



EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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October 25, 2007

Honorable William C. Thompson, Jr.

City of New York Comptroller

1 Centre Street, Room 530

New York, New York 10007

Re: Preliminary Determination Pursuant to the Audit of the Comptroller's Office's (CO) Equal Employment Opportunity Program from January 1, 2005 to December 31, 2006.

Dear Mr. Thompson:

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 Comptroller's Office (CO) 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 CO'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 Discrimination Complaint Procedures and Investigation Guidelines (DCPIG), which has been adopted by the CO's (issued by DCAS in 1993 and amended in 2001). 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 CO's EEO Policy, and a review of responses to an EEPC Document and Information Request Form. EEPC auditors also conducted in-depth, on-site interviews with the EEO officer and five EEO counselors to determine awareness of their rights and responsibilities under the agency's EEO Policy.

A survey of 672 people employed by the CO during the audit period was distributed (This number excludes 50 surveys that were returned as undeliverable.) One hundred and fifty-six people (23%) 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 Comptroller is an independently elected official who advises the Mayor, the City Council, and the public of the City's financial condition, and makes recommendations on City programs, operations, fiscal policies and financial transactions. The Comptroller audits and examines all matters relating to the City's finances; registers proposed contracts; verifies budget authorization and codes for contracts; determines credit needs, terms and conditions; prepares warrants for payments; and issues and sells City obligations. The Comptroller also conducts performance analysis of City agencies to promote efficiency and effectiveness in the delivery of City services.

Personnel Activity During the Audit Period

During the audit period, 144 people were hired: 47 Caucasians, 49 African-Americans, 23 Hispanics, and 25 Asians. Ninety-two of the hires were female. Thirty-nine people were promoted during the audit period: 23 Caucasians, 9 African-Americans, 5 Hispanics, and 2 Asians. Twenty-two of those promoted were female. (Appendix 4)

The CO also reports that 17 employees were involuntarily separated during the audit period: 3 Caucasians, 6 African-Americans, 7 Hispanics, and 1 Asian. Eight of the individuals were female.

Between January 1, 2005 and December 31, 2006, the total number of CO employees increased by .6%, going from 704 to 709. There were small percentage decreases for African-Americans (30% to 29%) and Asians (12% to 10%). There was a small percentage increase for Hispanics (14% to 15%). The percentage for females increased slightly (54% to 55%). (Appendices 2 and 3)

Discrimination Complaint Activity during the Audit Period

During the period in review, 6 internal discrimination complaints were filed: 1 was based on religion, 1 was based on race, 1 was based on sex and race, 1 was based on salary increase, 1 was based on hostile work environment, and 1 was based on profanity/abusive behavior. The EEO officer completed and issued reports for 3 of these complaints: one received a probable cause determination and 2 received no probable cause determinations. No complaints were pending at the end of the audit period. Three external complaints were filed: 1 was based on disability, 1 was based on age/disability/retaliation, and 1 was based on race/sex. All three of the complaints filed with the Equal Employment Opportunity Commission and/or State Division on Human Rights were dismissed at the end of the audit period.

PRELIMINARY DETERMINATION

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

Plan Dissemination – Internally

The CO is in compliance with the following requirements:

1. The CO distributed its employee manual, which includes the EEO Policy (the general EEO Policy Statement, Sexual Harassment Policy Statement, Reasonable Accommodation Procedure, and Discrimination Complaint Procedure, which has similarities to the Citywide EEOP) to all employees in July 2005. The Policies are redistributed every two years or when there is an update. The CO provided a copy of the EEO Policy that was included in the employee manual. In addition, 83% of the survey respondents said that they have a copy of the EEO Policy.

2. The CO distributed the EEO Policy Handbook "*About EEO: What You May Not Know*" in 2006. The Handbook is included in the new hire package and is distributed at new employee orientation sessions and EEO training sessions. In addition, 89% of the survey respondents said that they have a copy of the EEO Policy Handbook.

