

01-11-05 RCYD 8738



THE CITY OF NEW YORK
DEPARTMENT OF SMALL BUSINESS SERVICES

ROBERT W. WALSH
COMMISSIONER

October 28, 2005

Ernest F. Hart, Esq.,
Chair
Equal Employment Practices Commission
40 Rector Street, 14th Floor
New York, New York 10006

Re: Final Determination Pursuant to the Audit of the Department of Small Business Services (SBS) and its Compliance with the City's Equal Employment Opportunity Policy from July 1, 2002 through June 30, 2004.

Dear Mr. Hart:

In response to your Letter of Final Determination dated September 22, 2005, set forth below please find SBS's responses to your recommendations.

Recommendation #1 (EEPC has expressed partial agreement):


A "Complaint of Discrimination" intake form should be given to all complainants and used when an internal complaint is filed. (Sect. 12(a), DCPIG)

EEPC Rationale

Your response does not address the recommendation. Specifically it does not indicate that SBS's "Complaint Information Form" will be used in instances where there is an EEO Complaint.

SBS's Response:

SBS agrees to use its "Complaint Information Form" in instances where there are also EEO complaints.

 **Recommendation #2 (EEPC has expressed partial agreement):**

Each complaint file should contain a Notice of Discrimination Complaint form to notify the respondent of the allegations being made. (Sect. 12(b), DCPIG)

EEPC Rationale

SBS should either create a letter to be used specifically for discrimination complaints by city employees, or use the Notice of Discrimination Complaint form provided in the DCPIG.

SBS's Response:

SBS uses a letter to notify respondents when an EO complaint is made against them. SBS will also use this letter for its EEO complaints in the future.

Recommendation #3 (EEPC has expressed partial agreement):

The EEO Officer should submit a confidential written report to the agency head. The report should consist of the 3 sections outlined in the DCPIG: (1) Findings of Facts, (2) Discussion and Conclusion (sic) and (3) Recommendations.

EEPC Rationale

Pursuant to the DCPIG, upon the conclusion of a complaint investigation, the EEO Officer should submit a confidential written report that consists of 3 sections ((1) Findings of Facts, (2) Discussion and Conclusion and (3) Recommendations) to the agency head. Based on your response it is unclear whether or not you agree to implement the corrective action.

SBS's Response:

SBS agrees that it will submit a confidential written report consisting of the aforementioned sections to the agency head.

Recommendation #4 (EEPC has expressed partial agreement): *disagreed*

The agency head must sign each report to indicate that it has been reviewed and whether the recommendation, if any, is approved and adopted. (Sect. 12(b), DCPIG)

EEPC Rationale

Your response does not indicate if you will implement the recommendation. In accordance with Section 12(b) of the Discrimination Complaint Procedure Implementation Guidelines, the agency head must sign each written report to indicate that it had (sic) been reviewed and whether the recommendation, if any is approved and adopted.

SBS's Response:

SBS agrees to implement the aforementioned recommendation. The agency head will sign each written report to indicate that it has been reviewed and whether the recommendation, if any has been approved and adopted.

Additional Action:

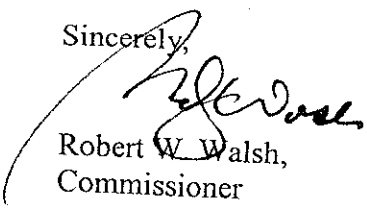
The Commission requires that the agency head distribute a memorandum to all staff informing them of the changes that are being implemented in the agency's EEO program pursuant to the audit and re-emphasizing the agency head's commitment to the agency's Equal Employment Opportunity Program. We accept the draft memo submitted with your response. Your letter should be sent to employees at the end of the compliance period.

SBS's Response:

SBS agrees to distribute the aforementioned memorandum at the end of the compliance period.

In conclusion, I respectfully submit this letter as our response to your findings and look forward to working with your office in improving our agency's cultural diversity and awareness.

Sincerely,


Robert W. Walsh,
Commissioner