



**Information
Technology &
Telecommunications**

JAN 3 2013 PM 3:23

Rahul Merchant

Chief Information and Innovation Officer

January 3, 2012

Charise Hendricks
Interim Executive Director
Equal Employment Practices Commission
253 Broadway, Suite 602
New York, New York 10007

Re: Final Determination Pursuant to the Audit of the Department of Information Technology & Telecommunications' (DOITT) Equal Opportunity Program from July 1, 2008 to June 30, 2011.

Dear Ms. Hendricks:

DoITT submits this letter in response to the EEPC's Final Determination issued on December 4, 2012. As we advised you by our letter dated August 24, 2012, in response to EEPC's Preliminary Determination, we have implemented seven of your eight recommendations. We continue to disagree with the remaining recommendation. Because your final determination, unlike your preliminary determination, calls for documentation of our implementation of your recommendations, this letter supplements our prior letter by supplying that documentation. A copy of our August 24 letter is incorporated and made part of this response, and is attached for your reference.

Recommendation #1

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

Action Taken: An example of DoITT's job posting form is included as Attachment 2.

Recommendation #2

The EEO Officer/Counselor should serve the respondent with a notice of complaint (or another document that includes the respondent's right to respond to the allegations and right to be accompanied by a representative of his/her choice) along with a copy of the complaint. The EEO Officer should keep receipts regarding the service of notice on the respondent in the complaint file.

Action Taken: A redacted example of our Notice of Complaint template is included as Attachment 3. The template alerts the Respondent to the right to respond and the right to be accompanied by a representative. The Notice is issued to the Respondent in person, and the Respondent acknowledges receipt in writing, although the signature on this sample has been redacted to maintain the confidentiality of the EEO process.

Recommendation #3

In rare circumstances where the investigation cannot commence immediately, or where the confidential report cannot be issued within 90 days, a note should be made in the complaint file explaining the reason for the delay and projecting a time frame for completion of the report. The complainant, respondent and DCAS-Citywide EEO should be notified of the delay in writing.

Action Taken: A redacted copy of a recent 90-day letter is included as Attachment 4.

Recommendation #4

The EEO Officer should notify the complainant and respondent, in writing, that the investigation by the EEO Officer has been transferred because of the filing of the external complaint.

Action Taken: The template that is used if these circumstances arise is enclosed as Attachment 5.

Recommendation #5

To ensure that all employees are aware of the Disability Rights Coordinator -- person responsible for handling reasonable accommodation requests and ensuring compliance with all federal, state, and local laws, as well as City and agency policies, pertaining to persons with disabilities -- the agency should re-distribute to all employees in writing the name, location, and telephone number of this person.

Action Taken: In addition to the actions noted in our August 24 letter, this information was included in my 2012 EEO statement to employees. A copy of the statement is enclosed as Attachment 6.

Recommendation #6

Since agencies' HR Officers are responsible for reviewing statistical information (including total employment, new hires and promotions by race/ethnicity and gender), employment practices, policies and programs for purposes of identifying whether there are barriers to equal opportunity, and informing the EEO Officer of efforts that the agency has made to employ, promote or accommodate qualified individuals with disabilities, DOITT's Human Resources Division should be assigned the responsibility of recording and maintaining information on the agency's applicant logs.

Action Taken: DoITT continues to disagree with this recommendation and will not implement it. We believe that the EEPC's recommendation would not strengthen our diversity efforts, but

in fact would interfere with the original intent of the Interview Logs, which is to emphasize to hiring managers the importance of attracting a diverse pool of applicants. Also, given that our HR office is located in Manhattan and the vast majority of our hiring occurs in other offices, implementation of this recommendation would introduce substantial bureaucratic inefficiencies into our hiring process.

Informally, EEPC staff conveyed the concern that a hiring manager reporting a candidate's gender and racial or ethnic background could create an inference of discrimination. To be viable, that concern would require that a hiring manager would not notice the candidate's gender or racial or ethnic background if not required to report it. Therefore, our considered view is that the concern is not well founded. On the other hand, the benefits of requiring hiring managers to take responsibility for their own hiring practices are substantial.