3. The CO's EEO Policy is posted on the bulletin boards and available on the Intranet. In addition, the EEO counselors periodically check the boards to insure posting of the Policy.

The CO is in partial compliance with the following requirement:

The EEO Policy (dated 2003) included in the new hire package is not the same as the one included in the employee manual and it does not have all of the protected classes. Corrective action is required.

Recommendation: The CO's EEO Policy in the new hire package should be updated to include all of the "protected classes" under the New York City and New York State Human Rights Laws. (Sect. I, Citywide EEOP)

Plan Dissemination – Externally

The CO is in compliance with the following requirements:

1. The six job vacancy notices submitted by the CO (Investment Analyst, Assistant General Counsel, Division Chief [Accounting Systems], Press Secretary, Clerical Associate, and Division Chief [Personnel] include the EEO tag line.

2. The six job advertisements submitted by the CO (Chief Economist, Staff Engineers [Civil, Electrical, Mechanical], Managing Director of Public Markets, Managing Director of Private Markets, Senior Investment Officer-Non US Equities, Senior Investment Officer US Equities, Manager- Financial Risk, Investment Analyst- Fixed Income, Compliance Officer, Research Analyst, Senior Investment Officer- Private Markets, Senior Investment Officer- Domestic Equities, and Director of Contracting) were advertised in *The Chief-Leader*, *The New York Times*, and the *Pension and Investments Journal* and included the EEO tag line. Four of the six advertisements included more than one position. Three positions were advertised at least twice. The CO also placed advertisements in *The Wall Street Journal*, *El Diario*, and the *Amsterdam News*.

EEO and Reasonable Accommodation for Persons with Disabilities

The CO is in compliance with the following requirements:

1. The CO's EEO Policy includes a "Reasonable Accommodation Procedure."

2. The EEO officer told the EEPC auditors that the CO has provided reasonable accommodations to employees who have requested them. It provided a copy of the purchase order for all devices used to make reasonable accommodations. For instance, it provided air purifiers, an ergonomic mouse and pad, ergonomic high back chairs, a telephone headset, ergonomic pens, a location transfer, medical leave, flexible work schedule and domestic violence aid. In addition, 10 of the 15 survey respondents who indicated they asked for an accommodation said that the agency accommodated them.

3. The CO's EEO Policy is available in large print for use by people with disabilities.

4. The CO is in the Municipal building (1 Centre Street); it is maintained by the Department of Citywide Administrative Services (DCAS). According to the EEO officer, the CO submitted an accessibility checklist that indicates the CO is accessible to, and usable by, persons with disabilities. The CO has street accessible entrances, ramp access, wheelchair accessible elevators, bell and Braille in elevators, wide restroom stalls, grab bars in the restroom, and low sink or bathroom fixtures. In addition, 75% of the survey respondents said that the agency's facilities are accessible for persons with disabilities.

5. The CO has appointed the EEO officer as the disability rights coordinator.

The CO is in partial compliance with the following requirement:

The EEO officer told the EEPC auditors that although the Section 55-A Program brochures are available to staff in the Human Resources Department, it has never distributed the brochures. However, she stated that eight employees are enrolled in that Program. Corrective action is required.

Recommendation: The agency should distribute the Section 55-A Program brochures issued by the DCAS to all employees. (Sect. IIB, Citywide EEOP)

EEO Complaint and Investigation Procedures

The CO is in compliance with the following requirements:

1. The CO has individuals not of the same gender available for complaint intake and investigation.

2. The EEO officer completed the Cornell School of Industrial and Labor Relations' EEO Studies Program. In addition, the EEO officer and counselors have all completed the basic training course for EEO professionals at the Department of Citywide Administrative Services (DCAS).

3. The CO identifies its EEO personnel in its EEO Policy and on the Intranet.

The CO is in partial compliance with the following requirement:

The EEO officer told EEPC auditors that she receives and investigates discrimination complaints according to the Cornell School of Industrial and Labor Relations' EEO guidelines (a copy of which was submitted to the Commission). However, the CO's EEO Policy includes a discrimination complaint procedure similar to the DCAS' guidelines. Corrective action is required.

