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BY MAIL AND EMAIL

September 11, 2015

Pauline Toole

Commissioner

Department of Records and Information Services

31 Chambers Street, Room 305

New York, NY 10007

RE: Resolution #: 2015/860: Final Determination Pursuant to the Review, Evaluation and Monitoring of the Department of Records and Information Services' Employment Practices and Procedures from January 1, 2012 to December 31, 2014

Dear Commissioner Toole:

On behalf of the members of the Equal Employment Practices Commission (Commission or EEPC), thank you for your August 10, 2015 response to our July 27, 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' employment practices and programs 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.



**Equal Employment
Practices Commission**

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 during the designated period. Thereafter, your agency will be monitored monthly until all corrective actions have been implemented. Compliance-monitoring instructions will be provided. 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-monitoring 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,



Charise L. Terry, PHR
Executive Director

c: Naomi Pacheco, principal Human Resources 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 provided in response to the *EEPC Document and Information Request Form*; the *EEPC Interview Questionnaires* for EEO professionals and others involved in EEO program administration; and, if applicable, the *EEPC Employee Survey*; the *EEPC Supervisor/Manager Survey*; the agency's *Annual EEO Plans* and *Quarterly EEO Reports*; and workforce and utilization data from the *Citywide Equal Employment Database System*. Additional research and follow-up discussions or interviews were conducted as appropriate.

After reviewing the agency's optional response (if applicable), our Final Determination is as follows:

Monitoring Required

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

Corrective Action #1

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: During the 2012-2014 review period, all key members of the Agency's staff (including the Commissioner, Agency EEO Officer, HR Professional, etc.) reviewed the CEEDs reports provided by the Office of Citywide Diversity and Equal Employment Opportunity quarterly. [...]The Agency is identifying organizations, message boards, and networks that serve women, minorities and other protected groups in order to post employment opportunities for which there is [sic] discretion in hiring. (Response, pg. 2)

EEPC Response: The EEPC recognizes the agency's efforts to implement corrective action #1. An agency assessment of the impact of its efforts will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of compliance-monitoring period.

Corrective Action #2

Ensure that the principal EEO Professional and HR Professional review the agency's 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 in order to correct deficiencies (e.g. underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.

Agency Response: Whenever a complaint has been made, the HR Professional and EEO Officer have met and reviewed the complaint. Going forward, the HR Professional will assess EEO matters and other issues that arise and suggest possible actions to proactively deal with any recurring situations. (Response pg. 2)

EEPC Response: A review of the agency's annual number of EEO complaints, and the agency's employment practices, policies and programs 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: ...the agency strives to ensure that not only are the criteria of each job posting relevant to the tasks involved in the position but that the interview questions used with candidates are crafted around the specific job criteria as well. Every posting for an open position at the agency for the period of January 2014 - to date only includes relevant job duties. (Response, pg. 3)

EEPC Response: The EEPC recognizes the agency's efforts to implement corrective action #4. 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: In 2014, the Agency posted 7 positions, for which there was discretion in hiring for five of them. [...] To diversify the hiring pool, the Agency has participated in career fairs/open houses in order to expand upon the current recruitment efforts. [...]The Agency provides numerous opportunities for internships by partnering with various programs. The majority of the interns provided by these programs are women or members of a minority protect group. Currently, the Agency has 3 full-time staff who were former interns. (Response, pg. 3)

EEPC Response: The EEPC recognizes the agency's efforts to implement corrective action #4. The agency's efforts to address the underrepresentation of protected groups in titles where there is discretion in hiring will be reviewed during the compliance-monitoring period. 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 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: *DORIS participated in DCAS test development for the Public Records Aide in 2011 or 2012 and the Administrative Manager test development on January 14, 2015, which consisted of a review of the requirements for both titles. DCAS has proposed consolidating the titles of the Associate Public Records Officer Assignments I & II into Public Records Officer I, II, & III. These are titles heavily represented at DORIS and we will ensure that the standards are all appropriately job related. (Pg. 3)*

EEPC Response: The EEPC recognizes the agency's efforts to implement corrective action #5. The agency's review of the competencies, skills and abilities required will be reviewed during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of 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: *The majority of staff who are involved with interviewing and hiring has received structured interview training. We currently have three staff members who were hired in the past year who have not already had this training. Two of the three are scheduled to attend the DCAS "Selection Interviewing: Hiring Right" training being held on September 17th. The third... will be scheduled to attend the structured interviewing training when it is next offered by DCAS. (Response, pg. 4)*

EEPC Response: The EEPC accepts the agency's response to corrective action #6 pending receipt of documentation which verifies training.