In addition, we maintain our objection, omitted from EEPC's final report, that this recommendation is procedurally improper in two respects. First, the stated objective of the audit was to determine DoITT's compliance with the Citywide EEO Policy, and this recommendation finds no support in that policy. And second, this recommendation was omitted from the draft preliminary report and was not discussed with DoITT at the audit exit conference.

Recommendation #7

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.

Action Taken: In addition to the actions noted in our August 24 letter, this information was included in my 2012 EEO statement to employees. A copy of the statement is enclosed as Attachment 6.

Recommendation #8

The agency is required to file with the EEPC copies of finalized agency EEO/agency specific plans. The agency must also submit quarterly to the EEPC, a report on its efforts during the previous quarter to implement the agency specific plan. All reports should be submitted no later than thirty (30) days following the reporting period.

Action Taken: As noted in our August 24 letter, DoITT has submitted copies of its quarterly reports to the EEPC, and on December 12, 2012 we sent copies of previous reports via email, per your request. We will forward our Annual Plan for 2013 when it is completed and approved by DCAS.

Sincerely,



Rahul Merchant

Cc: Emily Johnson
Charles Fraser

Attachments:

Attachment 1: Letter of August 24, 2012

Attachment 2: Recent Job Posting

Attachment 3: Respondent Notification, redacted

Attachment 4: 90 day letter, redacted

Attachment 5: Notice of Transfer to General Counsel Template

Attachment 6: Annual EEO Statement by Commissioner Merchant



**Information
Technology &
Telecommunications**

Rahul Merchant

Chief Information and Innovation Officer

August 24, 2012

Cesar Perez, Esq.
Chair
Equal Employment Practices Commissions
40 Rector Street, 14th Floor
New York, NY 10006

Re: EEPC Preliminary Determination Pursuant to the Audit of the Department of Information Technology and Telecommunications (DoITT) and its Compliance with the City's Equal Employment Opportunity Policy from July 1, 2008, through June 30, 2011

Dear Chair Perez:

Thank you for the opportunity to comment on the Equal Employment Practices Commission's Preliminary Determination dated July 26, 2012. I am pleased that EEPC staff found a very high level of compliance at DoITT with the City's Equal Employment Opportunity Policy during the audit period. This of course reflects the strength of DoITT's commitment to the principles of diversity and equal employment opportunity.

I am also pleased that the EEPC staff recommendations are technical and procedural – the staff found no substantive failings at DoITT. For the most part, as detailed below, we agree with those recommendations. Indeed, as we advised EEPC staff at our audit exit meeting on July 11, 2012, most of the recommendations had become moot because we had taken the recommended actions well before the audit exit meeting.

Following in more detail is our response to each of the EEPC staff recommendations:

1. **Recommendation:** All recruitment literature should indicate that the Agency and the City of New York is an Equal Opportunity Employer.

Response: EEPC staff correctly determined that all DoITT recruitment materials stated that "the City of New York is an Equal Opportunity Employer," but that those materials did not separately specify that DoITT is an equal opportunity employer. DoITT has manifested its commitment to the principles of diversity and equal employment opportunity in a variety of formats and forums, including DoITT's Web site. Consistent with this recommendation, DoITT has revised its job postings and all other recruitment

materials to specify not only that the City of New York, but also DoITT, is an equal opportunity employer.

2. **Recommendation:** The EEO Officer/Counselor should serve the respondent with a notice of complaint (or another document that includes the respondent's right to respond to the allegations and right to be accompanied by a representative of his/her choice) along with a copy of the complaint. The EEO Officer should keep receipts regarding the service of notice on the respondent in the complaint file.

Response: EEPC staff identified three instances during the audit period in which complaint files did not contain proof that written service of the complaint and of the right to respond to the complaint had been served on the respondent. It has always been the regular practice of the EEO and Diversity Office to serve a copy of the complaint along with a letter of notice to the respondent in person. The respondent is asked to sign a copy of the notice, and the notice is stored in the EEO file. I have emphasized to my staff the importance of unfailing adherence to this requirement.

