



EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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July 9, 2008

Robert V. Hess
Commissioner
Department of Homeless Services
33 Beaver Street, 17th Floor
New York, NY 10004

Re: Final Determination Pursuant to the Audit of the Department of Homeless Services (DHS) and its Compliance with the City's Equal Employment Opportunity Policy from January 1, 2005 through June 30, 2006.

Dear Commissioner Hess:

Thank you for your June 10, 2008 response to our March 20, 2008 Letter of Preliminary Determination pursuant to the audit of the Department of Homeless Services' Equal Employment Opportunity Policy from January 1, 2005 through June 30, 2006.

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

Agree

We agree with your responses to the following EEPC recommendations, pending documentation that can be attached to your reply or provided during the compliance period:

Recommendation #1

To comply with the Citywide EEO Policy and to ensure a uniform internal distribution process, the new hire package should include the Citywide EEO Policy and the EEO Policy Handbook. (Sect. VB, EEOP)

Recommendation #2

To ensure that all employees are made aware of the Program, the Section 55-A Program pamphlets issued by the DCAS should be included in the new hire packet. (Sect. IIB, EEOP)

Recommendation #5

All relevant complaint files should include copies of letters to the complainants and respondents regarding the EEO office's determinations. (DCAS, Discrimination Complaint Procedures Implementation Guidelines, sec. 12b (1993).)

Recommendation #6

All relevant complaint files should include word processed notes of the discrimination investigation interviews.

Recommendation #7

Whenever possible, the investigation of complaints should be completed within 90 days of the receipt of the complaint. (DCPIG, April 1996 Amendment)

Recommendation #8

In circumstances where the investigation cannot be completed within the 90-day timeframe, a notification delay letter, stating the reason for the delay, should be sent to the parties of the investigation. (DCPIG, April 1996 Amendment)

Recommendation #9

At the conclusion of a discrimination complaint investigation, the EEO professional should prepare a confidential written report in accordance with the Discrimination Complaint Procedure Implementation Guidelines. (DCPIG, sect. 12b)

Recommendation #10

The agency head should sign each confidential report to indicate that it has been reviewed and whether the recommendation, if any, is approved and adopted. Such sign off may be in written or electronic form. (Sect. VB, EEOP and DCPIG, sect. 12b)

Recommendation #12

The DHS should include a rating on EEO in their managerial evaluation form or use the managerial performance evaluation form designed by the DCAS, which contains a rating for EEO.

Recommendation #13

It is the Commission's position that appropriate documentation of meetings and other communications between the EEO officer and the direct report to the agency head regarding EEO program operational decisions be maintained.

Recommendation #14

The EEO officer must report directly to the agency head, or if approved by DCAS, to a direct report to the agency head on all EEO matters. (Sect. VB, EEOP)

Partially Agree

For the following reasons, hereafter identified as EEPC rationale, we partially agree with your responses to the following EEPC recommendation:

Recommendation #15

To ensure fair employment practices, the agency head should direct the human resources department to include the EEO officer in the development of recruitment strategies and the selection of recruitment media. (Sect. IV, EEOP)

Your Response:

Since the end of the audit period, the Agency's hiring and recruiting process has changed. All Personnel Action Requests are now reviewed by the EOA Officer. Further, with respect to open leadership position within the agency, the personnel liaisons consult with the EOA Officer regarding the use of appropriate recruiting sources.

EEPC Rationale

It is unclear whether the human resources department was directed to include the EEO officer in the development of recruitment strategies. Further, the personnel liaisons should consult with the EEO officer regarding all positions within the agency regarding the use of appropriate recruitment sources.

Requires Clarification

For the following reasons, hereafter identified as EEPC Rational, we request clarification of your response to the following recommendations, which can be addressed in your response or during the compliance period:

Recommendation #4

The DHS should ensure that EEO policies and procedures are available in alternate formats (i.e., large print, audio tape and/or Braille). (Sect.VC, EEOP)

Your Response:

DHS has produced large print versions of the Citywide EEO Policy and will make them available to employees and applicants.

EEPC Rationale

It is unclear whether the DHS' EEO Policy statement is also available in alternate formats for persons with disabilities.

