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By Mail and Electronic Mail

May 25, 2016

Dahila Damas
Public Administrator
Office of the New York County Public Administrator
31 Chambers Street, Suite 311
New York, New York 10007

Re: Preliminary Determination for Audit: Review, Evaluation and Monitoring of the Office of the New York County Public Administrator's Employment Practices and Procedures from July 1, 2012 to December 31, 2015.

Dear Public Administrator Damas:

On behalf of the members of the Equal Employment Practices Commission (Commission or EEPC), thank you and your agency for the cooperation extended to our staff during the course of this audit. This letter contains the Commission's findings and preliminary determinations pursuant to our audit and analysis of your agency's Employment Practices and Procedures for the period covering July 1, 2012 to December 31, 2015.

The New York City Charter, Chapter 36, Section 831(d)(5), empowers this Commission to audit and evaluate city agencies' employment practices, programs, policies and procedures, and their efforts to ensure fair and effective equal employment opportunity for employees and applicants seeking employment with city agencies. Section 832.c provides that this Commission may, pursuant to an audit, make a preliminary determination that any plan, program or procedure utilized by any city agency does not provide equal employment opportunity and recommend all necessary and appropriate procedures, approaches, measures, standards and programs to be utilized by agencies in these efforts.

The Office of the New York County Public Administrator, which may herein be referred to as "the agency," falls within the Commission's purview under Chapter 36, Section 831(a) of the New York City Charter, which delineates 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 purpose of this audit and analysis is to evaluate the agency's Employment Practices and Procedures, not to issue findings of discrimination pursuant to the New York City Human Rights Law. This Commission has adopted *Uniform Standards for EEPC Audits*¹ and *Minimum Equal Employment Opportunity Standards for Community Boards* 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. These standards are 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; the New York City Human Rights Law (NYC Administrative Code §§8-107(1)(a) and (d), 8-107.13, and 8-107.1); the New York State Civil Service Law §55-a; the Uniform Guidelines on Employee Selection Procedures (29 CFR §§1607.3 - 1607.7); the Americans with Disabilities Act and its Accessibility Guidelines; and the equal employment opportunity requirements of the New York City Charter. Prescribed corrective actions are consistent with the aforementioned parameters.

Since this Commission is empowered to review and recommend actions which each agency should consider including in its annual plan of measures and programs to provide equal employment opportunity (Annual EEO Plan), the audited agency should incorporate required corrective actions in its current EEO Program and prospective Annual EEO Plans.

Scope and Methodology

This Commission's audit methodology 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, 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* (CEEDS).

This Commission reviews the workforce statistics and utilization analysis information available via CEEDS to understand the concentrations of race and gender groups within an agency's workforce. (CEEDS may be unavailable for certain non-mayoral agencies. In such cases, the EEPC requests that the agency submit similar statistics and analysis.) EEO Program Analysts examine imbalances between the number of employees in a particular job category and the number that would reasonably be expected when compared to their availability in the relevant labor market. Personnel transactions are reviewed in order to ascertain the agency's employment practices. Where underutilization is revealed within an agency's workforce, EEO Program Analysts assess whether the agency has undertaken reasonable measures to address it.

EEO professionals (including, but not limited to, past or current EEO Officers, Deputy or Co-EEO Officers, EEO Counselors, EEO Trainers, EEO Investigators, Disability Rights Coordinators, Career Counselors, 55-a Program Coordinators) and others involved in EEO program administration such as the Principal Human Resources Professional are given a two-week deadline to complete and

¹ Corresponding audit/analysis standards are numbered throughout the document.



return their individual questionnaires. The Commission's EEO Program Analysts also conduct additional research and follow-up discussions or interviews with EEO professionals, when appropriate.

To encourage response, the EEPC requests that the head or deputy of each agency send emails to employees and to supervisors/managers that provide links to our questionnaires.

Description of the Agency

The Public Administrator administers estates of deceased persons. There is a Public Administrator in every county in the City of New York. The Public Administrator's primary duty is to administer estates that would otherwise remain unadministered: to protect the decedent's property from waste, loss, or theft; to make appropriate burial arrangements when no close relative is available to make the decisions; to conduct thorough investigations to discover all assets; to liquidate assets at public sale or distribute assets to heirs; to pay the decedent's bills and taxes; and to locate persons entitled to inherit from the estate and ensure that the legal distributees receive their inheritance.

The Public Administrator of New York County had 18 employees at the end of the audit period. (See workforce composition attached as Appendix -1)

PRELIMINARY DETERMINATIONS AFTER AUDIT AND ANALYSIS

Following are the corresponding audit standards for each subject area along with the EEPC's findings and required corrective actions, where appropriate:

I. ISSUANCE, DISTRIBUTION AND POSTING OF EEO POLICIES:

Determination: The agency is in compliance with the standards for this subject area.

1. Issue a general EEO Policy statement or memo reiterating commitment to EEO, declaring the agency's position against discrimination on any protected basis, advising employees of the names and contact information of EEO professionals, and attaching, or providing employees pertinent electronic links to, an EEO Policy/Handbook.
- ✓ The agency issued an EEO Policy memorandum on May 1, 2012. The EEO policy memorandum reiterated the Public Administrator's commitment to EEO, declared the agency's position against discrimination on any protected basis, and advised employees of the names and contact information of the agency's EEO professionals. The agency reported that the *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies* and the EEO Handbook: *About EEO: What you May Not Know*, were attached to the memorandum.
2. Distribute/Post a paper or electronic copy of the *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies* – or an agency EEO Policy that conforms to city, state and federal laws – for use by managers, supervisors, and legal, human

resources and EEO professionals. Include, or attach as addenda: a policy against sexual harassment; uniform and responsive procedures for investigating discrimination complaints and providing reasonable accommodations; an up-to-date list of protected classes under NYC and NYS Human Rights Laws; and current contact information for the agency's EEO professionals, as well as federal, state and local agencies that enforce laws against discrimination.

- ✓ During the period in review the agency adhered to the Mayor's EEO Policy: *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies [2005]*, which included sections on *Sexual Harassment; Reporting Violations, Concluding Complaint Investigation, Requests for Accommodation [Disabilities; Religious Accommodations; Victims of Domestic Violence, Sexual Offences, or Stalking]*. The policy also included an up to date list of protected classes under NYC and NYS Human Rights Laws; a list of federal, state and local agencies that enforce laws against discrimination. The agency reported that the aforementioned document was posted on the office bulletin board, along with the *New Hire Documents Package*, which included: *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies [2005]*, the *Addendum to the Equal Employment Opportunity Policy Standards and Procedures to be Utilized By City Agencies [2005]*, the EEO Handbook: *About EEO: What you May Not Know* and addenda, a list of past and current staff members who perform EEO functions, and the agency's EEO policy memorandum (see §I.1). The agency reported that on May 1, 2012, the *New Hire Package* was distributed to all employees in person. Subsequently, the *New Hire Document Package* was distributed to the new employees.

NOTE: The list of protected classes was expanded in December 2015, January 2016 and May 2016.

II. EEO TRAINING FOR AGENCY:

Determination: The agency is in compliance with the standards for this subject area.

3. Establish and implement an EEO training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on unlawful discriminatory practices under local, state and federal EEO laws; EEO rights and/or responsibilities; discrimination complaint and investigation procedures; prevention of sexual harassment; and reasonable accommodation procedures.
- ✓ During and prior to the period in review, it was the agency's EEO training plan to have all employees complete the Department of Citywide Administration Services (DCAS) *Computer Based Training*, upon being hired. The agency reported that fifteen (15) staff members (83.3%) completed DCAS's *EEO Computer Based Training*.

