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VERNA EGGLESTON
Administrator/Commissioner

15-06-05 RCVD 8601

June 13, 2005

Abraham May Jr.
Executive Director
Equal Employment Practices Commission
40 Rector Street, 14th Floor
New York, NY 10006

We are in receipt of your preliminary determination in which you state the results of your audit of the Human Resources Administration's compliance with the City's Equal Employment Opportunity Policy from July 1, 2001 to December 31, 2003.

While there are some legitimate findings noted in your report, we remain firm in our position that some are not supported by the evidence provided. Our detailed responses to the findings and recommendations are attached, and where we agree we have outlined the corrective actions that we have completed or propose to take. We have also stated those findings with which we disagree along with the reasons for our disagreement.

As stated in my previous letter, HRA has an enviable record in the EEO area, and we remain committed to supporting those policies. Should you have any questions pertaining to this matter, please contact Holly E. Brown, the Executive Deputy Commissioner of the Office of Audit Services and Organizational Analysis at (212) 331-3978.

Sincerely,

Verna Eggleson
Administrator/Commissioner

**Human Resources Administration's Response and Corrective
Action Plan Pursuant to the
EEPC's Preliminary Determination Pursuant to the Audit of
HRA and its Compliance with the City's EEO Policy from July 1, 2001 - December 2003**

Plan Dissemination - Internally

HRA is not in compliance with the following requirements:

1. While the agency's "informationals" address some of the most recent "protected classes" pursuant to New York City and State laws" the agency's current EEO Policy does not contain an up to-date list of "protected classes" under the New York City and New York City and New York State Human Rights Laws. Specifically, the policy fails to indicate that it is illegal to discriminate on the basis of status as a victim of domestic violence (Local Law No. 1 of 2001), gender identity ("Local Law No. 3 of 2002), status as a victim of sex offenses and stalking (Local Law No. 75 of 2003). Furthermore, under the New York State Human Rights Law, it is now illegal to discriminate on the basis of military status. (July, 2003).

HRA Action Plan

Completed. Informational No. 04-04 was updated December 6, 2004.

2. Eighty-three percent of survey respondents and 41% of supervisors interviewed by EEPC auditors indicated that they did not know who the EEO Officer was. Corrective action is required

EEPC Recommendation:

All employees should be informed in writing of the name location and telephone number of the EEO Director/Officer.

HRA Action Plan

Completed. Informational No. 05-11 was issued May 25, 2005.

3. The agency's Discrimination Complaint Procedure contains out-of-date addresses and telephone numbers for the U.S. Equal Employment Opportunity Commission (EEOC).

HRA Action Plan

Completed. Procedure No. 04-03 was updated December 6, 2004.

Affirmative Action and Reasonable Accommodations for Persons with Disabilities

HRA is in partial compliance with the following requirement:

1. The EEO Officer, who is the Disability Rights Coordinator, informed EEPC auditors that she has conducted surveys of some of the facilities to ensure that entrances and bathrooms are accessible to people with disabilities. The EEO Officer does not, however, conduct surveys of all HRA facilities. Although this task is performed by the personnel officers, there is no system for reporting to the EEO Officer about possible problems with facilities. Corrective action is required.

EEPC Recommendation:

HRA should conduct a survey to ensure that all facilities are accessible for persons with disabilities and inform the EEO Officer of the results. (Sect. 11B, EEO)

HRA Action Plan

HRA agrees with the recommendation of the EEPC, to ensure that all facilities are surveyed for issues of accessibility and that any potential issues be shared with the EEO Officer. On May 1, 2005, HRA's General Support Services conducted a survey of HRA owned and leased facilities to determine ADA compliance. A report of the results of the survey will be published by EOM June 2005, which will be shared with the EEO Officer.

EEO Complaint and Investigation System

HRA is in partial compliance with the following requirements:

1. Of the 13 internal complaint files, all files indicated in the final report that written notice of the determination would be sent to complainant/respondent; however, in six of those files, no written notice was present, and two files contained a written notice to either the complainant or the respondent, but not to both. Corrective action is required

EEPC Recommendation:

All internal complaint files should contain letters to the parties informing them of the resolution of the complaint. (Guidelines for the Implementation of the City of New York's Discrimination Complaint Procedures, Section 12 (b))

HRA Action Plan

The Commissioner has mandated, since this finding that written follow-up be a component of the EEO Officer's performance evaluation.

HRA is not in compliance with the following requirement:

While all 13 internal complaint files contained a final report, none of the reports were labeled "confidential." Corrective action is required.

