



## EMPLOYMENT PRACTICES COMMISSION

City of New York

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March 20, 2008

Honorable James P. Molinaro

President

Borough of Staten Island

120 Borough Hall

New York, New York 10301

Re: Resolution #08/03-014/ Preliminary Determination Pursuant to the Audit of the Staten Island Borough President's Office's (SIBPO) Equal Employment Opportunity Program from July 1, 2005 to June 30, 2007.

Dear President Molinaro:

Pursuant to Chapter 36 of the New York City Charter, the Equal Employment Practices Commission (EEPC) is empowered to audit and evaluate the employment practices, programs, policies and procedures of city agencies and their efforts to ensure fair and effective equal employment opportunity for minority group members and women. (New York City Charter, Chapter 36, sections 831(d)(2) and (5).)

The Charter defines city agency as any "city, county, borough, or other office, administration, board, department, division, commission, bureau, corporation, authority, or other agency of government, where the majority of the board members of such agency are appointed by the mayor or serve by virtue of being city officers or the expenses of which are paid in whole or in part from the city treasury..." The Staten Island Borough President's Office (SIBPO) is funded by the City of New York and is therefore considered a city agency pursuant to Chapter 36, section 831(a) of the New York City Charter.

This Commission is empowered by Section 831 of the City Charter to recommend all necessary and appropriate actions to ensure fair and effective affirmative employment programs for minority group members, women and other protected classes. This audit measures the SIBPO's compliance with its Equal Employment Opportunity Policy, as well as Commission policies and EEO standards expressed in the Federal, State and City Human Rights Laws. All recommendations for corrective actions are consistent with both the audit's findings and the parameters set forth in the 2005 Citywide EEO Policy; and the Discrimination Complaint Procedures and Investigation Guidelines (DCPIG) issued by DCAS in 1993, and amended in 2001, and adopted by the SIBPO. The relevant sections of these guidelines and documents are cited in parenthesis, where applicable, at the end of each recommendation.

The purpose of this audit is to evaluate the agency's compliance with the standards cited above, not to issue findings of discrimination pursuant to the New York City Human Rights Law.

### **Scope and Methodology**

Audit methodology included an analysis of the SIBPO's EEO Policy, and a review of responses to an EEPC Document and Information Request Form. EEPC auditors also conducted an in-depth, on-site interview with the EEO officer.

A survey of 68 people employed by the SIBPO during the audit period was distributed to determine awareness of their rights and responsibilities under the agency's EEO Policy. Fourteen people (21%) responded. Significant survey findings are attached and discussed in the proceeding pages. (Appendix 1) The survey methodology was established by the EEPC with the assistance of an academic expert from the City University of New York.

### **Description of the Agency**

The Borough Presidents are the executive officials of each borough. The City Charter gives them authority to: work with the Mayor in preparing the annual executive budget submitted to the City Council and to propose borough priorities directly to the council; review and comment on major land use decisions and propose borough sites for city facilities within their respective boroughs; monitor and modify the delivery of city services within their boroughs; and engage in strategic planning for their borough.

### **Personnel Activity During the Audit Period**

During the audit period, 9 people were hired: 6 Caucasians, 2 African-Americans, and 1 Hispanic. Five of the hires were female. Seven people were promoted during the audit period: 6 Caucasians, and 1 African-American. Three of those promoted were female. (Appendix 4) The SIBPO reported that no employees were involuntarily separated during the audit period.

Between July 1, 2005 and June 30, 2007, the total number of SIBPO employees decreased by 2%, going from 47 to 46. There were percentage increases for African-Americans (6% to 13%) and Hispanics (3% to 4%). The percentage for females decreased slightly (55% to 52%). (Appendices 2 and 3)

## Discrimination Complaint Activity during the Audit Period

No internal or external discrimination complaints were filed during the period in review.

### PRELIMINARY DETERMINATION

Following are our preliminary determinations with required corrective actions and recommendations pursuant to the audit.

#### Plan Dissemination – Internally

The SIBPO is in compliance with the following requirements:

1. The SIBPO has adopted and modified the citywide EEO Policy (2005). The EEO Policy and addendums, which were submitted to the EEPC, were last distributed to employees in July 2004. It is also distributed at orientation sessions for new employees. The SIBPO provided a copy of the EEO Policy. In addition, 64% of the survey respondents said that they have a copy of the EEO Policy.