Corrective Action #7

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.

Agency Response: *The Agency does utilize the candidate evaluation section in NYCAPS and manual candidate logs. Unfortunately, this has not been utilized for every hire. Going forward, the logs will be used for every hire and the H. R. professional will ensure that all information is recorded and entered by someone other than the hiring manager. (Response, pg. 4)*

EEPC Response: The EEPC recognizes the agency's efforts to implement correction action #7 pending receipt of documentation which confirms implementation.

Corrective Action #8

Ensure that all employees have access to information regarding job responsibilities, performance evaluation standards, and training opportunities. Maintain documentation of communications between the Human Resources Professional and EEO Professional regarding; 55-a program participants and efforts the agency has made to employ, promote or accommodate qualified individuals with disabilities.

Agency Response: *The employees are given tasks and standards. The agency does not currently have any 55-a participants. The agency is launching an intranet site on which training opportunities and other information regarding job responsibilities and evaluation standards will be posted. (Response, pg. 4)*

EEPC Response: The EEPC will accept documentation that verifies implementation of corrective action #8 during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Corrective Action #9

Appoint a principal EEO Professional - who 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 - to implement EEO policies and standards within the agency.

Agency Response: *The Agency appointed an EEO officer who is a direct report to the Commissioner and this EEO Officer has completed the required EEO training. All prior EEO officers have received the training. (Response, pg. 5)*

EEPC Response: The EEPC accepts the agency's response to corrective action #9 pending receipt of documentation which verifies EEO training.

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: *The agency will ensure the one member of the Agency's EEO team who has not received EEO training will participate in the next training offered. (Response, pg. 5)*

EEPC Response: The EEPC accepts the agency's response to corrective action #10 pending receipt of documentation which verifies EEO training.

Corrective Action #11

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: *The current Commissioner and EEO Officer will meet no less than monthly to discuss the EEO Program and actions to ensure a diverse workforce. (Response, pg. 5)*

EEPC Response: The EEPC recognizes the agency's effort to implement corrective action #11. Documentation of meetings and other communications where decisions that impact the administration and operation of the EEO program are discussed will be required during the compliance-monitoring period.

Corrective Action #12

Implement an annual managerial/non-managerial performance evaluation program (with timetable) to be used for probationary periods, promotions, assignments, incentives and training.

Agency Response: *Commissioner Toole [established an annual managerial/non-managerial performance evaluation program]. The initial evaluation period was from June - December, 2014. On February 2, 2015, an e-mail was sent to all division heads regarding evaluations and tasks & standards. Evaluations will continue to be completed on an annual basis. Evaluations of new hires and probationary hires will occur on a quarterly basis for the probationary period. (Response, pg. 5)*

EEPC Response: The EEPC will accept documentation that verifies implementation of corrective action #12 during the compliance-monitoring period.

Corrective Action #13

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).

Agency Response: *[The agency agreed to include an EEO rating in its managerial performance evaluation in the future.] ... Our newly appointed EEO Officer is reviewing relevant research on the subject in order to develop an appropriate assessment tool. (Response, pg. 5)*

EEPC Response: The EEPC will accept documentation that verifies implementation of corrective action #13 during the compliance-monitoring period.

Corrective Action #14

Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports (up to 30 days following each quarter) on efforts to implement the plan.

Agency Response: *The Agency has submitted [several previously omitted] reports, with the exception of the draft of the 2015. Annual Plan, which was returned to DORIS on July 31, 2015 and is awaiting Commissioner. (Response, pg. 6)*

EEPC Response: The EEPC will accept documentation that verifies implementation of corrective action **#14** during the compliance-monitoring period. The agency's implementation of this practice will be monitored.

Thank you and your staff for your continued cooperation.