Recommendation: Although the EEO officer said she receives and investigates discrimination complaints according to the Cornell School of Industrial and Labor Relations' EEO guidelines, she follows a complaint procedure similar to the citywide procedure. Therefore, the CO should follow its own discrimination complaint procedure which is similar to the citywide procedures. (Comptroller's Employee Manual, EEOP, p. 4)

The CO is not in compliance with the following requirements:

The CO submitted 6 files designated as "discrimination complaint files" to the EEPC for review. None of the files had a complaint number. Three of the 6 complaints were withdrawn by the complainant.

1. All six internal complaint files submitted do not contain a discrimination complaint intake form. Corrective action is required.

Recommendation: All discrimination complaint files should include a Discrimination Complaint Form completed by the complainant or the EEO investigator. (DCPIG, sect. 12(b))

2. Three of the 6 internal complaint files submitted do not include a written notice of discrimination complaint to the respondent. Corrective action is required.

Recommendation: All respondents should be served with a notice of complaint along with a copy of the complaint. Respondent(s) or someone authorized to sign for the respondent(s) should acknowledge receipt of the notice. The receipts should be maintained in the complaint file. (DCPIG, sect. 12(b))

3. Three of the 6 internal complaint files submitted do not include the investigators' interview notes. Corrective action is required.

Recommendation: It is the Commission's position that complaint files should contain clear and thorough word-processed notes of interviews conducted with the complainant, respondent or witnesses.

4. The "Confidential Written Reports" were neither addressed to nor signed by the agency head. Corrective action is required.

Recommendation: In keeping with section 94 of the New York City Charter, all confidential written reports should be addressed to, and signed by, either the agency head or Deputy Comptroller. (DCAS, Discrimination Complaint Procedures Implementation Guidelines, 1993, Sect. 12(b))

5. The EEO officer's confidential written reports were not prepared in accordance with the DCPIG: i.e., divided into three sections entitled "Findings of Facts," "Discussion and Conclusion," and "Recommendation." Corrective action is required.

Recommendation: All confidential written reports should be divided in three sections in accordance with section 12b of the DCPIG.

6. None of the reports were labeled "confidential."

Recommendation: All internal investigative reports should be labeled "confidential" in large bold print.

7. The EEO officer does not maintain a monthly discrimination complaint log. Corrective action is required.

Recommendation: The EEO officer should maintain and update a monthly EEO complaint log to indicate the monthly status of internal and external complaints. (DCAS, DCPIG, 1993, Sect. 12(a))

EEO Training

The CO is in compliance with the following requirement:

The CO provided EEO training (including a component on preventing sexual harassment) to all employees in February and October 2006. Its training program is based on the DCAS and the Cornell School of Industrial and Labor Relations' EEO Studies Program standards. The EEO training is conducted by the EEO officer. Approximately 719 employees received the training and a list of all employees who participated was submitted to the EEPC. In addition, 90% of the survey respondents said that they did receive EEO training. The EEO officer told EEPC auditors that she plans to conduct follow-up EEO training in 2008.

EEO Officer Reporting Arrangement

The CO is in compliance with the following requirement:

The CO submitted a copy of its organizational chart which shows that the EEO officer reports directly to the agency head.

The CO is in partial compliance with the following requirement:

Although the EEO officer reports directly to the Comptroller on EEO matters, she did not prepare an agenda for or keep notes of those sessions. 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.

EEO Officer Responsibilities

The CO is in compliance with the following requirements:

1. The EEO officer told EEPC auditors that she is involved in developing job recruitment strategies and selecting recruitment media.
2. The EEO officer told EEPC auditors that she devotes 100% of her time to EEO matters.
3. The EEO officer told EEPC auditors that she supervises the EEO-related activities of EEO counselors and meets with them periodically to keep them abreast of EEO developments.