3. **Recommendation:** In rare circumstances where an investigation cannot commence immediately, or where the confidential report cannot be issued within 90 days, a note should be made in the complaint file explaining the reason for the delay and projecting a time frame for completion of the report. The complainant, respondent and DCAS Citywide-EEO should be notified of the delay in writing.

Response: EEPC staff identified one instance during the audit period in which a "delay notification letter" was not sent to the complainant or the respondent. Investigation delays have been extremely rare, and all delays have been documented both to the file and in DoITT's quarterly EEO reports. I have emphasized to my staff the importance of unfailing adherence to the requirement that notice of the delay be sent to the complainant and the respondent.

4. **Recommendation:** The EEO Officer should notify the complainant and respondent, in writing, that the investigation by the EEO Officer has been transferred because of the filing of the external complaint.

Response: EEPC staff identified one instance during the audit period in which the complaint file did not contain proof that the complainant and the respondent had been given written notice that the complaint had been transferred from the EEO and Diversity Office to the Office of General Counsel. In that case, the complaint was transferred because the complainant filed an external complaint. Both the complainant and the respondent were aware of the external filing. Nonetheless, it has always been the regular practice of the EEO and Diversity Office to send such written notice to the complainant and the respondent, and I have emphasized to my staff the importance of unfailing adherence to this requirement.

5. **Recommendation:** To ensure that all employees are aware of the Disability Rights Coordinator- responsible for handling reasonable accommodation requests and ensuring compliance with all federal, state, and local laws, as well as City and agency policies, pertaining to persons with disabilities – the agency should redistribute to all employees in writing the name, location, and telephone number of this person.

Response: DoITT materials relating to employee disability issues, including DoITT's reasonable accommodation request form, have always indicated that disability issues may be addressed to the EEO and Diversity Office. Consistent with this recommendation, DoITT's materials have been updated to specify that the Disability Rights Coordinator is the Director of the EEO and Diversity Office.

6. **Recommendation:** Since agencies' HR Officers are responsible for reviewing statistical information (including total employment, new hires and promotions by race/ethnicity and gender), employment practices, policies and programs for purposes of identifying whether there are barriers to equal opportunity, and informing the EEO Officer of efforts that the agency has made to employ, promote, or accommodate qualified individuals with disabilities, DOITT's Human Resources Division should be assigned the responsibility of recording and maintaining information on the agency's applicant logs.

Response: DoITT respectfully rejects this recommendation. The Division of Human Resources is not responsible for facilitating employment interviews, and employment applicants do not generally meet with Human Resources until they have been tentatively selected for employment. Requiring the intervention of Human Resources staff at the interview stage of the hiring process would require a substantial new allocation of resources that DoITT believes to be unnecessary and unwise. Our view is that completion of the applicant log is best handled by the hiring managers.

I note that the City's Equal Employment Opportunity Policy does not require that an agency's Division of Human Resources complete applicant logs, and therefore I respectfully submit that this recommendation lies outside the proper scope of this audit. In addition, I note that this recommendation was not included in the draft audit report and was not discussed with DoITT at the audit exit meeting on July 11, 2012.

7. **Recommendation:** To ensure that all 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 with is available from the Career Counselor. This should be done at least once a year.

Response: In 2011, DoITT formalized the creation of an Office of Professional Development, and that Office undertook a continuing series of professional development initiatives that have been well publicized to DoITT employees. Consistent with this recommendation, DoITT has designated a member of that Office as DoITT's Career Counselor, and DoITT materials have been updated to reflect this designation. The Division of Human Resources plans to roll out a series of trainings during the Fall of 2012 that covers career related topics.

8. **Recommendation:** The agency is required to file with the EEPC copies of finalized agency EEO/agency specific plans. The agency must also submit quarterly to the EEPC, a report on its efforts during the previous quarter to implement the agency specific plan. All reports should be submitted no later than thirty days following the reporting period.