2. Although the EEO officer said that he does not recall if the EEO Policy Handbook, *“About EEO: What You May Not Know,”* was distributed, 79% of the survey respondents said that they have a copy of the EEO Policy Handbook. The Handbook is included in the new hire package and is distributed at new employee orientation sessions.

The SIBPO is in partial compliance with the following requirements:

1. According to the EEO officer, only a poster, “Ten Things You May Not Know About EEO,” is displayed on bulletin boards. The EEO Policy is not posted on bulletin boards or available on the Intranet. Corrective action is required.

Recommendation: The EEO Policy should be posted on bulletin boards at each agency site and on the agency’s intranet. (Sect. VC, Citywide EEOP)

2. According to the EEO officer, the EEO Policy was last distributed in 2004. Corrective action is required.

Recommendation: It is the Commission’s position that the SIBPO should distribute its EEO Policy to all employees at least annually.

3. The adopted and modified citywide EEO Policy does not contain the updated EEO officer’s contact information. Corrective action is required.

Recommendation: The adopted and modified citywide EEO Policy should be accompanied by a general hardcopy EEO policy statement or memo from the agency head that reiterates his commitment to EEO; and advises the employees of the name, location and telephone number of the EEO officer. This EEO policy statement or memo may be based on the Mayor’s January 31, 2005 policy statement and the model agency head statement posted on the DCAS website.

(March 2, 2005 memo from the DCAS Assistant Commissioner Jyll Townes to City agency EEO officers, and Sect. VB of the Citywide EEO Policy).

### **Plan Dissemination – Externally**

The SIBPO is in compliance with the following requirement:

There were no internal job vacancy notices issued during the audit period. However, two job advertisements submitted by the SIBPO (traffic/transportation consultant) were advertised in *The New York Times* and included the EEO tag line.

### **EEO and Reasonable Accommodation for Persons with Disabilities**

The SIBPO is in compliance with the following requirements:

1. The SIBPO's EEO Policy includes a "Reasonable Accommodation Procedure."
2. The EEO officer told the EEPC auditors that the SIBPO has provided reasonable accommodations to employees who have requested them. For instance, it provided a handicapped access bathroom door handle, vertical file rollers, and an ergonomic mouse and pad to persons with disabilities.
3. The Borough President offices occupy the first and ground floors (street access) of a five story building maintained by DCAS. The SIBPO submitted a completed EEPC accessibility checklist that indicates the SIBPO is accessible to, and usable by, persons with disabilities. The SIBPO has street accessible entrances, ramp access, wheelchair accessible elevators, bell and Braille in elevators. Only the men's bathroom on the ground floor has wide restroom stalls, grab bars, and low sink or bathroom fixtures. However, there is a public bathroom on the 3<sup>rd</sup> floor that is wheelchair accessible. Currently, no employee is confined to a wheelchair. In addition, 100% of the survey respondents said that the agency's facilities are accessible for persons with disabilities.
4. The SIBPO's EEO Policy is available on audiocassette for use by people with disabilities.

The SIBPO is not in compliance with the following requirements:

1. The EEO officer told the EEPC auditors that the SIBPO does not participate in the Section 55-A Program. Corrective action is required.

Recommendation: The agency should participate in the Section 55-A Program by obtaining and distributing Program brochures issued by the DCAS. (Sect. IIB, Citywide EEOP)

2. The EEO officer told the EEPC auditors that the SIBPO has not appointed a disability rights coordinator. Corrective action is required.

Recommendation: The SIBPO should officially appoint a disability rights coordinator—usually the EEO officer—and notify staff about that individual. (Sect. VB, Citywide EEOP)

## **EEO Complaint and Investigation Procedures**

The SIBPO is in compliance with the following requirement:

The SIBPO reported no internal discrimination complaints during the audit period. According to the EEO officer, if he receives any discrimination complaints, he will investigate the complaints according to the DCAS' standards.