NOTE: Due to a technical issue that impacted the agency's EEO training plan, during the period in review one (1) employee remained scheduled to undergo DCAS's *EEO Computer Based Training*. The agency committed to ensuring that the remaining employee completes the aforementioned EEO training once the program becomes available.

III. EMPLOYMENT PRACTICES (Recruitment, Hiring & Promotion):

Determination: The agency is in partial compliance with the standards for this subject area.

4. The principal EEO Professional, HR Professional, and General Counsel, review the agency's statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender), the annual number of EEO complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required to correct deficiencies.
- The agency reported that the principal EEO professional and HR professional did not conduct a review of the agency's statistical information or the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required to correct deficiencies. **Corrective action required.**

NOTE: During the period in review the agency did not have a General Counsel position and reported no EEO complaints.

Corrective Action #1: Ensure that the principal EEO professional and HR Professional review the agency's statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender), employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to correct deficiencies (e.g. underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.

5. Ensure that human resources professionals, managers, supervisors, and other personnel involved in recruiting and hiring are trained to consider EEO laws/policies and use uniform, job-related techniques to identify, interview and select the most capable candidates (e.g. structured interview training or guide).
- ✓ The agency reported that, during the period in review, recruitment and hiring were conducted exclusively by the Commissioner and Deputy Commissioner of the agency.
 - The agency did not demonstrate that all personnel involved in recruiting and hiring were trained to consider EEO laws/policies and use uniform, job-related techniques to identify, interview and select the most capable candidates or that a structured interview guide was used. **Corrective action required.**

Corrective Action #2: Ensure that human resources professionals, managers, supervisors, and other personnel involved in recruiting and hiring are trained to consider EEO laws/policies and use uniform, job-related techniques to identify, interview and select the most capable candidates (e.g. structured interview training or guide).

6. Promote employees' awareness of opportunities for promotion and transfer within the agency, and ensure that employees are considered for such opportunities.

NOTE: The agency reported that there were no opportunities for promotion or transfer during the period in review; therefore no further analysis was conducted in this area.

7. At minimum, indicate the agency is an equal opportunity employer in recruitment literature.
- ✓ During the period in review the agency reported that it advertised for three (3) positions *Temporary Assistant (2013)* and *Decedent Property Agent (2) (2014)*. The advertisement for the *Decedent Property Agent* positions was posted on the Cityjobs website and 'Monster.com', and included the EEO tag line: "*The Public Administrator of New York County is an Equal Opportunity Employer*".

NOTE: The agency reported that a "temp" agency was used in order to fill the position of *Temporary Assistant (2013)*, and that no recruitment literature was used.

8. Use and maintain an applicant/candidate log or tracking system which, at minimum, includes the *position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition)* of each applicant, and *recruitment source*. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.
 - The agency did not demonstrate that it maintained an applicant/candidate log or tracking system which, at minimum, included the *position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition)* of each applicant, and *recruitment source*. **Corrective action required.**

Corrective Action #3: Use and maintain an applicant/candidate log or tracking system which, at minimum, includes the *position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition)* of each applicant, and *recruitment source*. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.

IV. CAREER COUNSELING:

Determination: The agency is in partial compliance with the standards for this subject area.

9. Designate a professional (may be referred to as the Career Counselor) with appropriate training, knowledge and familiarity with career opportunities in City government to provide

career counseling to employees upon request. Remind employees of the identity/type of guidance available from the Career Counselor at least once each year.

- ✓ The agency reported that the Deputy Commissioner (principal EEO professional) also functioned as the agency's Career Counselor during the period in review.
 - The agency did not provide documentation, or correspondence, which identifies the Deputy Commissioner as the individual responsible for providing career counseling to employees upon request; or demonstrate that the Deputy Commissioner had appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling. **Corrective action is required.**

Corrective Action #4: Ensure that the professional designated as the Career Counselor has appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling. Remind employees of the identity/type of guidance available from the Career Counselor at least once each year.

10. The Human Resources Professional distributes the identity of the agency Career Counselor and ensures that all employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings; ensures that all new employees are advised of the EEO policies, their rights and responsibilities under such policies and the discrimination complaint procedures; informs the principal EEO Professional of the number of 55-a program participants and efforts the agency has made to employ, promote or accommodate qualified individuals with disabilities; involves the principal EEO Professional in EEO-related matters; and promptly consults with the principal EEO Professional if informed of, or suspects that a violation of the EEO Policy has occurred.
- ✓ During the period in review, the Deputy Commissioner (the agency's principal EEO professional and Career Counselor) ensured that employees were advised of the EEO policies, their rights and responsibilities under such policies and the discrimination complaint procedures via the distribution of the agency's *New Hire Package* (see §1.2).

NOTE: The agency reported no 55-a program participants or EEO complaints during the period in review.

- The agency did not demonstrate that the principal HR professional ensured all employees had access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings; informed the principal EEO Professional of the number of 55-a program participants and efforts the agency has made to employ, promote or accommodate qualified individuals with disabilities; or involved the EEO professional in EEO-related matters. **Corrective action required.**

Corrective Action #5: Ensure that employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings; ensure that the principal HR professional informs principal EEO Professional of

the number of 55-a program participants and efforts the agency has made to employ, promote or accommodate qualified individuals with disabilities; involves the EEO professional in EEO-related matters.

**V. EEO AND REASONABLE ACCOMMODATIONS FOR EMPLOYEES/
APPLICANTS FOR EMPLOYMENT WITH DISABILITIES:**

Determination: The agency is in compliance with the standards for this subject area.

11. Ensure that information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures is made available in appropriate alternative formats (i.e., large print, audio tape and/or Braille) upon request to employees and applicants for employment with disabilities.
 - ✓ The agency indicated, via the *Availability of EEO Policies in Alternative Formats [for Employees, Applicants for Employment, with Disabilities]* form, its commitment to providing the information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures, in all appropriate alternative formats, upon request, to employees and applicants for employment with disabilities
12. Document reasonable accommodation requests and their outcomes.
 - ✓ The agency adhered to the *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies [2005]*, which stated that “All inquiries, complaints, requests, mediation efforts, investigations, requests for accommodation and their outcomes will be documented by the EEO office.” The agency reported no requests for reasonable accommodation during the period in review.

VI. RESPONSIBILITY FOR EEO PLAN IMPLEMENTATION - EEO PROFESSIONALS:

Determination: The agency is in partial compliance with the standards for this subject area.

13. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. The principal EEO Professional is trained and knowledgeable regarding city, federal and state EEO laws; the requirements of the agency’s EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination complaints.
 - ✓ The agency designated the Deputy Commissioner as the principal EEO professional. On May 1, 2012, the agency advised employees of the name and contact information of the principal EEO professional via the agency EEO Policy Memo (see §1.2); additionally, the name and contact information of the principal EEO professional were distributed to new employees upon hire, along with the agency’s EEO Policy Memo (see §1.2).
14. Ensure that EEO professionals are trained in EEO laws and procedures and know how to carry out their responsibilities under the EEO Policy.

