entitled *Performance Management* system. Managers



were required to complete the online *Performance Review- Management* form, and non-managerial employees were required to complete the online *Performance Self-Evaluation* form. The agency sent a company-wide email to the organization informing employees of the evaluation process (with timetable).

22. The managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

➤ The agency's *Performance Review- Management* form did not contain a rating for EEO. **Corrective Action Required.**

Corrective Action # 6: Ensure that the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

VIII. **REPORTING STANDARD FOR AGENCY HEAD:**

After implementation of the EEPC's corrective actions, if any:

23. The agency head distributes a memorandum informing employees of the changes implemented in the EEO program pursuant to the EEPC's audit/analysis and re-emphasizing the agency head's commitment to the EEO program.

Final Action: Distribute a memorandum signed by the agency head informing employees of the changes implemented in the EEO program pursuant to the EEPC's audit/analysis and re-emphasizing the agency head's commitment to the EEO program.

Conclusion

The agency has 6 required corrective action(s) at this time.

Pursuant to Chapter 36 of the New York City Charter, your agency has the *option* to respond to this *preliminary determination*, but must respond to our Final Determination if corrective action is required.

Optional Response to preliminary determination: If submitted, your optional response should indicate, with attached documentation, what steps your agency has taken or will take to implement the prescribed corrective actions, and must be received in our office within 14 days from the date of this letter. No extensions will be granted for the *option* to respond to the *preliminary determination*.




(Optional Conference) During the Optional Conference, we will discuss the immediate steps your agency should take and address questions regarding your agency's implementation of the prescribed corrective action(s).

(No Response Option) If your agency does not respond to this preliminary determination within 14 days, it will become the EEPC's Final Determination.

Mandatory Response to Final Determination: Following this preliminary determination, the EEPC will issue a Final Determination where we may modify or eliminate the corrective actions based on verified information; identify remaining action which requires further monitoring in order to ensure implementation; and assign a mandatory compliance-monitoring period of up to 6 months for this purpose. Pursuant to Chapter 36 of the New York City Charter your agency must respond to our Final Determination within 30 days. Your response to the Final Determination will initiate the compliance monitoring period.


In closing, we want to thank you and your staff for the cooperation extended to the Equal Employment Practices Commission's EEO Program Analysts during the course of our audit and analysis.

Respectfully Submitted by,



Elona Shehu, EEO Program Analyst

Approved by,



Charise L. Terry, PHR
Executive Director

c: Carrie Weaver, principal EEO Professional

Appendix 1

New York City Economic Development Corporation

Statistical Profile

Statistical Profile of Agency Workforce

Number of Employees End of Audit Period	
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Male	<u>220</u>
Female	<u>201</u>

White	<u>232</u>
Black	<u>54</u>
Hispanic	<u>55</u>
Asian	<u>73</u>
Native American	<u>0</u>
Unknown Two or More Races	<u>7</u>

Total # of Employees	<u>421</u>
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