



Angela Cabrera  
Malini Cadambi Daniel  
Elaine S. Reiss, Esq.  
Arva R. Rice  
Commissioners

Charise L. Terry, PHR  
Executive Director

Judith Garcia Quiñonez, Esq.  
Executive Agency Counsel/  
Deputy Director

253 Broadway  
Suite 602  
New York, NY 10007

212. 615. 8939 tel.  
212. 615. 8931 fax

**BY MAIL AND EMAIL**

September 18, 2015

Vicki Been  
Commissioner  
New York City Department of Housing Preservation & Development  
100 Gold Street, Room 5-01  
New York, NY 10038

RE: Resolution #: **2015/806**: Final Determination Pursuant to the Audit and Analysis of the Department of Housing Preservation & Development's Employment Practices and Procedures from January 1, 2012 to December 31, 2014.

Dear Commissioner Been:

On behalf of the members of the Equal Employment Practices Commission (Commission or EEPC), thank you for the September 14, 2015 response to our August 31, 2015 Preliminary Determination submitted by Toma N. Acholonu, Principal EEO Professional, 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 standards<sup>1</sup> 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.**

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<sup>1</sup> 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.



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,

A handwritten signature in blue ink, appearing to read "Charise L. Terry".

Charise L. Terry, PHR  
Executive Director

c: Toma N. Acholonu, Principal EEO 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:

### Agree

Regarding your responses<sup>2</sup> to the following EEPC required corrective actions, we Agree based on documentation that is attached to your response.

### Corrective Action #8

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 current EEO Professional, Toma Acholonu, Esq., has been trained and is 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. Mr. Acholonu attended and received a certificate for attending the Basic Training for EEO Professionals held on June 4, June 6, June 7, and June 13, 2013..."* (Response, pg. 3) The agency submitted an email dated August 31, 2015, from the Executive Director of Compliance of Citywide Diversity and Equal Employment Opportunity confirming the EEO Professional attended and received a certificate for attending the Basic Training for EEO Professionals held in June 2013.

EEPC Response: The EEPC accepts the aforementioned email the agency submitted with its response as documentation that corrective action **#8** has been implemented.

### Corrective Action #9

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 previously submitted training documentation for Stanley Whing, former EEO Professional, and Donna Ernest, alternate investigator. These were the two EEO*

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<sup>2</sup> Excerpts are italicized.

*professionals employed by the agency during the audit period. Currently there are no other EEO professionals other than Toma Acholonu... ” (Response, pg. 4) The training of the EEO Professional is listed in the agency’s response to corrective action #8.*

EEPC Response: The EEPC accepts the aforementioned email the agency submitted with its response as documentation that corrective action **#9** has been implemented.

### **Monitoring Required**

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

#### **Corrective Action #1**

Ensure that the principal EEO Professional, HR Professional and General Counsel, review the annual number of EEO complaints to determine what, if any, corrective actions are required to correct deficiencies.

Agency Response: *“The EEO Professional will meet with the HR Professional and General Counsel on a quarterly basis to review the number of EEO complaints to determine whether corrective actions are required. Calendar reminders and meeting agendas will be prepared and maintained.” (Response, pg. 1)*

EEPC Response: The EEPC recognizes the agency’s commitment to implement corrective action **#1**. Documentation of implementation will be required during the compliance-monitoring period.

#### **Corrective Action #2**

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 EEO Professional and the HR Professional will review and 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. The review and analysis will be dependent upon potential candidates self-reporting such characteristics. In the event that non job-related adverse impact is discovered in the selection criteria, such criteria will be discontinued.” (Response, pg.1-2)*

EEPC Response: The EEPC recognizes the agency’s commitment to implement corrective action **#2**. An agency assessment of 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 #3**

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.

Agency Response: *“The HR and EEO Professionals will continue to collaboratively review statistics to determine whether women, minorities, or other protected groups are underrepresented in civil service (list) titles. As necessary, a review of the competencies, skills, and abilities required (as presented in job vacancy notices and notices of examinations) for available positions will be conducted to ensure that standards are up to date, job-related, and required by business necessity. The agency will continue to advertise in minority and/or female oriented publications, participate in career fairs, and take other remedial steps to attract and hire interested and qualified candidates.”* (Response, pg. 2)

EEPC Response: The EEPC recognizes the agency’s commitment to implement corrective action **#3**. Documentation of implementation 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**

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 EEO Professional has initiated the process of providing EEO training to all HPD employees including human resources professionals, managers, supervisors and other personnel involved in the recruitment and hiring process. The EEO Professional and HR Professional will collaborate to prepare structured interview training curriculum and guidance documents. HR will train appropriate agency personnel.”* (Response, pg. 2)

EEPC Response: The EEPC recognizes the agency’s efforts to implement corrective action **#4**. Documentation that the agency established and implemented structured interview training or provided a guide will be required during the compliance-monitoring period.

**Corrective Action #5**

Maintain a candidate log which, in addition to the above, includes interview date, and interviewers’ names.

Agency Response: *“To better ensure uniformity, the agency will reiterate to hiring managers candidate log requirements which includes providing information about the position,*



*applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reasons selected/not selected (or disposition) of each applicant, and recruitment source. Copies of the completed logs will be required before requisite final approvals are sought.” (Response, pg. 3-4)*

EEPC Response: The EEPC recognizes the agency’s commitment to implement corrective action #5. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

**Corrective Action #6**

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.

Agency Response: *“A replacement Deputy Director for Staff Management has been selected and will join the agency in or about September 2015. This individual will succeed the prior Deputy Director for Staff Management, who separated from the agency in August 2015. The agency will coordinate requisite training for the newly appointed Career Counselor following their employment start date.” (Response, pg. 3)*

EEPC Response: The EEPC recognizes the agency’s commitment to implement corrective action #6. Documentation of implementation will be required during the compliance-monitoring period.

**Corrective Action #7**

Ensure that the Human Resources Professional informs the principal EEO Professional of the efforts the agency has made to employ, promote or accommodate qualified individuals with disabilities.

Agency Response: *“The HR Professional and EEO Professional routinely communicate about efforts associated with employment, promotion or accommodation of qualified individuals with disabilities. This communication will be more formally documented in the future.” (Response, pg. 3)*

EEPC Response: The EEPC recognizes the agency’s commitment to implement corrective action #7. Implementation of this corrective action will be monitored during the compliance-monitoring period.

**Corrective Action #10**

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: *“HPD will ensure that the Annual Plan for each fiscal year and all Quarterly Reports are submitted to the EEPC in a timely manner.” (Response, pg. 4)*



EEPC Response: The EEPC will accept the agency's implementation to corrective action **#10** pending submittal of the agency's future Annual Plan and quarterly reports.

Thank you and your staff for your continued cooperation.