



Robert W. Waish  
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Mr. Abraham May, Jr  
Executive Director  
Equal Employment Practices Commission  
City of New York  
40 Rector Street, 14<sup>th</sup> Floor  
New York, New York 10006

Dear Mr. May:

I am writing in response to the preliminary determination of the Equal Employment Practices Commission (EEPC) pursuant to its audit of the Department of Small Business Services' (SBS) compliance with the City's Equal Employment Opportunity (EEO) Policy.

As we discussed in the audit exit conference, SBS is committed to compliance with Equal Employment Opportunity policy. SBS works hard to ensure that all agency employees are treated with respect and provided opportunities for career development and advancement. The agency constantly looks for ways to recognize employees for their work through establishment of an agency awards program and participation in various City-wide award programs and those sponsored by outside organizations. For example, agency staff members have received an award from the 100 Year Association in each of the last eight years and employees have regularly been selected to participate in CORO's Leadership New York and the Leadership Institute administered by the Department of Citywide Administrative Services.

I am pleased that your preliminary report summarized and highlighted many of the activities we have undertaken to train and inform employees of EEO policies and how much of the material has been made readily available to all staff through our intra-agency website known as the SBS Work Organization & Management Tool (WOMT). As stated, we would be willing to share this system with other agencies.

Detailed below are the agency's responses to recommendations contained in your preliminary report.

1. **Recommendation:** All agency recruitment literature should indicate that the agency and the City of New York is an equal opportunity employer.

**SBS response:** SBS has at various times advertised and posted employment openings, which included the Equal Opportunity tagline in the following format: *“Equal Opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. The City of New York and NYC SBS is an equal opportunity employer”*. SBS understands the EEPC finding and will make the necessary change. SBS’ EEO tagline now reads as follows: *“The Department of Small Business Services and the City of New York is an equal opportunity employer. Auxiliary aids and services are available upon request to individuals with disabilities”*. We will ensure that all recruitment literature carry this information

2. **Recommendation:** To ensure that all employees are aware of the Disability Rights Coordinator, the agency should re-distribute to all employees in writing the name, location, and telephone number of this person

**SBS Response:** SBS agrees with the EEPC recommendation and will send out an email notice to all employees with information on the Disability Rights Coordinator (DRC). The email will also provide a link to the site on the agency’s Work Organization & Management Tool (WOMT) identifying the Disability Rights Coordinator. SBS will display a profile of the DRC on WOMT. This profile will include name, location, telephone number, photo and a description of the DRC’s responsibilities. A hyperlink will be provided to direct staff to all disability related policies and procedures. In addition the new hire orientation package now includes the above mentioned information regarding the DRC and all new employees must sign an acknowledgement form that they have received this information.

3. **Recommendation:** All internal discrimination complaint files should include an “Agency Complaint of Discrimination Based on Anonymous/Oral Complaint Form” completed by the complainant or EEO representative, or a complaint that captures the information required on this form.

**SBS Response:** As indicated in the EEPC preliminary report, one file, of the three reviewed, did not contain the form. SBS agrees with the EEPC recommendation and will ensure that all internal complaint files contain the form or an appropriate form that captures the information required.

4. **Recommendation:** Since the EEOP requires that each agency assess its criteria for selecting persons for mid-level to high-level discretionary positions to determine whether there is adverse impact upon any particular racial, ethnic, disability or gender group, the SBS should conduct an assessment of its selection criteria for discretionary titles. The SBS can use, and may modify, the Disparity Impact Analysis Program (an on-line Internet based application) recommended by DCAS/DCEEO by accessing: <http://www.hr-software.net/EmploymentStatistics/DisparateImpact.htm>. To the extent that adverse impact is discovered, the agency head should determine whether the criteria being utilized are job-related. If the criteria are not job-related, the agency should discontinue using those criteria.

**SBS Response:** SBS accepts the EEPC recommendation to conduct a disparate impact study of its selection criteria for discretionary positions. SBS has contacted DCAS for

technical assistance and training in the use of the Disparity Impact Analysis Program and DCAS has agreed to provide customized training to the appropriate SBS staff.

5. **Recommendation:** To ensure that employees know the identity of the agency's Career Counselor, the personnel officer should re-distribute to all employees the identity and the type of guidance which is available from the Career Counselor. This should be done at least once each year.

**SBS Response:** SBS agrees with the recommendation of the EEPC and will send an email to all staff identifying the Career Counselor and information available with a link to WOMT. SBS will display a profile of the Career Counselor on WOMT. This profile will include name, location, telephone number, photo and a description of the Career Counselor's responsibilities. A hyperlink will be provided to direct staff to all Citywide/Civil Service related policies and procedures. In addition, the new hire orientation package now includes the above mentioned information regarding the Career Counselor and all new employees must sign an acknowledgement form.

6. **Recommendation:** Since the Personnel Rules and Regulations of the City of New York and DCAS and the Guidelines for Evaluating Managerial Performance in NYC Agencies require that managerial and non-managerial employees receive annual performance evaluations the agency should develop a plan, which includes a timetable, to evaluate all employees.

**SBS Response:** In accordance with the Personnel Rules and Regulations of the City of New York and the Guidelines for Evaluating Managerial Performance in NYC Agencies, SBS will ensure that managerial and non-managerial employees receive performance evaluations on an annual basis, commencing January 2011. The program will be monitored by the agency's Human Resources Unit. The program provides for evaluations on a calendar year basis with tasks and standards developed at the beginning of the year and evaluations conducted at the end of the year. Human Resources also suggests mid-year check in evaluations be done by supervisors with their employees.

7. **Recommendation:** Since the City's Equal Employment Opportunity Policy holds managers and supervisors accountable for effectively implementing EEO-related policies and ensuring non-discrimination within their departments or units, the agency's managerial performance evaluation form should contain a rating for EEO – which covers responsibilities and processes for assuring that people are appropriately employed, effectively and efficiently utilized and dealt with in a fair and equitable manner.

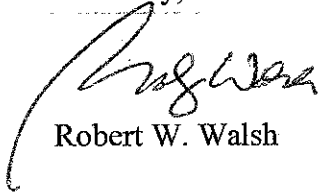
**SBS Response:** SBS accepts EEPC's recommendation to review managers and supervisors performance in effectively implementing EEO-related policies and ensuring non-discrimination within their departments or units. In accordance with the EEOP, Section V(E), the managerial performance evaluation will be modified to contain a rating for EEO – which covers responsibilities and processes for assuring that people are appropriately employed, effectively and efficiently utilized, and dealt with in a fair and equitable manner.

8. **Recommendation:** At least twice a year during normal staff meetings, managers and supervisors must 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. These meetings must be documented.

**SBS Response:** SBS will inform all senior managers on a bi-annual basis, to meet with staff and re-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. SBS will require that attendance sheets of these meetings be forwarded to the EEO office.

My staff and I look forward to continue working with you to resolve any remaining matters. We appreciate the courtesy and cooperation that you and your audit team have displayed throughout this process. Should you require any additional information or have any questions, please contact me, First Deputy Commissioner Andrew Schwartz, or SBS EEO Officer Nancy Gannie.

Sincerely,



Robert W. Walsh