Selection and Recruitment

The CO is not compliance with the following requirements:

1. The EEO officer told EEPC auditors that she has not analyzed the agency's workforce data to determine if women and/or minorities are underrepresented in particular job categories. However, the CO receives the CEEDS data on a regular basis now and she plans to review that data. She stated that the CO will change its recruitment efforts because it is too narrow. Corrective action is required.

Recommendation: The CO should follow-up on its pledge to review CEEDS data for underutilization. (Sect. IV, Citywide EEO Policy)

Recommendation: If the CO's workforce analysis shows underutilization in certain protected groups, it may expand its recruitment efforts to address underutilization by acquiring "Making the Most of New York City's Recruitment Resources," 2004, <http://extranet.dcas.nycnet/eo/pdf/apomasterclass--recruitment.pdf>, a list of recruitment sources compiled by DCAS. This publication provides agencies with additional recruitment resources to address the underutilization of protected groups. (Sect. IV, Citywide EEO Policy)

2. Structured interview training was not provided during the audit period. The EEO officer, however, told EEPC auditors that the CO is in the process of providing structured interview training to personnel involved in the recruitment and hiring process. The CO's personnel data indicated that 144 people were hired during the audit period. Corrective action is required.

Recommendation: The CO should follow-up on its pledge to develop a plan to provide structured interview training to personnel involved in the recruitment and hiring process. This is also a requirement of the Citywide EEOP. (Sect. IV, Citywide EEO Policy)

Job Performance/Advancement

The CO is in compliance with the following requirement:

Eighty percent of the survey respondents said that they did see the agency's job vacancy postings on agency bulletin boards prior to the application deadline.

SUMMARY OF RECOMMENDED CORRECTIVE ACTIONS

1. The CO's EEO Policy in the new hire package should be updated to include all of the "protected classes" under the New York City and New York State Human Rights Laws. (Sect. I, Citywide EEOP)
2. The agency should distribute the Section 55-A Program brochures issued by the DCAS to all employees. (Sect. IIB, Citywide EEOP)
3. Although the EEO officer said she receives and investigates discrimination complaints according to the Cornell School of Industrial and Labor Relations' EEO guidelines, she follows a complaint procedure similar to the citywide procedure. Therefore, the CO should follow its own discrimination complaint procedure which is similar to the citywide procedures. (Comptroller's Employee Manual, EEOP, p. 4)
4. All discrimination complaint files should include a Discrimination Complaint Form completed by the complainant or the EEO investigator. (DCPIG, sect. 12(b))
5. All respondents should be served with a notice of complaint along with a copy of the complaint. Respondent(s) or someone authorized to sign for the respondent(s) should acknowledge receipt of the notice. The receipts should be maintained in the complaint file. (DCPIG, sect. 12(b))
6. It is the Commission's position that complaint files should contain clear and thorough word-processed notes of interviews conducted with the complainant, respondent or witnesses.
7. In keeping with section 94 of the New York City Charter, all confidential written reports should be addressed to, and signed by, either the agency head or Deputy Comptroller. (DCAS, Discrimination Complaint Procedures Implementation Guidelines, 1993, Sect. 12(b))
8. All confidential written reports should be divided in three sections in accordance with section 12b of the DCPIG.
9. All internal investigative reports should be labeled "confidential" in large bold print.

10. The EEO officer should maintain and update a monthly EEO complaint log to indicate the monthly status of internal and external complaints. (DCAS, DCPIG, 1993, Sect. 12(a))
11. 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.
12. The CO should follow-up on its pledge to review CEEDS data for underutilization. (Sect. IV, Citywide EEO Policy)
13. If the CO's workforce analysis shows underutilization in certain protected groups, it may expand its recruitment efforts to address underutilization by acquiring "Making the Most of New York City's Recruitment Resources," 2004, <http://extranet.dcas.nycnet/eo/pdf/apomasterclass-recruitment.pdf>, a list of recruitment sources compiled by DCAS. This publication provides agencies with additional recruitment resources to address the underutilization of protected groups. (Sect. IV, Citywide EEO Policy)
14. The CO should follow-up on its pledge to develop a plan to provide structured interview training to personnel involved in the recruitment and hiring process. This is also a requirement of the Citywide EEOP. (Sect. IV, Citywide EEO Policy)

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 CO'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,

A handwritten signature in black ink, appearing to read 'E. F. Hart', written in a cursive style.