- ✓ The Deputy Commissioner completed the following training: Department of Citywide Administration Services (DCAS) *Diversity and Equal Employment Opportunity Basic Training* (completed November 3, 2011); Administrative Judicial Institute's training *Basic Mediation Skills for EEO Professionals* (completed April 25, 2012), and the DCAS *Training on Effective Complaint Investigations and How to Handle Challenging Situations* (completed May 1d7, 2012). Prior to the period in review, the agency appointed an assistant EEO professional (agency Investigator) to aide in carrying out EEO related duties. The assistant EEO professional completed the DCAS *Basic Training for Equal Employment Opportunity Representatives* on September 23, 2008.
- 15. The principal EEO professional reports directly to the agency head (or an approved direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities.
- ✓ The agency reported that the Deputy Commissioner (agency's principal EEO professional) reported directly to the Commissioner in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities. This reporting relationship was reflected in the agency's organizational chart.
- 16. To ensure the integrity and continuity of the EEO Program, maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.
 - The agency did not demonstrate that, during the period in review, it maintained appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel), and the principal EEO professional regarding decisions that impact the administration and operation of the EEO program. **Corrective action required.**

Corrective Action #6: Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.

VII. RESPONSIBILITY FOR EEO PLAN IMPLEMENTATION – SUPERVISORS/MANAGERS:
Determination: The agency is not in compliance with the standards for this subject area.

- 17. Establish and administer an annual managerial/non-managerial performance evaluation program to be used for probationary periods, promotions, assignments, incentives and training.
 - The agency did not establish an annual managerial/non-managerial performance evaluation program, or conduct annual managerial/non-managerial performance evaluations during the period in review. **Corrective action is required.**

Corrective Action #7: Establish and implement an annual managerial/non-managerial performance evaluation program (with timetable) to be used for probationary periods, promotions, assignments, incentives and training.

18. The managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

- The agency did not rate managers on implementing EEO related responsibilities. **Corrective action is required.**

Corrective Action #8: Ensure that the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

VIII. REPORTING STANDARD FOR AGENCY HEAD:

Determination: The agency is **not in compliance** with the standards for this subject area.

19. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports² (up to 30 days following each quarter) on efforts to implement the plan.

- During the period in review the agency did not submit an Annual Plan of measures and programs to provide equal employment opportunity or quarterly reports on efforts to implement the plan. **Corrective action is required.**

Corrective Action #9 Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports² (up to 30 days following each quarter) on efforts to implement the plan.

After implementation of the EEPC's corrective actions, if any:

20. The agency head distributes a memorandum informing employees of the changes implemented in the EEO program pursuant to the EEPC's audit/analysis and re-emphasizing the agency head's commitment to the EEO program.

Final Action: Distribute a memorandum signed by the agency head informing employees of the changes implemented in the EEO program pursuant to the EEPC's audit/analysis and re-emphasizing the agency head's commitment to the EEO program.

² Submission of Quarterly Reports on EEO Activity is optional for non-Mayoral agencies.

Conclusion

The agency has 9 required corrective action(s) at this time.

Pursuant to Chapter 36 of the New York City Charter, your agency has the *option* to respond to this *preliminary determination*, but must respond to our Final Determination if corrective action is required.

Optional Response to preliminary determination: If submitted, your optional response should indicate, with attached documentation, what steps your agency has taken or will take to implement the prescribed corrective actions, and must be received in our office within 14 days from the date of this letter. No extensions will be granted for the *option* to respond to the *preliminary determination*.

(Optional Conference) During the Optional Conference, we will discuss the immediate steps your agency should take and address questions regarding your agency's implementation of the prescribed corrective action(s). *(No Response Option)* If your agency does not respond to this preliminary determination within 14 days, it will become the EEPC's Final Determination. *Mandatory Response to Final Determination:* Following this preliminary determination, the EEPC will issue a Final Determination where we may modify or eliminate the corrective actions based on verified information; identify remaining action which requires further monitoring in order to ensure implementation; and assign a mandatory compliance-monitoring period of up to 6 months for this purpose. Pursuant to Chapter 36 of the New York City Charter your agency must respond to our Final Determination within 30 days. Your response to the Final Determination will initiate the compliance monitoring period.

In closing, we want to thank you and your staff for the cooperation extended to the Equal Employment Practices Commission's EEO Program Analysts during the course of our audit and analysis.

Respectfully Submitted by,



Nathan P. Conway, EEO Program Analyst

Approved by,



Charise L. Terry, PHR
Executive Director

c: Joy Thompson, Esq., Deputy Commissioner/Principal EEO Professional

Appendix - 1

Office of the New York County Public Administrator

Statistical Profile of Agency Workforce
(End of audit period)

Attachment: Statistical Profile of Agency Workforce
Beginning and End of Audit Period

Agency: 941

# Employees	Beginning of Audit Period 07/01/2012	End of Audit Period 12/03/2015
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Male	8	8
Female	10	10

White	7	6
Black	7	8
Hispanic	1	1
Asian	3	3
Native American	0	0
Unknown	0	0

Total # of Employees	18	18
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Marie Giraud, Esq.
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VIA EMAIL AND MAIL

June 10, 2016

Dahila Damas
Public Administrator
Office of the New York County Public Administrator
31 Chambers Street, Suite 311
New York, New York 10007

RE: Audit Resolution : **#2016/941**: Final Determination Pursuant to the Review, Evaluation and Monitoring of the Office of the Public Administrator of New York County's Employment Practices and Procedures from July 1, 2012 to December 31, 2015.

Dear Public Administrator Damas:

On behalf of the members of the Equal Employment Practices Commission (Commission or EEPC), thank you and your agency for the cooperation extended to our staff during the course of this audit.

As the EEPC did not receive the Public Administrator of New York County's response to our May 25, 2016 Preliminary Determination within 14 days from the date of its issuance, and consistent with the audit protocol referenced therein, the attached Determination is now Final.

As indicated in our Preliminary Determination, this Commission has adopted uniform standards¹ to assess agencies' employment practices and programs 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 review, evaluation and monitoring 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

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.



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.

The assigned compliance-monitoring period is: JULY 2016 to DECEMBER 2016.

If corrective actions remain: Your agency's response should indicate what steps your agency has taken, or will take, to implement the corrective actions during the designated period. Documentation which supports the implementation of each corrective action shall be uploaded to TeamCentral, the EEPCC's Automated Compliance-Monitoring System. Your agency will be monitored monthly until all corrective actions have been implemented. Instruction on how to access and navigate TeamCentral is attached. Upon your agency's completion of the final corrective action, this Commission requires that your agency upload a final memorandum signed by the agency head which informs employees of the changes implemented pursuant to our audit and re-emphasizes commitment to the EEO program. Upon receipt of the final memorandum, the EEPCC will issue a *Determination of Compliance*.

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 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-monitoring 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,

Charise L. Terry, PHR
Executive Director



FINAL DETERMINATION
6/9/2016

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The Office of the New York County Public Administrator, which may herein be referred to as "the agency," falls within the Commission's purview under Chapter 36, Section 831(a) of the New York City Charter, which delineates 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 purpose of this audit and analysis is to evaluate the agency's Employment Practices and Procedures, not to issue findings of discrimination pursuant to the New York City Human Rights Law. This Commission has adopted *Uniform Standards for EEPC Audits*¹ and *Minimum Equal Employment Opportunity Standards for Community Boards* 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. These standards are 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; the New York City Human Rights Law (NYC Administrative Code §§8-107(1)(a) and (d), 8-107.13, and 8-107.1); the New York State Civil Service Law §55-a; the Uniform Guidelines on Employee Selection Procedures (29 CFR §§1607.3 - 1607.7); the Americans with Disabilities Act and its Accessibility Guidelines; and the equal employment opportunity requirements of the New York City Charter. Prescribed corrective actions are consistent with the aforementioned parameters.