The SIBPO is in compliance with the following requirements:

1. The EEO officer completed the basic training course for EEO professionals at the Department of Citywide Administrative Services (DCAS). He submitted a copy of his certificate of completion.
2. The EEO officer maintains a monthly discrimination complaint log.

The SIBPO is in partial compliance with the following requirement:

1. The SIBPO had a male EEO professional available for discrimination complaint intake and investigation during the entire audit period; a female EEO professional was available for the first half of the audit period, but resigned during the second half. That individual has not been replaced. Corrective action is required.

Recommendation: To ensure that there are EEO professionals not of the same gender available to investigate discrimination complaints, the agency should appoint a person of a different gender than the EEO officer and provide that individual with appropriate EEO training. (Sect. VB, Citywide Policy)

## **EEO Training**

The SIBPO is not in compliance with the following requirement:

The EEO officer told the EEPC auditors that although EEO training was conducted prior to the audit period, there was no training conducted during and since the audit period. In addition, 79% of the survey respondents said that they did receive EEO training. The EEO officer told EEPC auditors that he plans to conduct follow-up EEO training in 2008. Corrective action is required.

Recommendation: The SIBPO should adhere to its plan to conduct follow-up EEO training. The plan should include a timeframe. (Sect. VC, Citywide EEOP)

## **EEO Officer Reporting Arrangement**

The SIBPO is in partial compliance with the following requirement:

1. According to the EEO officer, he reports to the Borough President's executive assistant and legal counsel on EEO matters--both of whom are direct reports to the agency head. Corrective action is required.

During the February 27, 2008 audit exit meeting, the counsel stated that the EEO officer does not report to the executive assistant but reports to the chief of staff who reports to the Borough President. The counsel also said the EEO officer should continue reporting to him. The organizational chart clearly shows that the environmental engineer (EEO officer) reports to the chief of staff, who report to the Deputy Borough President, who in turns reports to the Borough President. In addition, it is a conflict of interest for the EEO officer to report to the counsel on EEO matters.

Recommendation: The EEO officer should report to the agency head or a direct report—other than the general counsel—to the agency head. (Sect. VB, Citywide EEOP)

2. The EEO officer does not have regularly scheduled meetings with these individuals and does not maintain documentation of such meetings. Corrective action is required.

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

The SIBPO is not in compliance with the following requirement:

The organization chart provided to EEPC does not show a reporting relationship between the EEO officer and the agency head or direct report to the agency head. Corrective action is required.

Recommendation: The SIBPO should revise its organization chart to show the reporting arrangement of the EEO officer. (Sect. VB, EEOP)

### **EEO Officer Responsibilities**

The SIBPO is in compliance with the following requirement:

The EEO officer told EEPC auditors that he devotes less than 5% of his time to EEO matters; the balance of his time is devoted to his duties as environmental engineer. He does not have any support staff as EEO officer, but does believe that he is given adequate resources to meet his obligations.

The SIBPO is not in compliance with the following requirement:

The EEO officer told EEPC auditors that he is not involved in developing job recruitment strategies and selecting recruitment media. Corrective action is required.

Recommendation: The agency head should direct the head of human resources to include the EEO officer in developing job recruitment strategies and selecting recruitment media, including newspapers and other publications. (Sect. VC, Citywide EEO Policy)

### **Selection and Recruitment**

The SIBPO is in compliance with the following requirement:

The EEO officer told EEPC auditors that he analyzed the 2006 agency's workforce data to determine if women and/or minorities are underrepresented in particular job categories. He found no underrepresentation of women or minorities.

The SIBPO is not in compliance with the following requirement:

Structured interview training was not provided to personnel involved in the recruitment and hiring process during the audit period. The SIBPO's personnel data indicated that 9 people were hired during the audit period. Corrective action is required.

Recommendation: The SIBPO should develop a plan to provide structured interview training to personnel involved in the job interviewing process. (Sect. IV, Citywide EEO Policy)

### **Job Performance/Advancement**

The SIBPO is not in compliance with the following requirement:

Thirty-six percent of the survey respondents said that they did not see the agency's job vacancy postings on agency bulletin boards prior to the application deadline. Fifty percent said that they did not remember.

