



## EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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July 5, 2005

Verna Eggleston  
Administrator/Commissioner  
Human Resources Administration  
180 Water Street  
New York, New York 10038

Re: Final Determination Pursuant to the Audit of the Human Resources Administration (HRA) and its Compliance with the City's Equal Employment Opportunity Policy from July 1, 2001 to December 31, 2003.

Dear Commissioner Eggleston:

Thank you for your June 13, 2005 response to our Letter of Preliminary Determination pursuant to the audit of compliance by the Human Resources Administration with the City's Equal Employment Opportunity Policy from July 1, 2001 to December 31, 2003.

As previously noted, in January 2005 the current administration's Equal Employment Opportunity Policy (EEOP) was disseminated. To avoid any inconsistency with the mandates set forth in the new EEOP, there are a few findings based on the old policy which have no accompanying recommendation. Numbers one and three of HRA's response refer to findings where there were no recommendations. The EEPC will not, therefore, "agree" or "disagree" with those specific responses.

Additionally, this Commission is authorized by Section 831 of the City Charter to recommend all necessary and appropriate actions to ensure fair and effective affirmative employment programs for minority group members and women. Accordingly, all recommendations for corrective actions are consistent with the audit's findings, the EEOP, and this Commission's authority.

After reviewing your response, our Final Determination is as follows:

**Agree**

The EEPC agrees with your responses to the following recommendations, pending documentation, which can be provided during the compliance period:

**Recommendation #1**

All employees should be informed in writing of the name, location and telephone number of the EEO Officer.

**Recommendation #2**

HRA should conduct a survey to ensure that all facilities are accessible for persons with disabilities and inform the EEO Officer of the results. (Sect. IIB, EEOP)

**Recommendation #4**

All internal investigative reports must be labeled “confidential” in large bold print. (DCP, Sect. 12(b))

**Further Clarification**

The EEPC requires further clarification of your responses to the following recommendations:

**Recommendation #3**

All internal complaint files should contain letters to the parties informing them of the resolution of the complaint. (Guidelines for the Implementation of the City of New York’s Discrimination Complaint Procedures, Section 12 (b))

**Your Response**

*The Commissioner has mandated, since this finding that written follow-up be a component of the EEO Officer’s performance evaluation.*

**EEPC Rationale**

The EEPC seeks a proactive response to this recommendation. While we agree that it is necessary that this task be incorporated in the EEO Officer’s performance evaluation, we recommend that you immediately disseminate a directive emphasizing the importance of written follow-ups to the parties.

**Recommendation #14**

HRA should develop a plan, which includes a timeframe, to train new and existing EEO Liaisons/Personnel Officers who have not already received necessary EEO training. (Sect. VB, EEOP)

Your Response

*There is only one EEO Liaison who needs to complete the EEO Professional Training and who is currently on DCAS' training schedule.*

EEPC Rationale

The audit indicated that four of the EEO Liaisons had not been trained. This finding was not disputed at the audit exit meeting. What is the status of the other three EEO Liaisons?

**Disagree**

The EEPC disagrees with your responses to the following recommendations:

Recommendation #5

The Commissioner should require the Human Resources Director to include the EEO Officer in the recruitment process. (Sect. VC, EEOP)

Your Response

*It is HRA's policy that all forms of outreach are used in recruitment advertisement including recruitment flyers via the Civil Service process.*

EEPC Rationale

Your response does not address the recommendation. The EEOP requires involvement of the EEO Office in recruitment for, and advertising of, vacancies in discretionary positions.

Recommendation #6

Since the EEOP requires City agencies to conduct adverse impact studies to determine if certain selection devices adversely impact any particular racial, ethnic, disability or gender group, HRA should secure the necessary training to conduct adverse impact studies, either from DCAS or another appropriate source. (Sect. IV, EEOP)

Your Response

*DCAS functions as the City's official personnel officer. In that capacity, DCAS has the responsibility of conducting adverse impact studies for the agencies under supervision. To date, DCAS has not disseminated any additional required postings, nor have they scheduled training on how to conduct adverse impact studies.*

EEPC Rationale

The EEOP clearly states that agencies are responsible for assessing the manner in which candidates are selected and promoted to determine if there is any adverse impact on any particular racial, ethnic, disability or gender group. Moreover, DCAS has arranged for some training for EEO Officers in this area, specifically in October 2004 at the New York City Law Department.

Recommendation #7

HRA should inform all employees in writing of the identity, location and telephone number of the Career Counselor. This information should also be updated on the agency's bulletin boards. (Sect. VB, EEOP)

Your Response

*Contrary to the report, HRA is indeed in compliance with the requirement that all staff be made aware of the identity and functions of the EEO Officer and the agency's Career Counselor. The identities of these persons, along with a description of their responsibilities is disclosed to staff at new employee orientation as well as being posted on employee bulletin boards in common areas; specifically in the pantries and in restroom entrance areas as well as the agency's intranet. Therefore we agree with this finding and believe that HRA is in compliance with the requirement to make the policies and identity of the associated officers available to staff.*

EEPC Rationale

While we don't question that HRA has made efforts to comply with this requirement, ninety-one percent of the employees surveyed were not aware of which individual is responsible for career counseling.