Ernest F. Hart, Esq.
Chair

APPENDIX - 1

COMPTROLLER'S OFFICE
EMPLOYEE SURVEY RESULTS

A. GENERAL OVERVIEW

1. Do you know who your agency's EEO Officer is?
Yes (120) No (36)
2. Is your agency's EEO Policy Statement or the Citywide EEO Policy Statement posted on your agency's bulletin boards?
Yes (109) No (35)
3. Were you given the EEO Policy Statement or the Citywide EEO Policy Statement?
Yes (128) No (6) Do not remember (21)
4. Were you given a copy of the EEO Policy Handbook – *About EEO: What You Need to Know*?
Yes (132) No (16)
5. Do you agree with the principles of equal employment opportunity?
Yes (144) No (10)
6. Do you believe your agency practices equal employment opportunity?
Yes (102) No (47)

B. EEO COMPLAINTS

7. Do you know how to file an EEO complaint?
Yes (109) No (45)
8. If you had an EEO complaint, would you bring it to your agency's EEO Office?
Yes (72) No (41) Undecided (43)
9. Would you prefer to file an EEO complaint with an office outside your agency?
Yes (68) No (37) Undecided (49)
10. Did you ever file an EEO complaint with your agency's EEO Office? If No, please skip to question #14.
Yes (16) No (135)
11. What was the basis of the complaint?

Age (2)	Partnership Status (0)
Alienage or Citizen Status (0)	Predisposing genetic characteristic (0)
Arrest or Conviction Record (0)	Race (0)
Color (1)	Sexual Harassment (0)
Creed (1)	Sexual Orientation (1)
Disability (1)	Veteran's Status (0)
Gender (incl. gender identity) (1)	Victim of Domestic Violence, Stalking, and Sex Offenses (0)
Marital Status (0)	Other (5)
Military Status (0)	
National Origin (0)	

COMPTROLLER SURVEY RESULTS CONTINUED

12. Were you satisfied with the manner in which your complaint was managed?
Yes (3) No (11)
13. Was your manager or supervisor supportive of your right to file a complaint?
Yes (5) No (2) Not Applicable (7)

C. EEO TRAINING

14. Did you receive EEO training? If No, please skip to question #16.
Yes (139) No (15)
15. Did you find this training helpful?
Very (32) Somewhat (76)
Not really (15) Waste of time (15)

D. JOB PERFORMANCE/ADVANCEMENT

16. Did you see your agency's job postings for vacant positions on agency bulletin boards prior to the application deadline?
Yes (123) No (15) Do not remember (15)