Recommendation: The SIBPO should post its job vacancy notices on bulletin boards or keep a binder with postings in a central location. (DCAS, Personnel Services Bulletin No. 200-9, June 30, 1998)

## **SUMMARY OF RECOMMENDED CORRECTIVE ACTIONS**

1. The EEO Policy should be posted on bulletin boards at each agency site and on the agency's intranet. (Sect. VC, Citywide EEO Policy)
2. It is the Commission's position that the SIBPO should distribute its EEO Policy to all employees at least annually.
3. The adopted and modified citywide EEO Policy should be accompanied by a general hardcopy EEO policy statement or memo from the agency head that reiterates his commitment to EEO; and advises the employees of the name, location and telephone number of the EEO officer. This EEO policy statement or memo may be based on the Mayor's January 31, 2005 policy statement and the model agency head statement posted on the DCAS website. (March 2, 2005 memo from the DCAS Assistant Commissioner Jyll Townes to City agency EEO officers, and Sect. VB of the Citywide EEO Policy)
4. The agency should participate in the Section 55-A Program by obtaining and distributing Program brochures issued by the DCAS. (Sect. IIB, Citywide EEO Policy)
5. The SIBPO should officially appoint a disability rights coordinator—usually the EEO officer—and notify staff about that individual. (Sect. VB, Citywide EEO Policy)

6. To ensure that there are EEO professionals not of the same gender available to investigate discrimination complaints, the agency should appoint a person of a different gender than the EEO officer and provide that individual with appropriate EEO training. (Sect. VB, Citywide Policy)
7. The SIBPO should adhere to its plan to conduct follow-up EEO training. The plan should include a timeframe. (Sect. VC, Citywide EEOP)
8. The EEO officer should report to the agency head or a direct report—other than the general counsel—to the agency head. (Sect. VB, Citywide EEOP)
9. It is the Commission's position that appropriate documentation of meetings and other communications between the EEO officer and the agency head or direct report to the agency head regarding EEO decisions should be maintained.
10. The SIBPO should revise its organization chart to show the reporting arrangement of the EEO officer. (Sect. VB, EEOP)
11. The agency head should direct the head of human resources to include the EEO officer in developing job recruitment strategies and selecting recruitment media, including newspapers and other publications. (Sect. VC, Citywide EEO Policy)
12. The SIBPO should develop a plan to provide structured interview training to personnel involved in the job interviewing process. (Sect. IV, Citywide EEO Policy)
13. The SIBPO should post its job vacancy notices on bulletin boards or keep a binder with postings in a central location. (DCAS, Personnel Services Bulletin No. 200-9, June 30, 1998)

In addition to the above recommendations, during the compliance process, the Commission requires that the agency distribute a memorandum to all staff informing them of the changes that are being implemented in the agency's EEO program pursuant to the audit. This memorandum should re-emphasize the agency head's commitment to the agency's Equal Employment Opportunity Program.

## **Conclusion**

Pursuant to Chapter 36 of the New York City Charter and the previously cited preliminary determinations relating to EEPC's audit of the SIBPO's compliance with its Equal Employment Opportunity Policy, as well as Commission policies and EEO standards expressed in the Citywide EEO Policy, we respectfully request your response to the aforementioned preliminary determinations.

Your response should indicate what corrective actions your office will take to bring the agency in compliance with the aforementioned policies and which recommendations it intends to follow. Please specify these corrective actions in your response. Please forward your response within thirty days of receipt of this letter.



Pursuant to Section 832 of the New York City Charter, if you do not implement all of these recommendations for corrective actions during a compliance period not to exceed six months, this Commission may publish a report and recommend the appropriate corrective actions that you should implement in your agency's EEO Plan.

In closing, we want to thank you and your staff for the cooperation extended to the Equal Employment Practices Commission auditors during the course of this audit. If you have any questions regarding these preliminary determinations, please let us know.