Response: EEPC staff found that DoITT failed to submit reports and plans to EEPC during part of the audit period. These reports and plans were prepared and submitted to

**City of New York
Department of Information Technology & Telecommunications
Job Posting Notice**

Attachment 2

| | |
|---|---|
| Civil Service Title: Computer Specialist (Operations) | Level: 00 |
| Title Code No: 13622 | Salary: \$64,609/\$74,300-\$100,800 |
| Business Title: Windows Operations Systems Administrator | Work Location: Brooklyn, NY |
| Division/Work Unit: IT Services | Number of Positions: 2 |
| Job ID: 114310 | Hours/Shift: Due to necessary technical support duties of this position in a 24/7 operation, candidate may be required to work various shifts such as weekends and/or nights/evenings. |

Job Description

DoITT is responsible for modernizing, unlocking, and innovating to improve IT infrastructure and service delivery in New York City government. Modernizing by implementing state-of-the-art information technology to improve services to New Yorkers. Unlocking by making government more transparent and accountable to New Yorkers. Innovating by employing cutting-edge tools, methods, and relationships to empower New Yorkers.

The successful candidate will serve as a Windows Operations Systems Administrator reporting to the IT Services. Responsibilities will include: Provide Windows server support for both physical and virtual windows servers at various locations by troubleshooting and resolving user problems, rebuilding user profiles, hardware deployment, monitoring issues, HP hardware issues, OS issues, disk space, antivirus, DCdiag errors, and software installation; document and maintain a complete inventory of Agency hardware and software assets; perform analysis concerning the agency's MIS operations; analyze, support and administer existing Windows based systems and provide troubleshooting strategies; assist in the ongoing deployment of server class hardware and software; provide technical support, troubleshooting, diagnosis and problem resolution and maintenance; work on assigned tickets to resolve issues/request and meet SLA's; create appropriate changes to implement fixes, patching, etc. for the Windows Servers in the environment; upgrade and maintain all windows server HP firmware; and perform special projects as assigned.

Minimum Qualification Requirements

- (1) A four-year high school diploma or its educational equivalent plus a certificate from an accredited technical school (approximately 675 hours) with a specialization in computer operations, and three years of satisfactory, full-time large-scale mainframe computer operations or three years of satisfactory data communication network experience in a mainframe environment, gained since June, 1996, one year of which must have been in a project leader capacity or as a major contributor on a complex project; or (Note: If you have a certificate from an accredited technical school (approximately 675 hours) with a specialization in computer operations, indicate the Name of the School, Number of Hours Completed, and the Date of Graduation in Section A.4 [Courses] on page 2 of the Education and Experience Test Paper).
 - (2) A baccalaureate degree from an accredited college and four years of satisfactory, full-time experience as described in '1' above, including one year of which must have been in a project leader capacity or as a major contributor on a complex project; or
 - (3) A four-year high school diploma or its educational equivalent and five years of satisfactory, fulltime experience as described in '1' above, including one year of which must have been in a project leader capacity or as a major contributor on a complex project; or
 - (4) A satisfactory combination of education and/or experience which is equivalent to '1,' '2,' or '3' above. However, all candidates must have at least a four-year high school diploma or its educational equivalent and three years of satisfactory, full-time large-scale mainframe computer operations or three years of satisfactory data communication network experience in a mainframe environment, gained since June, 1996, one year of which must have been in a project leader capacity or as a major contributor on a complex project.
- NOTE: In order to have your experience accepted as Project Leader or Major Contributor experience, you must explain in detail how your experience qualifies you as a project leader or as a major contributor. Experience in computer software development and maintenance, technical support, quality assurance (QA), hardware installation, or as an end user will not be accepted for meeting the minimum qualification requirements.