E. AFFIRMATIVE ACTION FOR PERSONS WITH DISABILITIES

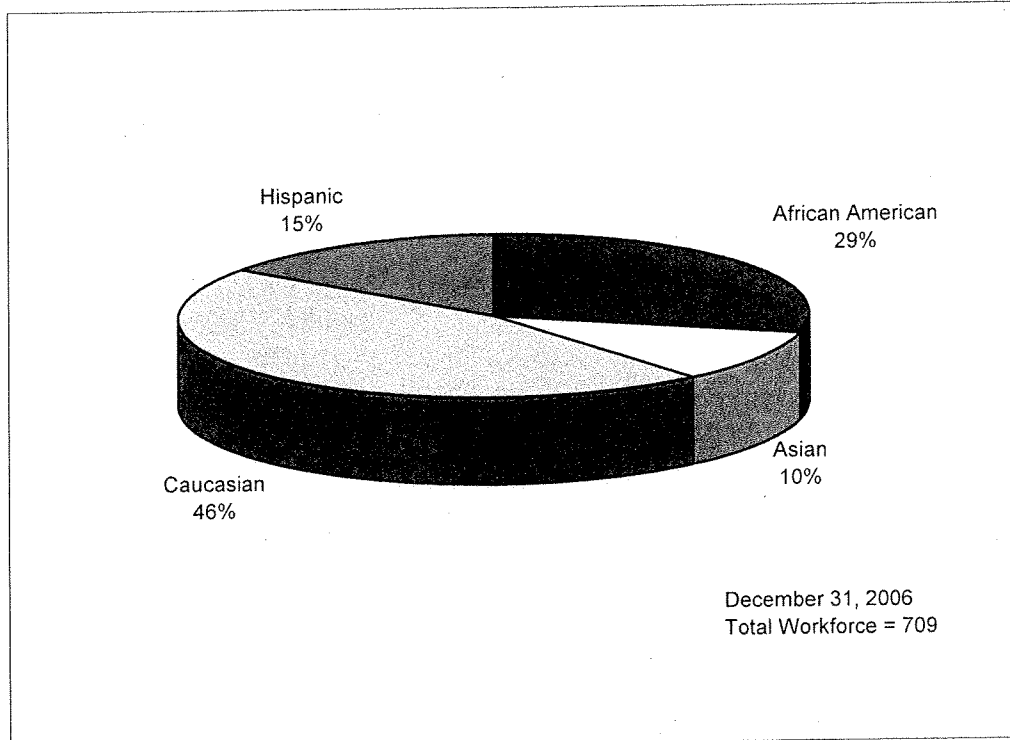
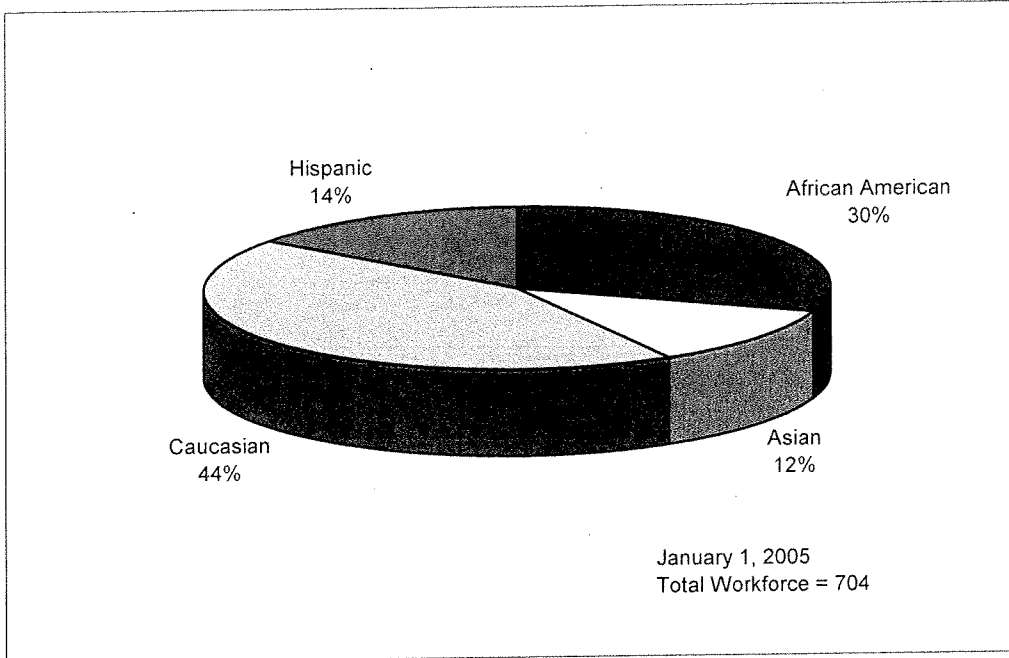
17. Are your agency's facilities accessible for persons with disabilities?
Yes (107) No (7) Don't Know (29)
18. Did you ever ask for an accommodation for a physical or mental disability?
If No, skip to question #28.
Yes (15) No (130)
19. Did the agency accommodate you?
Yes (10) No (5)