Sincerely,



Ernest F. Hart, Esq.  
Chair

Staten Island Borough President's Office  
EMPLOYEE SURVEY RESULTS

A. GENERAL OVERVIEW

1. Do you know who your agency's EEO Officer is?  
Yes (12)            No (2)
2. Is your agency's EEO Policy Statement or the Citywide EEO Policy Statement posted on your agency's bulletin boards?  
Yes (11)            No (3)
3. Were you given the EEO Policy Statement or the Citywide EEO Policy Statement?  
Yes (9)            No (1)            Do not remember (4)
4. Were you given a copy of the EEO Policy Handbook – *About EEO: What You Need to Know*?  
Yes (11)            No (3)
5. Do you agree with the principles of equal employment opportunity?  
Yes (13)            No (1)
6. Do you believe your agency practices equal employment opportunity?  
Yes (13)            No (1)

B. EEO COMPLAINTS

7. Do you know how to file an EEO complaint?  
Yes (9)            No (5)
8. If you had an EEO complaint, would you bring it to your agency's EEO Office?  
Yes (9)            No (1)            Undecided (4)
9. Would you prefer to file an EEO complaint with an office outside your agency?  
Yes (1)            No (7)            Undecided (6)
10. Did you ever file an EEO complaint with your agency's EEO Office? If No, please skip to question #14.  
Yes (0)            No (14)

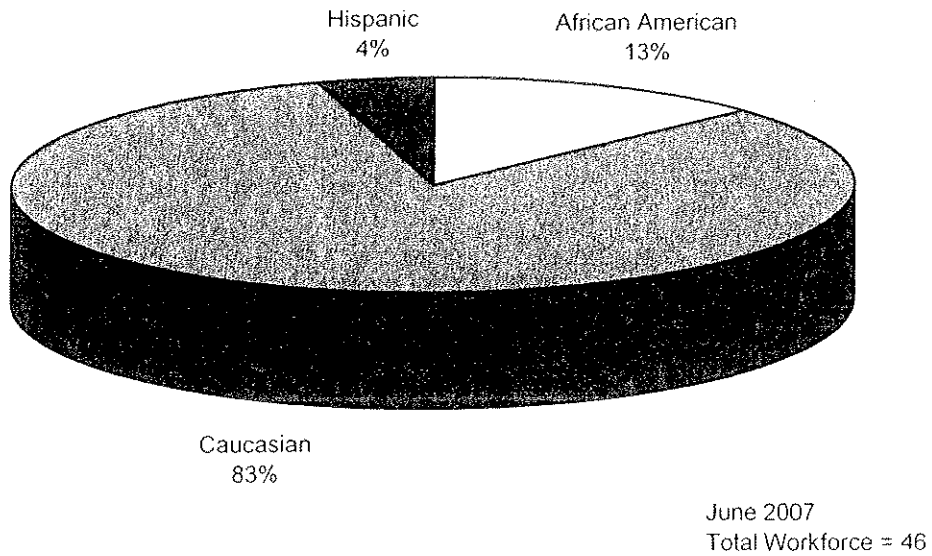
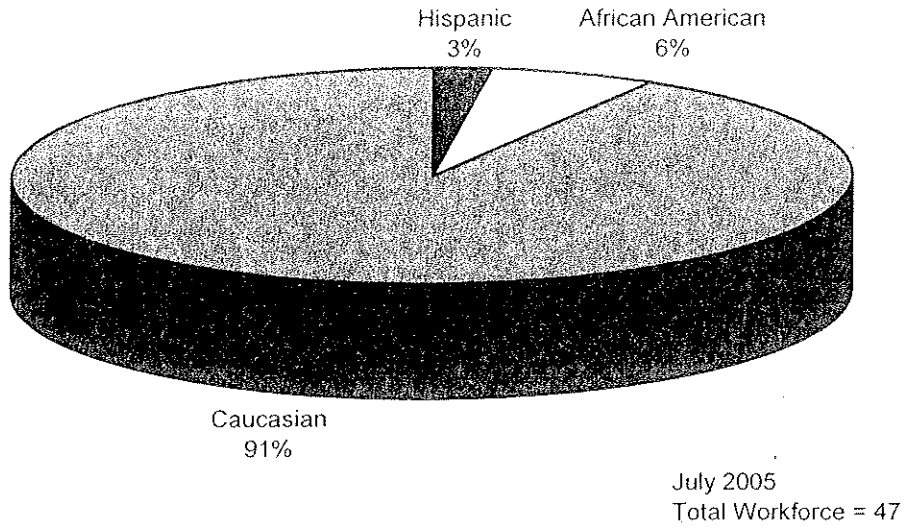
11. What was the basis of the complaint?