Preferred Skills

The preferred candidate should have the following: 5+ years experience providing support in a large scale of Windows servers; technical knowledge of the Windows 2003/2008 Enterprise Server Platform; practical server experience within a large-scale complex environment; experience with Windows 2003/2008, Active Directory, Group Policy; Microsoft Clustering, TCP/IP, LDAP, HTTP, DHCP, WINS, DNS, Remote Installation Services, SQL Server 2000/2005, NetIQ, Live Communications Server 2005; Internet Information Server 6.0, McAfee ePolicy Server, experience working with System Management Server 2003 and Software Update Services; knowledge of installing, configuring and managing redundant systems such as NLB & Terminal server farms, database server clustering; organizational skills; oral and written communication skills; knowledge of working with ticket based systems, such as Remedy Action Request System; experience in working with monitoring tools such as NETIQ, SSCM; ability to support client-centric business functions; excellent written and verbal communication skills; and the ability to handle multiple tasks under tight deadlines.

To Apply

For City employees, please go to Employee Self Service (ESS), click on Recruiting Activities > Careers, and search for Job ID #114310
For all other applicants, please go to www.nyc.gov/careers/search and search for Job ID #114310

-or-

If you do not have access to a computer, please mail resume indicating Job ID # to:
Department of Information Technology and Telecommunications (DoITT)
Recruitment Office - 255 Greenwich Street - 9th Floor - New York, NY 10007

SUBMISSION OF A RESUME IS NOT A GUARANTEE THAT YOU WILL RECEIVE AN INTERVIEW
APPOINTMENTS ARE SUBJECT TO OVERSIGHT

Posting Date: 12/24/12

Post Until: Filled



OFFICE OF EEO & DIVERSITY

**Information
Technology &
Telecommunications**

Rahul Merchant

Commissioner

75 Park Place

New York, NY 10007

212-788-6600

December 5, 2012

Delivered In Person

Re: EEO-12-00478-13

Dear Mr. [REDACTED]:

DoITT's Office of EEO and Diversity (EEO) is in receipt of a complaint against you filed by [REDACTED] on August 24, 2012 alleging discrimination on the basis of sexual orientation. A copy of the charges is attached for your review. This memo serves to formally notify you of the complaint and to let you know that the complaint is being investigated by the Office of EEO & Diversity on behalf of DoITT.

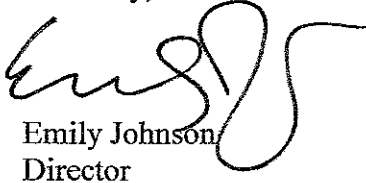
You may and are encouraged to respond to the allegations. You will be scheduled for an in-person interview over the next three weeks. You must appear at this interview, and you have a right to be accompanied by a representative of your choice at the meeting. This person can be a Union Steward, family member or friend, attorney, etc. However, it cannot be an individual involved with the complaint; or who reports to you or to whom you report; or any other person where there may be a conflict of interest. An EEO Counselor cannot be a representative for either party.

Responsibility for investigating this complaint rests with the agency's EEO Officer. At the conclusion of the investigation, a confidential written report of the investigation will be submitted to the agency head. If it is determined that a violation of the City's EEO Policy has occurred, this matter will be referred to the Office of Labor Relations for appropriate disciplinary action, and other appropriate corrective actions will be taken. You will be notified in writing of the outcome of the investigation.

Retaliation of any type against a DoITT employee for filing an EEO complaint, or for cooperating in the investigation of a complaint is unlawful, and can result in additional disciplinary charges.

Should you have any questions regarding the complaint procedure or other EEO matters, feel free to contact me at (212) 788-6007 or via e-mail at ejohnson@doitt.nyc.gov.

Sincerely,



Emily Johnson
Director

ACKNOWLEDGEMENT OF RECEIPT:

I, _____, acknowledge having received this document consisting of two (2) pages
December 5, 2012.

SIGNATURE

Cc: EEO File



January 2, 2013

NAME
STREET
CITY STATE ZIP

Re: Notice of Transfer of File to the Office of the General Counsel

Dear (COMPLAINANT),

It is my understanding that you recently exercised your right to file an external complaint that is based on or related to the same facts and circumstances of the above referenced internal complaint.

Pursuant to the City of New York's EEO Policy standards and procedures, I am therefore writing to notify you that the above-referenced matter has been transferred to the agency General Counsel, who will be responsible for any further handling of the matter.

Should you have any questions regarding this correspondence or the internal complaint procedure, feel free to contact me at (212) 788-6007 or via e-mail at ejohnson@doitt.nyc.gov.