Since this Commission is empowered to review and recommend actions which each agency should consider including in its annual plan of measures and programs to provide equal employment opportunity (Annual EEO Plan), the audited agency should incorporate required corrective actions in its current EEO Program and prospective Annual EEO Plans.

Scope and Methodology

This Commission's audit methodology 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, 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* (CEEDS).

This Commission reviews the workforce statistics and utilization analysis information available via CEEDS to understand the concentrations of race and gender groups within an agency's workforce. (CEEDS may be unavailable for certain non-mayoral agencies. In such cases, the EEPC requests that the agency submit similar statistics and analysis.) EEO Program Analysts examine imbalances between the number of employees in a particular job category and the number that would reasonably be expected when compared to their availability in the relevant labor market. Personnel transactions are reviewed in order to ascertain the agency's employment practices. Where underutilization is revealed within an agency's workforce, EEO Program Analysts assess whether the agency has undertaken reasonable measures to address it.

EEO professionals (including, but not limited to, past or current EEO Officers, Deputy or Co-EEO Officers, EEO Counselors, EEO Trainers, EEO Investigators, Disability Rights Coordinators, Career Counselors, 55-a Program Coordinators) and others involved in EEO program administration such as the Principal Human Resources Professional are given a two-week deadline to complete and

¹ Corresponding audit/analysis standards are numbered throughout the document.

return their individual questionnaires. The Commission's EEO Program Analysts also conduct additional research and follow-up discussions or interviews with EEO professionals, when appropriate.

To encourage response, the EEPC requests that the head or deputy of each agency send emails to employees and to supervisors/managers that provide links to our questionnaires.

Description of the Agency

The Public Administrator administers estates of deceased persons. There is a Public Administrator in every county in the City of New York. The Public Administrator's primary duty is to administer estates that would otherwise remain unadministered: to protect the decedent's property from waste, loss, or theft; to make appropriate burial arrangements when no close relative is available to make the decisions; to conduct thorough investigations to discover all assets; to liquidate assets at public sale or distribute assets to heirs; to pay the decedent's bills and taxes; and to locate persons entitled to inherit from the estate and ensure that the legal distributees receive their inheritance.

The Public Administrator of New York County had 18 employees at the end of the audit period. (See workforce composition attached as Appendix -1)

PRELIMINARY DETERMINATIONS AFTER AUDIT AND ANALYSIS

Following are the corresponding audit standards for each subject area along with the EEPC's findings and required corrective actions, where appropriate:

I. ISSUANCE, DISTRIBUTION AND POSTING OF EEO POLICIES:

Determination: The agency is in compliance with the standards for this subject area.

1. Issue a general EEO Policy statement or memo reiterating commitment to EEO, declaring the agency's position against discrimination on any protected basis, advising employees of the names and contact information of EEO professionals, and attaching, or providing employees pertinent electronic links to, an EEO Policy/Handbook.
- ✓ The agency issued an EEO Policy memorandum on May 1, 2012. The EEO policy memorandum reiterated the Public Administrator's commitment to EEO, declared the agency's position against discrimination on any protected basis, and advised employees of the names and contact information of the agency's EEO professionals. The agency reported that the *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies* and the EEO Handbook: *About EEO: What you May Not Know*, were attached to the memorandum.
2. Distribute/Post a paper or electronic copy of the *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies* – or an agency EEO Policy that conforms to city, state and federal laws – for use by managers, supervisors, and legal, human

resources and EEO professionals. Include, or attach as addenda: a policy against sexual harassment; uniform and responsive procedures for investigating discrimination complaints and providing reasonable accommodations; an up-to-date list of protected classes under NYC and NYS Human Rights Laws; and current contact information for the agency's EEO professionals, as well as federal, state and local agencies that enforce laws against discrimination.

- ✓ During the period in review the agency adhered to the Mayor's EEO Policy: *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies [2005]*, which included sections on *Sexual Harassment; Reporting Violations, Concluding Complaint Investigation, Requests for Accommodation [Disabilities; Religious Accommodations; Victims of Domestic Violence, Sexual Offences, or Stalking]*. The policy also included an up to date list of protected classes under NYC and NYS Human Rights Laws; a list of federal, state and local agencies that enforce laws against discrimination. The agency reported that the aforementioned document was posted on the office bulletin board, along with the *New Hire Documents Package*, which included: *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies [2005]*, the *Addendum to the Equal Employment Opportunity Policy Standards and Procedures to be Utilized By City Agencies [2005]*, the EEO Handbook: *About EEO: What you May Not Know* and addenda, a list of past and current staff members who perform EEO functions, and the agency's EEO policy memorandum (see §I.1). The agency reported that on May 1, 2012, the *New Hire Package* was distributed to all employees in person. Subsequently, the *New Hire Document Package* was distributed to the new employees.

NOTE: The list of protected classes was expanded in December 2015, January 2016 and May 2016.

II. EEO TRAINING FOR AGENCY:

Determination: The agency is in compliance with the standards for this subject area.

3. Establish and implement an EEO training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on unlawful discriminatory practices under local, state and federal EEO laws; EEO rights and/or responsibilities; discrimination complaint and investigation procedures; prevention of sexual harassment; and reasonable accommodation procedures.
- ✓ During and prior to the period in review, it was the agency's EEO training plan to have all employees complete the Department of Citywide Administration Services (DCAS) *Computer Based Training*, upon being hired. The agency reported that fifteen (15) staff members (83.3%) completed DCAS's *EEO Computer Based Training*.

NOTE: Due to a technical issue that impacted the agency's EEO training plan, during the period in review one (1) employee remained scheduled to undergo DCAS's *EEO Computer Based Training*. The agency committed to ensuring that the remaining employee completes the aforementioned EEO training once the program becomes available.

III. EMPLOYMENT PRACTICES (Recruitment, Hiring & Promotion):

Determination: The agency is in partial compliance with the standards for this subject area.

4. The principal EEO Professional, HR Professional, and General Counsel, review the agency's statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender), the annual number of EEO complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required to correct deficiencies.
- The agency reported that the principal EEO professional and HR professional did not conduct a review of the agency's statistical information or the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required to correct deficiencies. **Corrective action required.**

NOTE: During the period in review the agency did not have a General Counsel position and reported no EEO complaints.

Corrective Action #1: Ensure that the principal EEO professional and HR Professional review the agency's statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender), employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to correct deficiencies (e.g. underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.

5. Ensure that human resources professionals, managers, supervisors, and other personnel involved in recruiting and hiring are trained to consider EEO laws/policies and use uniform, job-related techniques to identify, interview and select the most capable candidates (e.g. structured interview training or guide).
- ✓ The agency reported that, during the period in review, recruitment and hiring were conducted exclusively by the Commissioner and Deputy Commissioner of the agency.
 - The agency did not demonstrate that all personnel involved in recruiting and hiring were trained to consider EEO laws/policies and use uniform, job-related techniques to identify, interview and select the most capable candidates or that a structured interview guide was used. **Corrective action required.**

Corrective Action #2: Ensure that human resources professionals, managers, supervisors, and other personnel involved in recruiting and hiring are trained to consider EEO laws/policies and use uniform, job-related techniques to identify, interview and select the most capable candidates (e.g. structured interview training or guide).

6. Promote employees' awareness of opportunities for promotion and transfer within the agency, and ensure that employees are considered for such opportunities.

NOTE: The agency reported that there were no opportunities for promotion or transfer during the period in review; therefore no further analysis was conducted in this area.

