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BY MAIL AND EMAIL

September 9, 2015

Roy Mogilanski
Acting Executive Director
Office of Payroll Administration
1 Centre Street, Rm. 200N
New York, NY 10007

RE: Resolution #: **2015/131**: Final Determination Pursuant to the Audit and Analysis of the Office of Payroll Administration's Employment Practices and Procedures from January 1, 2012 to December 31, 2014.

Dear Executive Director Mogilanski:

On behalf of the members of the Equal Employment Practices Commission (Commission or EEPC), thank you for your September 1, 2015 response to our August 18, 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' EEO programs and policies 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.



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. 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 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 black ink, appearing to read "Charise L. Terry".

Charise L. Terry, PHR
Executive Director

c: Diana Bicchetti, 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 provides in response to the *EEPC Document and Information Request Form*; responses to the *EEPC Interview Questionnaires* for EEO professionals and others involved in EEO program administration; and, if applicable, responses to the *EEPC Employee Survey* and the *EEPC Supervisor/Manager Survey*, review of the agency's *Annual EEO Plans* and *Quarterly EEO Reports* and analysis of workforce and utilization data from the *Citywide Equal Employment Database System*. Additional research and follow-up discussions or interviews were conducted, when appropriate.

After reviewing the agency's response², 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: [...] OPA accepts the EEPC's recommendation to expand OPA's job posting resources for discretionary positions. OPA has obtained the "NYC Guide to Recruiting for City Agencies," from the Department of Citywide Administrative Services (DCAS) Citywide Diversity and Equal Employment Opportunity (EEO) Office, which provides a listing of where to send vacancy notices to broaden the agency's pool of applicants. OPA will utilize this guide and expand recruitment efforts as practicable and necessary. The agency provided a copy of the "NYC Guide to Recruiting for City Agencies".

EEPC Response: The EEPC recognizes the agency's efforts. An agency assessment of recruitment efforts will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of 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

² Excerpts are italicized.

utilized are job-related. Discontinue using criteria that are not job-related, and adopt methods which diminish adverse impact.

Agency Response: *The agency head and EEO officer review CEEDS data on a quarterly basis when reviewing the agency quarterly report for submission. The 2nd Quarter and 4th Quarter CEEDS reports of FY '15 referred to in this finding indicate an imbalance of U-80%RUL for Hispanics in the Management Job Group, an imbalance of U-80%RUL for Blacks in the Clerical Sups Job Group and an imbalance of U-80%RUL Blacks in the Clerical Job Group. [...] OPA has obtained the "NYC Guide to Recruiting for City Agencies," from the Department of Citywide Administrative Services (DCAS) Citywide Diversity and Equal Employment Opportunity (EEO) Office, which provides a listing of where to send vacancy notices to broaden the agency's pool of applicants. OPA will utilize this guide and expand recruitment efforts as practicable and necessary.*

EEPC Response: The EEPC recognizes the agency's efforts. 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 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: *The 2nd Quarter and 4th Quarter CEEDS reports of FY '15 referred to in this finding indicate an imbalance of U-80%RUL for Hispanics in the Management Job Group, an imbalance of U-80%RUL for Blacks in the Clerical Sups Job Group and an imbalance of U-80%RUL Blacks in the Clerical Job Group. Of these job groups, the only group with discretion in hiring is a limited range of titles in the Management Job Group. OPA will utilize the "NYC Guide to Recruiting for City Agencies," from the Department of Citywide Administrative Services (DCAS) Citywide Diversity and Equal Employment Opportunity (EEO) Office, to advertise positions to Hispanic organizations now, and will post to any underrepresented groups that may arise in the future, in an effort to broaden the agency's pool of applicants for this job group.*

EEPC Response: The EEPC recognizes the agency's efforts. Submit documentation of the titles included in the job groups and the agency's efforts or plan to address these imbalances. 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 *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 2nd Quarter and 4th Quarter CEEDS reports of FY '15 referred to in this finding indicate an imbalance of U-80%RUL for Hispanics in the Management Job Group, an imbalance of U-80%RUL for Blacks in the Clerical Sups Job Group and an imbalance of U-80%RUL Blacks in the Clerical Job Group. Of these job groups, the Clerical Supervisor and Clerical Job Groups contain civil service titles which all have active Civil service lists. Because these titles have active lists, the agency is required to hire employees serving permanently in these titles already or may hire by requesting the Civil Service list for the title be called. Once the civil service list is issued to the agency, the agency must follow the Civil Service rules which govern the selection of candidates. OPA will work with DCAS or the Civil Service Commission in the future, if applicable.

EEPC Response: The EEPC recognizes the agency's efforts. Submit documentation of the titles included in the job groups and the agency's plan to ensure the competencies, skills, and abilities required for these positions are updated, job related and required by business necessity. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Thank you and your staff for your continued cooperation.