Sincerely,

Emily Johnson
Director of EEO & Diversity
Agency EEO Officer

Cc: Charles Fraser
EEO File



OFFICE OF EEO & DIVERSITY

Information
Technology &
Telecommunications

January 2, 2013

NAME
STREET
CITY STATE ZIP

Re: Notice of Transfer of File # _____ to the Office of the General Counsel

Dear (COMPLAINANT),

We have been notified that (COMPLAINANT) recently exercised his/her right to file an external complaint that is based on or related to the same facts and circumstances of the above-referenced internal complaint.

Pursuant to the City of New York's EEO Policy standards and procedures, I am therefore writing to notify you that the above-referenced matter has been transferred to the agency General Counsel, who will be responsible for any further handling of the matter.

Should you have any questions regarding this correspondence or the internal complaint procedure, feel free to contact me at (212) 788-6007 or via e-mail at ejohnson@doitt.nyc.gov.

Sincerely,

Emily Johnson
Director of EEO & Diversity
Agency EEO Officer

Cc: Charles Fraser
EEO File



Office of EEO & Diversity
DELAY NOTIFICATION LETTER

**Information
Technology &
Telecommunications**

Rahul Merchant

Commissioner

255 Greenwich Street, 9th Fl

New York, NY 10007

212-788-6600

October 26, 2012

Dear M

Please be advised that the final determination of the EEO complaint which you filed has been delayed. However, the investigation is proceeding and our office will render a decision as soon as possible.

Should you have questions regarding this or other EEO matters, please feel free to contact me by phone at (212) 788-6076, or by e-mail at jteixeira@doitt.nyc.gov.

Sincerely,

A handwritten signature in black ink that reads "John Teixeira".

John Teixeira
EEO Specialist

Cc: EEO File

Johnson, Emily

From: Diaz, Jessica on behalf of Merchant, Rahul N.
Sent: Tuesday, November 27, 2012 5:57 PM
Subject: Annual EEO Statement
Attachments: Citywide EEO Policy.pdf

Colleagues,

Attached please find the Citywide Equal Employment Opportunity Policy, which is the EEO Policy that applies to all City agencies. As Commissioner, I encourage all employees to become familiar with their rights and obligations under this Policy and I reaffirm the agency's strong commitment to maintaining fair employment practices for all, as required by the EEO Policy and the many other federal, state and local laws that prohibit workplace discrimination.

The EEO policy provides that employment decisions be made without bias and in ways that give every applicant and employee an equal opportunity to succeed. It prohibits discriminatory employment actions on the basis of age, alienage, color, creed, disability, gender, gender identity, genetic predisposition, marital status, military status, national origin, prior arrest or conviction, race, religion, retaliation, sexual orientation, and status as a victim of domestic violence, sex offenses, or stalking. The Policy also includes a description of the various avenues that you may utilize to address any suspected instances of illegal discrimination or other violations of the Policy.

I want to affirm my commitment to the principles of workplace diversity and my expectation that every employee comply with both the letter and the spirit of the EEO Policy. DoITT employees should work to maintain an atmosphere of tolerance, acceptance and appreciation of the diversity reflected within our agency. Managers and supervisors are required to make all employment decisions in accordance with the EEO Policy and to ensure compliance with this policy in their respective areas of responsibility.

Finally, I encourage all employees to access the resources available within DoITT to assist you in addressing any EEO concerns. The following staff resources are available to you:

- Emily Johnson
Director of EEO and Diversity
Disability Rights Coordinator/ADA Coordinator /55-A Coordinator
255 Greenwich Street, 9th Floor
New York, NY 10007

212-788-6007 (phone)
212-788-6873 (fax)
ejohnson@doitt.nyc.gov

- Stacy Abramson
Director of Recruitment, Civil Service Administration and Classification
Career Counselor
Human Resources
255 Greenwich Street, 9th Floor
New York, NY 10007

212-788-6085 (phone)
212-788-5951 (fax)
sabramson@doitt.nyc.gov