- |                                    |  |
|------------------------------------|--|
| Age (0)                            | Partnership Status (0)   |
| Alienage or Citizen Status (0)     | Predisposing genetic characteristic (0)                        |
| Arrest or Conviction Record (0)    | Race (0)   |
| Color (0)                          | Sexual Harassment (0)  |
| Creed (0)                          | Sexual Orientation (0)   |
| Disability (0)                     | Veteran's Status (0)   |
| Gender (incl. gender identity) (0) | Victim of Domestic Violence,<br>Stalking, and Sex Offenses (0) |
| Marital Status (0)                 | Other (0)  |
| Military Status (0)                |  |
| National Origin (0)                |  |



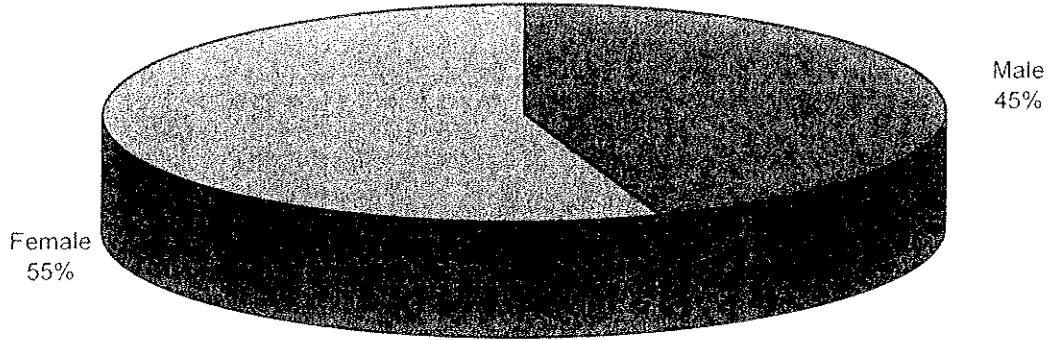
## Appendix - 2

### Staten Island Borough President's Office Workforce by Ethnicity

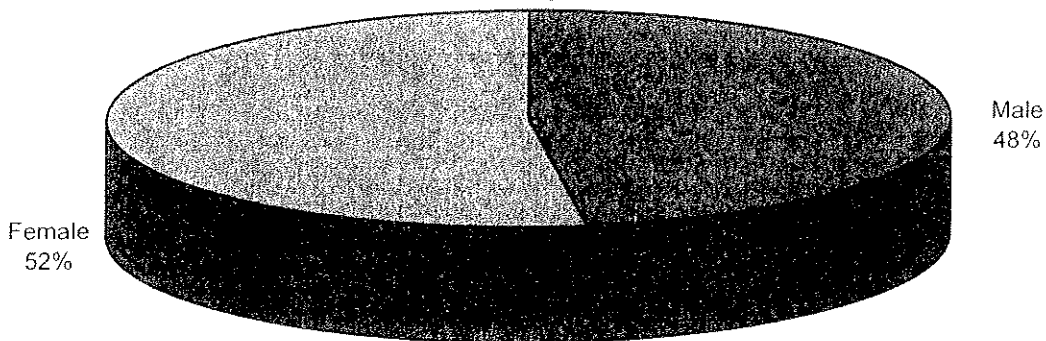


Appendix - 3

Staten Island Borough President's Office  
Workforce by Sex



July 2005  
Total Workforce = 47



June 2007  
Total Workforce = 46

## APPENDIX – 4

The following table indicates personnel activity during the audit period, July 1, 2005 to June 30, 2007

### Staten Island Borough President's Office

#### Hires by Sex and Ethnicity

Total Hires: 9

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Native American	Total
4	5	9	6	2	1	0	0	9

#### Promotions by Sex and Ethnicity

Total Promotions: 7

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Unknown	Total
4	3	7	6	1	0	0	0	7

Source: Audit data supplied by Staten Island Borough President