Recommendation #8

Supervisors should be informed that they will be rated on EEO Performance. (Sect. VE, EEOP)

Your Response

*HRA disagrees with this finding and recommendation, as the premise upon which they are based is false. To begin with, there is no such reference to EEO performance in Section VI of the Managerial Performance Evaluation form. Therefore requiring that they be accountable for this activity is inappropriate; and the agency does not award merit increases. The processing of promotions do, in fact, require the submission of a performance evaluation with the exception of those made from civil service lists, but EEO performance is not a consideration for these actions. It is not within HRA's authority to establish or negotiate citywide personnel policy. Consequently, the EEPC must convey their requirement that EEO performance be included in performance evaluations to DCAS and the NYC Office of Labor Relations.*

EEPC Rationale

The managerial evaluations, as provided by DCAS, address EEO performance in the section entitled "Utilizing Human Resources" (which is actually Section IV, we erroneously referred to this as Section VI in the Preliminary Determination.) Agencies have the discretion to enhance this section to more specifically address EEO Performance.

The EEOP very clearly requires supervisors and managers to perform their responsibilities in a non-discriminatory manner, be accountable to the agency head for effectively implementing EEO-related policies, and to cooperate with the EEO Officer in the implementation of EEO policies and standards; (Section VE, EEOP) therefore, EEO performance of supervisors and managers should be considered in discretionary promotions.

Recommendation #9

It is the Commission's position that appropriate documentation of meetings and other communications between the EEO Officer and direct report to the agency head regarding EEO decisions should be maintained.

Your Response

*We disagree with this observation and subsequent recommendation. While regular meetings between the levels of supervision are necessary and critical to the proper management of an*

*organization, the Agency is not aware of any law, rule, or regulation which requires that every meeting and the contents therefore between a manager-supervisor and her subordinate(s) be memorialized.*

*EEPC Rationale*

As discussed at length in the Audit Exit Meeting, this recommendation calls for memorializing EEO “decisions,” not “every meeting and the contents.” We are confident that the usefulness of this recommendation will be apparent, as your EEO Office is currently in a state of transition.

Recommendation #10

It is the Commission’s position that at least twice a year during regular staff meetings, supervisors should emphasize their commitment to the agency’s EEO policies and affirm the right of each employee to file a discrimination complaint with the EEO Office.

*Your Response*

*The Agency has an enviable and pro-active record of enforcing its zero tolerance policy towards unlawful discriminatory practices.*

*EEPC Rational*

Your response does not address the recommendation. The EEOP requires supervisors and managers to make efforts to maintain a work environment that fosters sensitivity and respect and be accountable for effectively implementing EEO-related policies.

Recommendation #11

HRA should notify all staff that the EEO Policies are available on the agency intranet. Staff should be further instructed on how to access the policies on line.

*Your Response*

*As the Agency’s EEO policies are updated, they are made available to all staff through distribution on line, regular staff trainings, distribution of hard copies, and during staff orientation.*

*EEPC Rational*

Your response does not address the recommendation. The audit indicated that 50% of the supervisors interviewed were not aware that they could access the EEO Policies on the agency intranet.

Recommendation #12

HRA should replace the EEO Trainer so there can be two full time Counselors/Investigators in addition to the EEO Officer.

*Your Response*

*The staffing of the Agency’s EEO office is constantly under review and subject to modification based on the Agency’s needs.*

*EEPC Rational*

Given the size of your agency (14,205 employees at the end of the audit period), we reiterate the importance of this recommendation.

Recommendation #13

As reflected in the agency specific plan, the EEO Coordinator should be performing EEO related matters.

Your Response

*The staffing of the Agency's EEO office is constantly under review and subject to modification based on the Agency's needs.*

EEPC Rationale

Your response does not address the recommendation.

Recommendation #15

The EEO Officer should meet at least quarterly with the Personnel Officers.

Your Response

*The agency's Personnel Officers provide administrative support to the agency's various programs; and when they act as liaison to the EEO office, they consult with and act under the direct guidance of the Agency's EEO officer.*

EEPC Rationale

Your response does not address the recommendation.

Recommendation #16

The EEO Officer should develop written tasks and/or responsibilities expected of the Personnel Officers/EEO Liaisons.

Your Response

*The agency's Personnel Officers provide administrative support to the agency's various programs; and when they act as liaison to the EEO office, they consult with and act under the direct guidance of the Agency's EEO officer.*

EEPC Rationale

Your response does not address the recommendation.

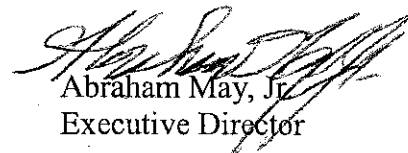
**Conclusion**

Pursuant to section 832 of the New York City Charter, this Commission will initiate an audit compliance procedure not to exceed six months. However, you may respond in writing to the aforementioned determination prior to the initiation of audit compliance.

If you choose to issue a written response, please do so within thirty days. If you choose not to issue a written response, we will initiate audit compliance in the next two weeks. Towards that end, EEPC Counsel Lisa Badner or her designee will contact your EEO Director to ascertain your intentions.

In closing, we want to thank you and your staff for your cooperation during the audit process. We look forward to a mutually satisfactory compliance process.

Sincerely,



Abraham May, Jr.  
Executive Director