EEPC Recommendation: All internal investigative reports must be labeled "CONFIDENTIAL" in large bold print. (DCP, Sect. 12 (b))

HRA Action Plan

Reference Eggleston letter to May dated February 25, 2005.

As of January 31, 2005 all files are conspicuously labeled "confidential".

Selection and Recruitment

HRA is in partial compliance with the following requirement:

The EEO Officer stated that she reviews all internal and external job vacancy postings and ensures that all recruitment literature contains the EEO tagline. The EEO Officer indicated that minority-oriented newspapers including El Diario are frequently used; however, the EEO Officer does not participate in choosing the media for recruitment. Corrective action is required.

EEPC Recommendation:

The Commissioner should require the Human Resources Director to include the EEO Officer in the recruitment process.

HRA Action Plan

It is HRA's policy that all forms of outreach are used in recruitment advertisement including recruitment flyers via the Civil Service process.

HRA is not in compliance with the following requirement:

While the Agency Specific Plan indicates that HRA examines all devices used to select candidates for employment, promotion or separation to determine adverse impact and will take appropriate steps to diminish adverse impact, the EEO Officer told EEPC auditors that adverse impact studies on HRA's workforce have not been conducted. The EEO Officer indicated that she had conducted a workforce analysis to determine if women or minorities were underrepresented in particular job categories, but she found no underutilization. The EEO Officer was, though, unable to provide a copy of the workforce analysis. Corrective action is required.

EEPC Recommendation:

Since the EEOP requires City agencies 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, HRA should secure the necessary training to conduct adverse impact studies, either from DCAS or another appropriate source. (Sect. IV, EEOP)

HRA Action Plan

DCAS functions as the City's official personnel officer. In that capacity, DCAS has the responsibility of conducting adverse impact studies for the agencies

under their supervision. To date, DCAS has not disseminated any additional required postings, nor have they scheduled training on how to conduct adverse impact studies.

Promotional Opportunities

HRA is in partial compliance with the following requirements:

1. Although no written notice has been sent to HRA employees, one of the EEO Counselors was appointed as the agency's Career Counselor in July 2001. The EEO Officer stated that staff is notified of the appointment of the Career Counselor in training sessions and the Career Counselor has provided counseling upon request. Ninety-one percent of employees surveyed, however, were not aware of which individual is responsible for career counseling. Corrective action is required.

EEPC Recommendation:

HRA should inform all employees in writing of the identity, location and telephone number of the Career Counselor. This information should also be updated on the agency's bulletin boards. (Sect. VB, EEOP)

HRA Action Plan

Contrary to the report, HRA is indeed in compliance with the requirement that all staff be made aware of the identity and functions of the EEO Officer and the agency's Career Counselor. The identities of these persons, along with a description of their responsibilities is disclosed to staff at new employee orientation as well as being posted on employee bulletin boards in common areas; specifically in the pantries and in restroom entrance areas as well as the agency's intranet. Therefore we disagree with this finding and believe that HRA is in compliance with the requirement to make the policies and identity of the associated officers available to staff.

2. Although Section VI of the tasks and standards managerial evaluation refers to EEO Performance, 73% of the Supervisors interviewed stated that they are not aware that their performance evaluations include a section where they are rated on EEO performance; in addition, 77% stated that they were not informed that EEO performance would be considered in determining eligibility for promotions and merit in increases.

EEPC Recommendation:

Supervisors should be informed that they will be rated on EEO Performance. (Sect. VE, EEOP)

HRA Action Plan

HRA disagrees with this finding and recommendation, as the premise upon which they are based is false. To begin with, there is no such reference to EEO performance in Section VI of the Managerial Performance Evaluation Form. Therefore requiring that they be accountable for this activity is inappropriate; and the agency does not award merit increases. The processing of promotions do, in fact, require the submission of a performance evaluation with the exception of those made from civil service lists, but EEO performance is not a consideration for these actions. It is not within HRA's authority to establish or negotiate citywide personnel policy. Consequently, the EEPC must convey their requirement that EEO performance be included in performance evaluations to DCAS and the NYC Office of Labor Relations.

EEO Officer Responsibilities

HRA is in partial compliance with the following requirements:

1. The EEO Officer reports to the Executive Deputy Commissioner, a direct report to the agency head, and they meet regularly to discuss general EEO matters. The EEO Officer stated that while she prepares agendas for the meetings, they are usually discarded and no notes are kept of the meetings. Corrective action is required

EEPC Recommendations:

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

HRA Action Plan

We disagree with this observation and subsequent recommendation. While regular meetings between the levels of supervision are necessary and critical to the proper management of an organization, the Agency is not aware of any law, rule, or regulation which requires that every meeting and the contents thereof between a manager-supervisor and her subordinate(s) be memorialized.