Recommendation #17

The DHS personnel officer should notify all employees in writing of the name, location, and telephone number/email address of the career counselor. (Sect. VF, EEOP)

Your Response:

The agency Career Counselor is responsible for conducting all new employee orientations, and during each orientation, introduces herself to new employees. Further, on the Commissioner's EEO Memoranda posted on every floor of DHS' headquarters at 33 Beaver Street, the agency Career Counselor is identified by name. Finally, to ensure that current

employees are familiar with the agency's Career Counselor, she will be profiled in an upcoming issue of the agency's *Staff Matters* newsletter.

EEPC Rationale

It is unclear whether the "*Staff Matters*" newsletter is distributed to all DHS employees. Further, it is unclear whether the Commissioner's EEO Memoranda is posted at all DHS facilities where there are DHS employees.

Disagree

For the following reasons, hereafter identified as EEPC rationale, we disagree with your response to the following EEPC recommendations:

Recommendation #3

The DHS should ensure that all its facilities are completely accessible to persons with disabilities.

Your Response:

DHS is committed to ensuring that all employees, clients, and applicants for employment or services, irrespective of disability, have equal access to DHS programs and facilities. We believe that our facilities and shelter system, as currently configured, are accessible to disabled individuals in keeping with the letter and spirit of applicable Federal, State, and City disability rights laws.

EEPC Rationale

The Commission's concern is that DHS employees with disabilities and disabled applicants for employment with the DHS have access to all DHS facilities, in accordance with the Citywide EEO Policy, Commission policies and EEO standards expressed in the Federal, State and City Human Rights Laws. Recommended corrective action #3 is consistent with the audit's findings, the parameters set forth in the Citywide EEO Policy, and applicable federal, state and city laws. The DHS should address its assertion that the Citywide EEO Policy is unduly burdensome on the DHS to the Department of Citywide Administrative Services.

Recommendation #11

The DHS should secure the necessary training, either from the DCAS or another appropriate source, to 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. (Section IV, EEOP)

Your Response:

The EOA Officer has not received from DCAS the training necessary to perform an appropriate adverse impact analysis. We understand that the EEPC is currently working with DCAS to ensure that this training is available in the future.

EEPC Rationale

It is DCAS' position that all EEO officers have received adverse impact training from the DCAS and are capable of conducting the adverse impact study. Further, if the EEO officer has

not received the training from the DCAS, he/she should obtain training from another source such as Cornell's School of Industrial and Labor Relations.

Recommendation #16

It is the Commission's position that meetings between managers/supervisors and staff where they affirm their managerial commitment to the Citywide EEOP should be documented.

Your Response:

The Quarterly Staff Review form will be amended to include a section for memorializing managers/supervisors' managerial commitment to the Citywide EEO Policy no later than the second quarter of FY 09.

EEPC Rationale

It is our understanding that the DHS' Quarterly Staff Review form is attached to the managerial evaluation form and is based on a meeting between managers/supervisors and individual staff members. It is the Commission's position that managers/supervisors should conduct meetings with staff at least once a year to reaffirm their commitment to the Citywide EEO Policy during regular staff meetings and discuss the right of employees to file discrimination complaints with the EEO officer. The manager/supervisor should document these staff meetings with a memo to file or an agenda indicating that the Citywide EEOP was addressed.

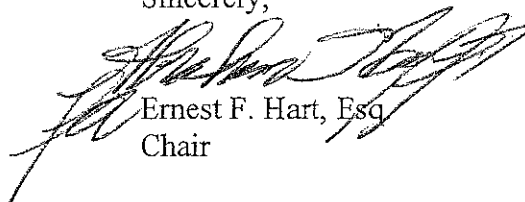
Conclusion

Pursuant to section 832 of the New York City Charter, this Commission will initiate an audit compliance procedure not to exceed six months. However, you may respond to the aforementioned determinations prior to the initiation of audit compliance.

If you choose to issue a written response, please do so within thirty days. If you choose not to issue a written response, we will initiate audit compliance shortly thereafter. EEPC Counsel Judith Garcia Quiñonez or her designee will contact your EEO Officer in seven days to ascertain your intentions.

In closing, we want to thank you and your staff for your cooperation during the audit process. We look forward to a mutually satisfactory compliance process.

Sincerely,



Ernest F. Hart, Esq.
Chair