7. At minimum, indicate the agency is an equal opportunity employer in recruitment literature.
- ✓ During the period in review the agency reported that it advertised for three (3) positions *Temporary Assistant (2013)* and *Decedent Property Agent (2) (2014)*. The advertisement for the *Decedent Property Agent* positions was posted on the Cityjobs website and 'Monster.com', and included the EEO tag line: "*The Public Administrator of New York County is an Equal Opportunity Employer*".

NOTE: The agency reported that a "temp" agency was used in order to fill the position of *Temporary Assistant (2013)*, and that no recruitment literature was used.

8. Use and maintain an applicant/candidate log or tracking system which, at minimum, includes the *position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition)* of each applicant, and *recruitment source*. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.
 - The agency did not demonstrate that it maintained an applicant/candidate log or tracking system which, at minimum, included the *position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition)* of each applicant, and *recruitment source*. **Corrective action required.**

Corrective Action #3: Use and maintain an applicant/candidate log or tracking system which, at minimum, includes the *position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition)* of each applicant, and *recruitment source*. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.

IV. CAREER COUNSELING:

Determination: The agency is in partial compliance with the standards for this subject area.

9. Designate a professional (may be referred to as the Career Counselor) with appropriate training, knowledge and familiarity with career opportunities in City government to provide

career counseling to employees upon request. Remind employees of the identity/type of guidance available from the Career Counselor at least once each year.

- ✓ The agency reported that the Deputy Commissioner (principal EEO professional) also functioned as the agency's Career Counselor during the period in review.
 - The agency did not provide documentation, or correspondence, which identifies the Deputy Commissioner as the individual responsible for providing career counseling to employees upon request; or demonstrate that the Deputy Commissioner had appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling. **Corrective action is required.**

Corrective Action #4: Ensure that the professional designated as the Career Counselor has appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling. Remind employees of the identity/type of guidance available from the Career Counselor at least once each year.

10. The Human Resources Professional distributes the identity of the agency Career Counselor and ensures that all employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings; ensures that all new employees are advised of the EEO policies, their rights and responsibilities under such policies and the discrimination complaint procedures; informs the principal EEO Professional of the number of 55-a program participants and efforts the agency has made to employ, promote or accommodate qualified individuals with disabilities; involves the principal EEO Professional in EEO-related matters; and promptly consults with the principal EEO Professional if informed of, or suspects that a violation of the EEO Policy has occurred.
- ✓ During the period in review, the Deputy Commissioner (the agency's principal EEO professional and Career Counselor) ensured that employees were advised of the EEO policies, their rights and responsibilities under such policies and the discrimination complaint procedures via the distribution of the agency's *New Hire Package* (see §1.2).

NOTE: The agency reported no 55-a program participants or EEO complaints during the period in review.

- The agency did not demonstrate that the principal HR professional ensured all employees had access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings; informed the principal EEO Professional of the number of 55-a program participants and efforts the agency has made to employ, promote or accommodate qualified individuals with disabilities; or involved the EEO professional in EEO-related matters. **Corrective action required.**

Corrective Action #5: Ensure that employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings; ensure that the principal HR professional informs principal EEO Professional of

the number of 55-a program participants and efforts the agency has made to employ, promote or accommodate qualified individuals with disabilities; involves the EEO professional in EEO-related matters.

**V. EEO AND REASONABLE ACCOMMODATIONS FOR EMPLOYEES/
APPLICANTS FOR EMPLOYMENT WITH DISABILITIES:**

Determination: The agency is in compliance with the standards for this subject area.

11. Ensure that information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures is made available in appropriate alternative formats (i.e., large print, audio tape and/or Braille) upon request to employees and applicants for employment with disabilities.
 - ✓ The agency indicated, via the *Availability of EEO Policies in Alternative Formats [for Employees, Applicants for Employment, with Disabilities]* form, its commitment to providing the information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures, in all appropriate alternative formats, upon request, to employees and applicants for employment with disabilities
12. Document reasonable accommodation requests and their outcomes.
 - ✓ The agency adhered to the *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies [2005]*, which stated that “All inquiries, complaints, requests, mediation efforts, investigations, requests for accommodation and their outcomes will be documented by the EEO office.” The agency reported no requests for reasonable accommodation during the period in review.

VI. RESPONSIBILITY FOR EEO PLAN IMPLEMENTATION - EEO PROFESSIONALS:

Determination: The agency is in partial compliance with the standards for this subject area.

13. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. The principal EEO Professional is trained and knowledgeable regarding city, federal and state EEO laws; the requirements of the agency’s EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination complaints.
 - ✓ The agency designated the Deputy Commissioner as the principal EEO professional. On May 1, 2012, the agency advised employees of the name and contact information of the principal EEO professional via the agency EEO Policy Memo (see §1.2); additionally, the name and contact information of the principal EEO professional were distributed to new employees upon hire, along with the agency’s EEO Policy Memo (see §1.2).
14. Ensure that EEO professionals are trained in EEO laws and procedures and know how to carry out their responsibilities under the EEO Policy.

✓ The Deputy Commissioner completed the following training: Department of Citywide Administration Services (DCAS) *Diversity and Equal Employment Opportunity Basic Training* (completed November 3, 2011); Administrative Judicial Institute's training *Basic Mediation Skills for EEO Professionals* (completed April 25, 2012), and the DCAS *Training on Effective Complaint Investigations and How to Handle Challenging Situations* (completed May 1d7, 2012). Prior to the period in review, the agency appointed an assistant EEO professional (agency Investigator) to aide in carrying out EEO related duties. The assistant EEO professional completed the DCAS *Basic Training for Equal Employment Opportunity Representatives* on September 23, 2008.

15. The principal EEO professional reports directly to the agency head (or an approved direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities.

✓ The agency reported that the Deputy Commissioner (agency's principal EEO professional) reported directly to the Commissioner in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities. This reporting relationship was reflected in the agency's organizational chart.

16. To ensure the integrity and continuity of the EEO Program, maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.

- The agency did not demonstrate that, during the period in review, it maintained appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel), and the principal EEO professional regarding decisions that impact the administration and operation of the EEO program. **Corrective action required.**

Corrective Action #6: Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.

VII. RESPONSIBILITY FOR EEO PLAN IMPLEMENTATION – SUPERVISORS/MANAGERS:
Determination: The agency is not in compliance with the standards for this subject area.

17. Establish and administer an annual managerial/non-managerial performance evaluation program to be used for probationary periods, promotions, assignments, incentives and training.

- The agency did not establish an annual managerial/non-managerial performance evaluation program, or conduct annual managerial/non-managerial performance evaluations during the period in review. **Corrective action is required.**

Corrective Action #7: Establish and implement an annual managerial/non-managerial performance evaluation program (with timetable) to be used for probationary periods, promotions, assignments, incentives and training.

18. The managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

- The agency did not rate managers on implementing EEO related responsibilities. **Corrective action is required.**

Corrective Action #8: Ensure that the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

VIII. **REPORTING STANDARD FOR AGENCY HEAD:**

Determination: The agency is **not in compliance** with the standards for this subject area.

19. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports² (up to 30 days following each quarter) on efforts to implement the plan.

- During the period in review the agency did not submit an Annual Plan of measures and programs to provide equal employment opportunity or quarterly reports on efforts to implement the plan. **Corrective action is required.**

Corrective Action #9 Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports² (up to 30 days following each quarter) on efforts to implement the plan.