Supervisory Responsibility in EEO Plan Implementation

SPECIAL PROBLEMS

1. Although managers/supervisors have been directed to discuss the EEO Policy at meetings with subordinates, of the 22 supervisors to whom this requirement is applicable, nine (46%) indicated that they do not discuss the agency's commitment to EEO during staff meetings. Moreover, 78% of employees who responded to the question of whether supervisors hold meetings with staff to discuss his or her commitment to the agency's EEO Policy indicated either that they did not remember or that their supervisors did not hold such meetings. Corrective action is required.

EEPC Recommendation:

It is the Commission's position that at least twice a year during regular staff meetings, supervisors should emphasize their commitment to the agency's EEO policies and affirm the right of each employee to file a discrimination complaint with the EEO Office.

HRA Action Plan

The Agency has an enviable and pro-active record of enforcing its zero tolerance policy towards unlawful discriminatory practices.

2. While the EEO Policies are available on the agency intranet, 50% of the supervisors indicated that they were not aware of it. Corrective action is required.

EEPC Recommendation:

HRA should make staff aware that EEO Policies are available on the agency intranet. Staff should be further instructed on how to access the policies on line.

HRA Action Plan

As the Agency's EEO policies are updated, they are made available to all staff through distribution on line, regular staff trainings, distribution of hard copies, and during staff orientations.

3. The EEO Office is staffed with a Director (EEO Officer), a full time secretary, and two full time investigators/counselors. Since the retirement of the former full time trainer, one of the counselors/investigators now spends half of his time training staff instead of devoting 100% of his time to investigation and counselor activities. Corrective action is required.

EEPC Recommendation:

HRA should replace the EEO Trainer so there can be two full time Counselors/Investigators in addition to the EEO Officer.

HRA Action: Plan

The staffing of the Agency's EEO office is constantly under review and subject to modification based on the Agency's needs.

4. The agency specific plan indicates that there is a full time EEO Coordinator, however, the EEO Coordinator does not work in the EEO Office. According to the Associate Staff Analyst job description for the position of EEO Coordinator, this individual appears to assist and report directly to the Executive Deputy Commissioner on numerous issues, most of which, do not appear to be EEO related. The description is inconsistent with the tasks that the title implies. Corrective action is required.

EEPC Recommendation:

As reflected in the agency specific plan, the EEO Coordinator should be performing EEO related matters.

HRA Action Plan

The staffing of the Agency's EEO office is constantly under review and subject to modification based on the Agency's needs.

5. EEPC auditors interviewed four of the approximately 13 Personnel Officers (also known as EEO Liaisons). According to the EEO Officer, the Personnel Officers assist in the dissemination of the EEO Policies by ensuring that the policies are posted on bulletin boards, and conducting surveys of sites to ensure accessibility for persons with disabilities. Moreover, in the agency specific plan, the personnel officers are referred to as EEO professionals. The EEPC auditors found there to be little consistency in the tasks performed by the various personnel officers. For instance, some indicated that they have, on occasion, investigated discrimination complaints, while others did not. The auditors were unable to obtain anything in writing indicating what the responsibilities are. For example, of the four interviewed, two had previously been trained in EEO and the other two had not been trained. The agency specific plan indicates that four of the personnel officers are on a waiting list to be trained by DCAS. In addition, the personnel officers interviewed, indicated

that the EEO Officer recently held a meeting for all of them to attend. The personnel officers indicated that this meeting was helpful. Corrective action is required.

EEPC Recommendation:

HRA should develop a plan, which includes a timeframe, to train new and existing EEO Liaisons/Personnel Officers who have not already received necessary EEO training.

HRA Action Plan

There is only one EEO Liaison who needs to complete the EEO Professional Training and who is currently on DCAS' training schedule.

EEPC Recommendation:

The EEO Officer should meet at least quarterly with the Personnel Officers

HRA Action Plan

The Agency's Personnel Officers provide administrative support to the agency's various programs; and when they act as liaisons to the EEO office, they consult with and act under the direct guidance of the Agency's EEO officer.

EEPC Recommendation:

The EEO Officer should develop written tasks and/or responsibilities expected of the Personnel Officers/EEO Liaison

HRA Action Plan

The Agency's Personnel Officers provide administrative support to the agency's various programs; and when they act as liaisons to the EEO office, they consult with and act under the direct guidance of the Agency's EEO officer.