OPTIONAL

20. What is your race/ethnicity?
Asian (11) Native American (0)
Black (29) White (66)
Hispanic (14) Other (3)
21. What is your gender?
Male (54) Female (75)

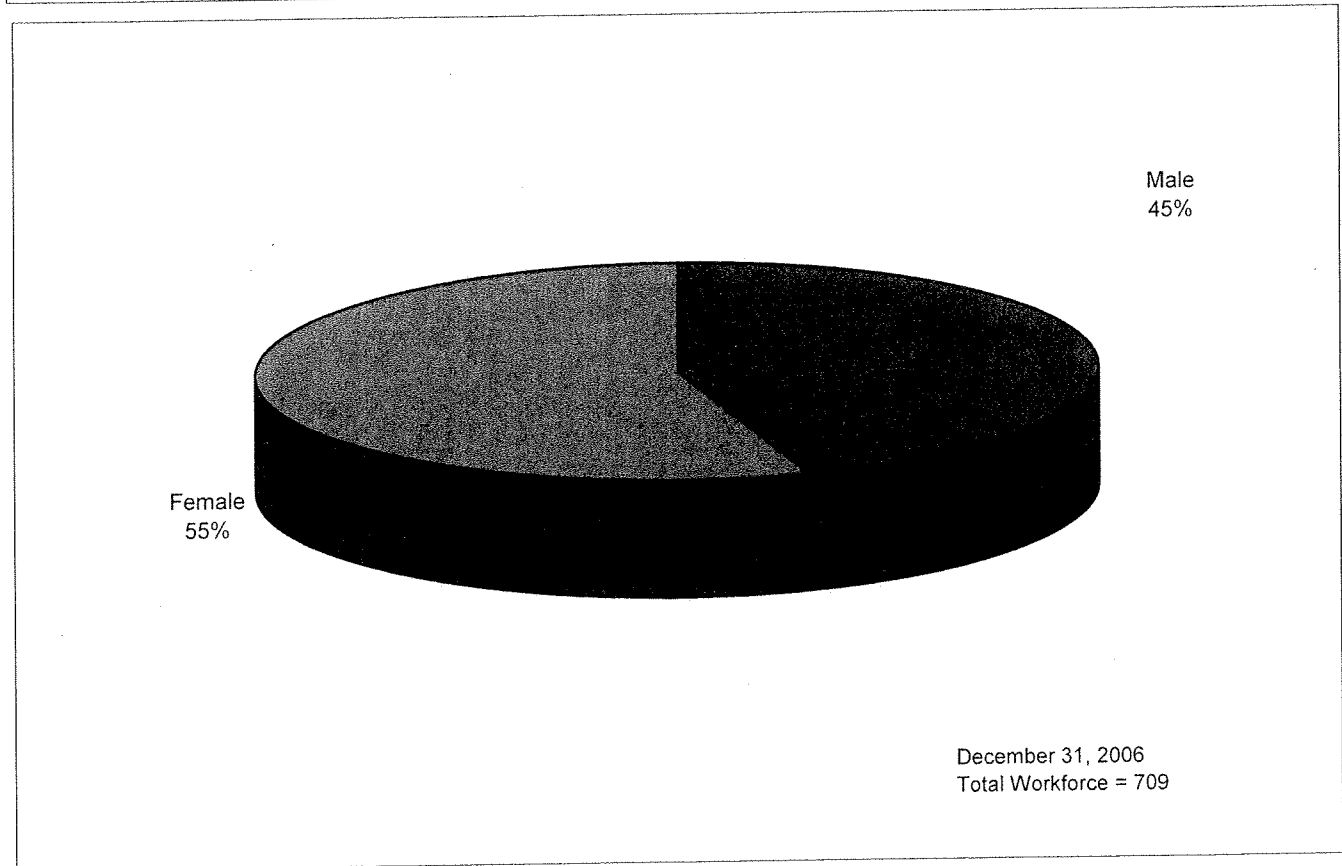
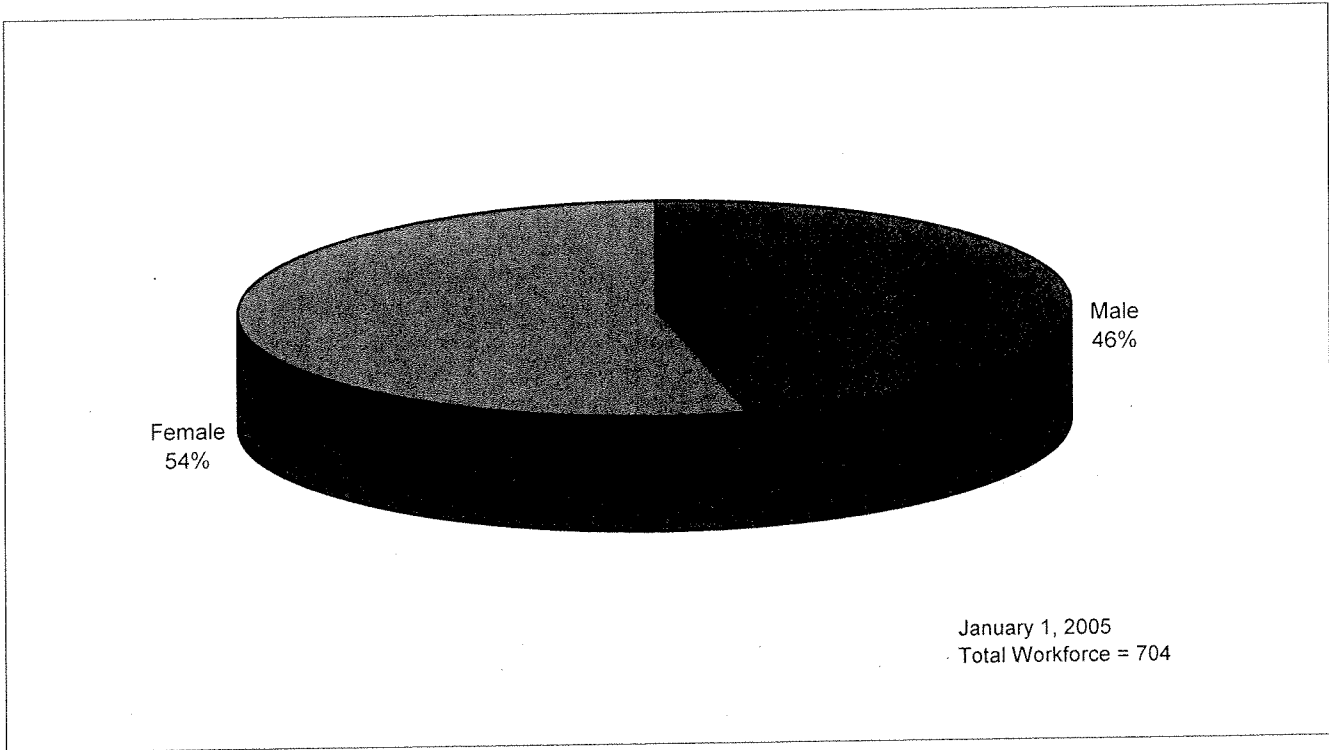
Appendix - 2

Comptroller's Office Workforce by Ethnicity



Appendix - 3

Comptroller's Office Workforce by Sex



APPENDIX – 4

The following table indicates personnel activity during the audit period, January 1, 2005 through December 31, 2006.

COMPTROLLER'S OFFICE

Hires by Sex and Ethnicity

Total Hires: 144.

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Native American	Total
52	93	144	47	49	23	25	0	144

Promotions by Sex and Ethnicity

Total Promotions: 39

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Native American	Total
17	22	39	23	9	5	2	0	39

Source: Audit data supplied by Comptroller's Office