After implementation of the EEPC's corrective actions, if any:

20. The agency head distributes a memorandum informing employees of the changes implemented in the EEO program pursuant to the EEPC's audit/analysis and re-emphasizing the agency head's commitment to the EEO program.

Final Action: Distribute a memorandum signed by the agency head informing employees of the changes implemented in the EEO program pursuant to the EEPC's audit/analysis and re-emphasizing the agency head's commitment to the EEO program.

² Submission of Quarterly Reports on EEO Activity is optional for non-Mayoral agencies.

Conclusion

The agency has 9 required corrective action(s) at this time.

Pursuant to Chapter 36 of the New York City Charter, your agency has the *option* to respond to this *preliminary determination*, but must respond to our Final Determination if corrective action is required.

Optional Response to preliminary determination: If submitted, your optional response should indicate, with attached documentation, what steps your agency has taken or will take to implement the prescribed corrective actions, and must be received in our office within 14 days from the date of this letter. No extensions will be granted for the *option* to respond to the *preliminary determination*.

(Optional Conference) During the Optional Conference, we will discuss the immediate steps your agency should take and address questions regarding your agency's implementation of the prescribed corrective action(s). *(No Response Option)* If your agency does not respond to this preliminary determination within 14 days, it will become the EEPC's Final Determination. *Mandatory Response to Final Determination:* Following this preliminary determination, the EEPC will issue a Final Determination where we may modify or eliminate the corrective actions based on verified information; identify remaining action which requires further monitoring in order to ensure implementation; and assign a mandatory compliance-monitoring period of up to 6 months for this purpose. Pursuant to Chapter 36 of the New York City Charter your agency must respond to our Final Determination within 30 days. Your response to the Final Determination will initiate the compliance monitoring period.

In closing, we want to thank you and your staff for the cooperation extended to the Equal Employment Practices Commission's EEO Program Analysts during the course of our audit and analysis.

Respectfully Submitted by,



Nathan P. Conway, EEO Program Analyst

Approved by,



Charise L. Terry, PHR
Executive Director

c: Joy Thompson, Esq., Deputy Commissioner/Principal EEO Professional

FINAL DETERMINATION
6/9/2016

Appendix - 1

Office of the New York County Public Administrator

Statistical Profile of Agency Workforce
(End of audit period)

Attachment: Statistical Profile of Agency **FINAL DETERMINATION**
 Beginning and End of Audit Period **6/9/2016**

Agency: 941

# Employees	Beginning of Audit Period 07/01/2012	End of Audit Period 12/03/2015
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Male	8	8
Female	10	10

White	7	6
Black	7	8
Hispanic	1	1
Asian	3	3
Native American	0	0
Unknown	0	0

Total # of Employees	18	18
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**EQUAL EMPLOYMENT PRACTICES COMMISSION
CITY OF NEW YORK**

RESOLUTION #2016/941: Final Determination pursuant to the Audit: Review, Evaluation and Monitoring of the Office of the New York County Public Administrator's Employment Practices and Procedures through July 1, 2016.

Whereas, pursuant to Chapter 36, Section 831(d) (2) and (5) of the New York City Charter, the Equal Employment Practices Commission is authorized 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, and to make recommendations to city agencies to insure equal employment opportunity for minority group members and women; and

Whereas, pursuant to Chapter 36, Section 831(d)(2), this Commission has adopted *Uniform Standards for EEPC Audits* and *Minimum Equal Employment Opportunity Standards for Community Boards* 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 women, minorities, and other employees and job applicants identified for protection from discrimination in employment within municipal government; and

Whereas, pursuant to its audit of the Office of the New York County Public Administrator's (PANY) Employment Practices and Procedures, the Equal Employment Practices Commission (EEPC) issued a Preliminary Determination letter, dated May 25, 2016, setting forth findings and the following required corrective actions:

1. Ensure that the principal EEO professional and HR Professional review the agency's statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender), employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to correct deficiencies (e.g. underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.
2. Ensure that human resources professionals, managers, supervisors, and other personnel involved in recruiting and hiring are trained to consider EEO laws/policies and use uniform, job-related techniques to identify, interview and select the most capable candidates (e.g. structured interview training or guide).
3. Use and maintain an applicant/candidate log or tracking system which, at minimum, includes the position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition) of each applicant, and recruitment source. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.

4. Ensure that the professional designated as the Career Counselor has appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling. Remind employees of the identity/type of guidance available from the Career Counselor at least once each year.
5. Ensure that employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings; ensure that the principal HR professional informs principal EEO Professional of the number of 55-a program participants and efforts the agency has made to employ, promote or accommodate qualified individuals with disabilities; involves the EEO professional in EEO-related matters.
6. Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.
7. Establish and implement an annual managerial/non-managerial performance evaluation program (with timetable) to be used for probationary periods, promotions, assignments, incentives and training.
8. Ensure that the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).
9. Distribute a memorandum signed by the agency head informing employees of the changes implemented in the EEO program pursuant to the EEPC's audit/analysis and reemphasizing the agency head's commitment to the EEO program.

Whereas, the agency did not submit a response to the EEPC's Preliminary Determination letter within 14 days from the date of its issuance, and consistent with the audit protocol referenced therein, the Preliminary Determination became Final; and

Whereas, in accordance with Chapter 36, Section 832(c) of the New York City Charter, the EEPC issued the Final Determination on June 8, 2016, which indicated that corrective actions nos. 1 through 9 require compliance monitoring; and

Whereas, in accordance with Chapter 36, Section 832 (c) of the City Charter, the EEPC is required to monitor the agency for a period not to exceed six months, from July, 2016 through December, 2016, to determine whether it implemented remaining required corrective actions; and

Whereas, in accordance with Chapter 36, Section 832 (c) of the City Charter, the agency is required to respond in 30 days and make monthly reports thereafter to the Commission on the progress of implementation of such corrective actions; and

Whereas, all of the EEPD's corrective actions are required by, or are consistent with, federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination in employment within municipal government; Now Therefore,

Be It Resolved, that the Commission will forward this Final Determination to Dahila Damas, Public Administrator of the Office of the New York County Public Administrator.


Approved unanimously on June 16, 2016.



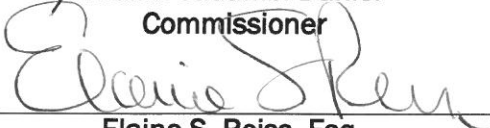
Angela Cabrera
Commissioner



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Commissioner



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naconway@eepc.nyc.gov; joythompson@nycountypa.nyc.gov

Via E-Mail

Charise L. Terry, PHR
Executive Director
253 Broadway, Suite 602
New York, NY 10007

Re: Response to 2016 EEPC Final Determination

Dear Ms. Terry:

The Equal Employment Practices Commission (EEPC) recently completed its Audit of this Agency's compliance with the City's Equal Employment Opportunity Program. The auditors looked at our current practices to ascertain how the agency is addressing Equal Employment Opportunity (EEO) issues. We are pleased to learn that EEPC found our agency in compliance or partial compliance in several areas of our operation, including EEO training for the agency. The Audit found that this Agency has nine (9) required corrective actions at this time. Each is enumerated below followed by our responses:

III. EMPLOYMENT PRACTICES (Recruitment, Hiring & Promotion):

Determination: The agency is in partial compliance with the standards for this subject area.

Corrective Action #1: Ensure that the principal EEO professional and HR Professional review the agency's statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender), employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to correct deficiencies (e.g. underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.

Agency Response to Corrective Action #1: The Public Administrator – New York County (PANY) is a small, non-mayoral agency with a diverse staff of 18 employees, including myself and Deputy Commissioner Joy Thompson. I serve as PANY's principal HR professional, and the Deputy Commissioner serves as PANY's principal EEO professional. Together, we are committed to maintaining fair employment practices for all employees and job applicants. We look forward to EEPC's guidance during the compliance-monitoring period on the best ways to annually review PANY's statistical information, employment practices, policies and programs. Once we receive such guidance, we will provide EEPC with such documentation.

Corrective Action #2: Ensure that human resources professionals, managers, supervisors, and other personnel involved in recruiting and hiring are trained to consider EEO laws/policies and use uniform, job-related techniques to identify, interview and select the most capable candidates (e.g. structured interview training or guide).

Agency Response to Corrective Action #2: I and Deputy Commissioner Thompson serve as PANY's human resources professionals, managers and supervisors. Together, we are responsible for PANY's recruitment and hiring. Deputy Commissioner Thompson has already had considerable training in EEO laws/policies, as documented in your audit. In addition, Ms. Thompson recently completed a two-day seminar, sponsored by the U.S. Equal Opportunity Commission and held at New York School of Law (June 21-22, 2016). After Ms. Thompson returned to the office, we discussed the highlights of what she learned at the seminar, and she provided me with copies of her detailed personal notes and the EEO training materials and resources. She was impressed by the panelists and the relevant topics covered by the seminar, including the fair treatment of pregnant employees, the proper use of social media in hiring and monitoring staff, preventing religious and LGBT discrimination in the workplace, and the best practices in mediation, among other relevant topics. Going forward, we are committed to using job-related techniques to identify, interview and select the most capable candidates (such as structured interview training or guidelines). In addition to drawing on the resources from the U.S. EEOC Seminar, we would appreciate advice and access to relevant resources and from the New York City's EEPC and DCAS' Division of Citywide Diversity on creating a structured interview guide for PANY.

Corrective Action #3: Use and maintain an applicant/candidate log or tracking system which, at a minimum, includes the position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition) of each applicant, and recruitment source. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.

Agency Response to Corrective Action #3: Going forward, when considering new hires, PANY will use and maintain an applicant/candidate log or tracking system, which will include the name and title code of the position, the applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition) of each applicant, and recruitment source. We will ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to the Deputy Commissioner, as I am PANY's principal hiring manager.

IV. CAREER COUNSELING:

Determination: The agency is in partial compliance with the standards for this subject area.

Corrective Action #4: Ensure that the professional designated as the Career Counselor has appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling. Remind employees of the identity/type of guidance available from the Career Counselor at least once each year.

Agency Response to Corrective Action #4: Going forward, we will provide documentation that identifies the Deputy Commissioner as responsible for providing career counseling to employees, upon request. Further, we will ensure that the Deputy Commissioner has the familiarity with career opportunities in City government to provide career counseling, and that we remind employees of the identity and type of guidance available at least once each year.

Corrective Action #5: Ensure that employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings; ensure that the principal HR professional informs principal EEO Professional of the number of 55-a program participants and efforts the agency has made to employ, promote or accommodate qualified individuals with disabilities; and involves the EEO professional in EEO related matters.

Agency Response to Corrective Action #5: Currently, we forward to staff members, via e-mail, New York City job postings and civil service testing schedules. We also post job postings on a specific bulletin board, which is accessible to all employees. We will continue to ensure that all employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings. Going forward, as the principal HR professional, I will inform the Deputy Commissioner, the agency's principal EEO professional, of the number of participants in the 55-a Program (the program, pursuant to Section 55-a of the New York Civil Service Law, that allows qualified persons with disabilities to be appointed to competitive civil service positions without having to take the civil service exam). We will discuss the efforts PANY has made to employ, promote or accommodate qualified individuals with disabilities. Further, I will involve the Deputy Commissioner, as the EEO professional, in EEO-related matters.

VI. RESPONSIBILITY FOR EEO PLAN IMPLEMENTATION - EEO PROFESSIONALS:

Determination: The agency is in partial compliance with the standards for this subject area.

Corrective Action #6: Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.

Agency Response to Corrective Action #6: Going forward, I and the Deputy Commissioner will document meetings regarding decisions that impact the administration and operation of PANY's EEO program, beginning with our agency's compliance efforts in response to this audit.

VII. RESPONSIBILITY FOR EEO PLAN IMPLEMENTATION

SUPERVISORS/MANAGERS:

Determination: The agency is not in compliance with the standards for this subject area.

Corrective Action #7: Establish and implement an annual managerial/non-managerial performance evaluation program (with timetable) to be used for probationary periods, promotions, assignments, incentives and training.

Agency Response to Corrective Action #7: I and the Deputy Commissioner have discussed and will be creating an annual performance evaluation program (with timetable) to be used for probationary periods, promotions, assignments, incentives and training. In fact, since my appointment as PANY's Commissioner in September 2015, I have already created incentives and opportunities for employees, such as implementing cross-training among departments and encouraging staff members to become notaries public. (We now have two notaries on the staff, besides Deputy Commissioner Thompson.) We are committed to creating even more incentives for staff development and professional growth.

Corrective Action #8: Ensure that the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

Agency Response to Corrective Action #8: I and the Deputy Commissioner are appointed by – and serve at the discretion of – the Surrogates of New York County (elected judges within the State's Office of Court Administration system). The Surrogates monitor the activities of PANY and our specific job performance regularly. Accordingly, we do not conduct formal managerial performance evaluations of each other, nor can we provide documentation of same.

VIII. REPORTING STANDARD FOR AGENCY HEAD:

Determination: The agency is not in compliance with the standards for this subject area.

Corrective Action #9: Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity.

Agency Response to Corrective Action #9: We are now aware that PANY needs to submit to EEPC an Annual Plan of measures and programs to provide equal employment opportunity. PANY is a small agency, with a low-turnover rate. We appreciate any guidance from the EEPC on creating such an annual plan.

I want to reaffirm that we are committed to ensuring that we prevent discrimination and that all employees are aware of their rights and obligations under the city's EEO policies. We look forward to the EEPC's guidance during the compliance-monitoring period as to how to best implement standards and practices that demonstrate this agency's commitment.

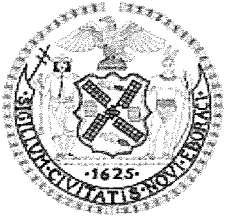
Sincerely,

A handwritten signature in black ink that reads "Dahlia Damas". The signature is written in a cursive style with a large, looping initial "D".

Dahlia Damas

Public Administrator – New York County

cc: Judith Garcia Quiñonez, Marie Giraud, Ilacia Zuell, Nathan Conway and Joy A. Thompson



Public Administrator

County of New York

DAHLIA DAMAS, *Commissioner*

Public Administrator

JOY A. THOMPSON, *Deputy Commissioner*

Deputy Public Administrator

February 14, 2017

MEMORANDUM

TO: PANY Staff

FROM: Dahlia Damas, Public Administrator *DD*

RE: Equal Employment Practices Commission Audit Compliance

The Equal Employment Practices Commission (EEPC) recently completed its 2016 Audit of this office's compliance with the City's Equal Employment Opportunity Program. I am pleased to report that the EEPC found our agency in compliance in all areas of our operation. In response to the EEPC's recommendations, our agency has implemented the following:

- We have begun reviewing our agency's statistical information, employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to correct deficiencies. To facilitate the goal of collecting and reviewing such data, we have created a "PANY Annual EEO Plan for Fiscal Year 2017," which will be reviewed every year, and updated, if necessary. We will also be using the City of New York's E-Hire Program to fill certain staff vacancies.
- In an effort to provide all employees important career guidance, we have provided the staff with information regarding their job responsibilities, and we will be conducting annual employee performance evaluations during the week of June 25, 2017.
- We are making sure that our agency's supervisors and personnel involved in recruiting and hiring are trained to consider EEO laws/policies and use uniform, job-related techniques to identify, interview and select the most capable candidates. I and Deputy Commissioner Joy Thompson have already completed several such training classes, and we will continue to look for opportunities to enhance our skills.

I want to reaffirm our office's commitment to maintaining fair employment practices for all employees and job applicants. The Public Administrator – New York County is an equal opportunity employer, and all employees are encouraged to use the resources available and to address any concerns with myself and EEO Officers Joy A. Thompson and Joseph Gagliardi. We will continue to dedicate ourselves to creating a work environment that tolerates and appreciates differences among employees, and maintaining an atmosphere of appreciation for the diversity that is reflected in our staff.

**EQUAL EMPLOYMENT PRACTICES COMMISSION
CITY OF NEW YORK**

RESOLUTION #2016AP/941C-29: Determination of **Compliance** (Monitoring Period Required) by the Office of the New York County Public Administrator with the Equal Employment Practices Commission's required corrective actions pursuant to the Review, Evaluation and Monitoring of the Office of the New York County Public Administrator's Employment Practices and Procedures from July 1, 2012 to December 31, 2015.

Whereas, pursuant to Chapter 36, Section 831(d)(2) and (5) of the New York City Charter, the Equal Employment Practices Commission is authorized 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, and to make recommendations to city agencies to insure equal employment opportunity for minority group members and women; and

Whereas, pursuant to Chapter 36, Section 831(d)(2), this Commission has adopted *Uniform Standards for EEPC Audits* and *Minimum Equal Employment Opportunity Standards for Community Boards* 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 women, minorities, and other employees and job applicants identified for protection from discrimination in employment within municipal government; and

Whereas, pursuant to its audit and analysis of the Office of the New York County Public Administrator's (NYPA) Employment Practices and Procedures, the Equal Employment Practices Commission (EEPC) issued a Preliminary Determination letter, dated May 25, 2016, setting forth findings and the following required corrective actions:

1. Ensure that the principal EEO professional and HR Professional review the agency's statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender), employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to correct deficiencies (e.g. underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.
2. Ensure that human resources professionals, managers, supervisors, and other personnel involved in recruiting and hiring are trained to consider EEO laws/policies and use uniform, job-related techniques to identify, interview and select the most capable candidates (e.g. structured interview training or guide).
3. Use and maintain an applicant/candidate log or tracking system which, at minimum, includes the position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition) of each applicant, and recruitment source. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.
4. Ensure that the professional designated as the Career Counselor has appropriate training, knowledge and familiarity with career opportunities in City government to provide career

counseling. Remind employees of the identity/type of guidance available from the Career Counselor at least once each year.

5. Ensure that employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings; ensure that the principal HR professional informs principal EEO Professional of the number of 55-a program participants and efforts the agency has made to employ, promote or accommodate qualified individuals with disabilities; involves the EEO professional in EEO-related matters.
6. Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.
7. Establish and implement an annual managerial/non-managerial performance evaluation program (with timetable) to be used for probationary periods, promotions, assignments, incentives and training.
8. Ensure that the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).
9. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports¹ (up to 30 days following each quarter) on efforts to implement the plan.

Whereas, the NYPA did not submit a response to the EEPC's Preliminary Determination letter within 14 days from the date of its issuance, and consistent with the audit protocol referenced therein, the Preliminary Determination became Final; and

Whereas, in accordance with Chapter 36, Section 832(c) of the New York City Charter, the EEPC issued the Final Determination on June 10, 2016, which indicated that corrective actions nos. 1 through 9 require compliance monitoring; and

Whereas, the NYPA submitted its response to the EEPC's final determination letter, on June 29, 2016; and

Whereas, in accordance with Chapter 36, Section 832(c) of the New York City Charter, the EEPC monitored the agency's implementation of the remaining corrective actions from July 2016 - December 2016, with no extension of the monitoring period; and

Whereas, at the EEPC's request pursuant to Section 815.a.(15) of the New York City Charter, the NYPA submitted a copy of the agency head's memorandum to staff dated February 14, 2017, which outlined the corrective actions implemented in response to the EEPC's audit and reiterated his commitment to the agency's EEO Program; and

Whereas, all of the EEPC's corrective actions are required by, or are consistent with, federal, state and local laws, regulations, policies and procedures which are designed to increase equality

¹ Submission of Quarterly Reports on EEO Activity is optional for non-Mayoral agencies.

of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination in employment within municipal government; Now Therefore,

Be It Resolved, that the Office of the New York County Public Administrator has implemented the required corrective actions deemed necessary to ensure compliance with the equal employment opportunity standards of this Commission and requirements of Chapters 35 and 36 of the City Charter.

Be It Resolved, that the Commission approves issuance of the Determination of Compliance to Public Administrator Dahlia Damas, of the Office of the New York County Public Administrator.

Approved unanimously on February 16, 2017.



Angela Cabrera
Commissioner



Arva Rice
Commissioner



Malini Cadambj Daniel
Commissioner



Elaine S. Reiss, Esq.
Commissioner (Absent)



Angela Cabrera
Malini Cadambi Daniel
Elaine S. Reiss, Esq.
Arva R. Rice
Commissioners

Charise L. Terry, PHR
Executive Director

Judith Garcia Quiñonez, Esq.
Executive Agency Counsel/
Deputy Director

253 Broadway
Suite 602
New York, NY 10007

212. 615. 8939 tel.
212. 615. 8931 fax

BY MAIL AND EMAIL

February 16, 2017

Dahlia Damas
Public Administrator
New York Public Administrator's Office
31 Chambers Street, Suite 311
New York, New York

Re: Resolution #2016AP/941C-29: Determination of Agency Compliance

Dear Public Administrator Damas:

On behalf of the members of the Equal Employment Practices Commission (EEPC or Commission), I want to inform you that the Commission has issued the attached Determination of Compliance to the Office of the New York County Public Administrator. This Commission has determined that the Office of the New York County Public Administrator has implemented the required corrective actions deemed necessary by this Commission for ensuring a fair and effective affirmative employment program of equal opportunity as required by the equal employment opportunity standards of this Commission and Chapters 35 and 36 of the New York City Charter.

On behalf of this Commission, I want to thank you and Deputy Public Administrator Joy Thompson, Esq., for the cooperation extended to the EEPC during the compliance-monitoring period.

Sincerely,


Malini Cadambi Daniel
Commissioner

c: Joy Thompson Esq., Deputy Public Administrator/Principal EEO Professional

EEPC

EQUAL EMPLOYMENT PRACTICES COMMISSION



This

Determination of Compliance

is issued to

Office of the New York County Public Administrator

*for successfully implementing 9 of 9 required corrective actions pursuant to the Equal Employment Practices Commission's
Employment Practice and Procedures Audit From July 1, 2012 to this date.*

On this 16th day of February in the year 2016,

Malini Cadambi Daniel, Commissioner

Charise L. Terry, PHR, Executive Director

*In care of Public Administrator Dahlia
Damas and Principal EEO Professional
Joy Thompson, Esq.*