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**BY MAIL AND EMAIL**

October 5, 2018

Roy Mogilanski  
Executive Director  
Financial Information Services Agency/  
Office of Payroll Administration  
5 Manhattan West, 4<sup>th</sup> Floor  
New York, NY 10001

Re: Preliminary Determination for Audit: Review, Evaluation and Monitoring of the Financial Information Services Agency/Office of Payroll Administration Sexual Harassment Prevention and Response Practices January 1, 2016 to December 31, 2017.

Dear Executive Director Mogilanski:

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 sexual harassment prevention and response practices for the period covering January 1, 2016 to December 31, 2017.

Chapter 36, Section 831(d)(5) of the New York City Charter empowers this Commission to audit and evaluate the employment practices and procedures of city agencies and their efforts to ensure fair and effective equal employment opportunity for women and minority employees and applicants seeking employment. Sections 831(d)(2) and 832(c) authorize this Commission to make a determination that any agency's plan, program, procedure, approach, measure or standard does not provide equal employment opportunity, require appropriate corrective action and monitor the implementation of the corrective action it prescribes.

The Financial Information Services Agency/Office of Payroll Administration, 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, other agency of



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 sexual harassment prevention and response practices, not to issue findings of discrimination pursuant to the New York City Human Rights Law. This Commission has adopted *Uniform Standards for EEPC Audits*<sup>1</sup> 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 that 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; 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 that 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 the collection and analysis of the documents, records and data the agency provides in response to the document and information request; responses to the *EEPC Preliminary Interview Questionnaires* (PIQs) for EEO professionals and others involved in EEO program administration; and, if applicable, review of the agency’s *Annual EEO Plans*, *Quarterly EEO Reports* and analysis of *Citywide Equal Employment Database System* (CEEDS) reports.

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, and 55-a Program Coordinators) and others involved in EEO program administration such as the Principal Human Resources Professional are given a three-week deadline to complete and 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.

### **Description of the Agency**

The Financial Information Services Agency (FISA) is “an information technology services center with all the support facilities needed to provide City officials with Citywide financial, payroll and

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

human resources information.”<sup>2</sup> The Office of Payroll Administration (OPA) is “responsible for coordinating matters of payroll policy and procedure among City oversight and line agencies, ensuring City compliance with applicable Federal, State, and City employment tax regulations, distributing and accounting for the City’s payroll, managing the City’s payroll bank accounts and ensuring the integrity, accuracy, and operational effectiveness of payroll systems.”<sup>3</sup> FISA and OPA collocated in 2015 and operate as two separate agencies under a matrix management system to eliminate duplicative processes and departments and to share common agency organizational resources. Under this arrangement the agency’s shared departments and functions include Information Technology, Human Resources and General Counsel. In their shared documents and resources (including letterhead, email addresses, SharePoint, and EEO policies) and by their shared agency head, FISA and OPA are referred to in conjunction as “FISA-OPA”. FISA-OPA may herein be referred to “the agency”. The CEEDS Reports: *Work Force Composition Summary*, attached as Appendices 1 and 2, indicated that the agency’s headcount was 590 employees (431 employed by the Financial Information Services Agency and 159 employed by the Office of Payroll Administration) at the end of the period in review.

## PRELIMINARY DETERMINATIONS AFTER AUDIT AND ANALYSIS-FISA

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

### **FISA: I. ISSUANCE, DISTRIBUTION AND POSTING OF EEO POLICIES:** **Determination: FISA is in compliance with the standards for this subject area.**

1. Issue a Policy Statement or memorandum reiterating commitment to the prevention of sexual harassment annually.
- ✓ In December 2016 and December 2017, a Policy Statement from the agency head was distributed to all FISA-OPA employees by email from OPA’s principal EEO Professional. The December 2017 Policy Statement, entitled *City’s Equal Employment Opportunity Policy*, stated, “[a]s Executive Director, I want to reaffirm our agency’s strong commitment to the principles of diversity, inclusion, and equal employment opportunity and our commitment to maintain fair employment practices for all of its employees, and for all qualified job applicants ... I want to particularly point out that under the City’s EEO Policy, FISA and OPA strictly prohibit sexual harassment as well as any type of discrimination or harassment based on any and all of the protected categories...”
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 Policy that conforms

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<sup>2</sup> “Financial Information Services Agency (FISA)” *Green Book Online*, City of New York, 2015, <http://a856-gbol.nyc.gov/GBOLWebsite/GreenBook/Details?orgId=2878>

<sup>3</sup> “Payroll Administration, Office of (OPA)” *Green Book Online*, City of New York, 2015, <http://a856-gbol.nyc.gov/GBOLWebsite/GreenBook/Details?orgId=2892>

to city, state and federal laws against sexual harassment-- for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

- ✓ During the period in review, FISA-OPA adopted the City of New York's *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies* (EEO Policy), attached as Appendix 3. The EEO Policy included sections on sexual harassment and discrimination complaint investigations; and contained links to the City of New York's *EEO Complaint Procedural Guidelines, City of New York* (EEO Complaint Procedural Guidelines), attached as Appendix 4, and the City of New York's EEO Policy Handbook *About EEO: What You May Not Know* (EEO Policy Handbook). The individual names, EEO titles, telephone numbers, office locations and email addresses of the FISA-OPA EEO professionals were specified in the agency head's 2016 and 2017 Policy Statements and distributions. The 2016 and 2017 Policy Statement distributions requested for all employees to "[p]lease review and familiarize yourselves with the following EEO and Reasonable Accommodation information ... The forms are also available on the FISA/OPA SharePoint site ... The City's EEO Policy and Reasonable Accommodation Policy and Procedures along with information on the 55-a Program can also be obtained from DCAS' EEO website ... Please feel free to contact any of the FISA/OPA EEO Office members listed below if you have any questions." The 2016 and 2017 Policy Statement distributions also provided employees with links to the agency's SharePoint site and the Department of Citywide Administrative Services' (DCAS) EEO website. Contact information (telephone number, address and web address) for the federal, state and local agencies that enforce laws against discrimination was contained in the EEO Policy Handbook. All new employees received copies of the EEO Policy and EEO Policy Handbook during onboarding, and signed a *Receipt of City of New York EEO Policy & Guidelines*, which was maintained in each employee's personnel file.

NOTE: The address listed for the New York City Commission on Human Rights in the EEO Policy Handbook is inaccurate. If the agency chooses to distribute the EEO Policy Handbook, it should include an updated address for the New York City Commission on Human Rights with that distribution.

**FISA: II. EEO TRAINING FOR AGENCY:**

**Determination: FISA is in compliance with the standards for this subject area.**

3. Establish and implement a training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on the prevention of sexual harassment as well as discrimination complaint and investigation procedures.
- ✓ During the period in review and within its *Diversity and Equal Employment Opportunity Plan* (Annual EEO Plan) for fiscal years 2017 and 2018, FISA established plans to train new

employees in EEO via the DCAS Citywide Training Center (CTC) *EEO computer-based training (CBT)* or EEO orientation training. FISA's Annual EEO Plan for fiscal year 2018 also included plans to train all employees in DCAS CTC's *EEO CBT* by May 2018 (refresher training on a rotating basis every two years) and DCAS CTC's *Sexual Harassment Prevention, Sexual Harassment Training* by June 2018 (new DCAS training offering). Training topics in the DCAS CTC *EEO CBT* and EEO orientation training included the prevention of sexual harassment and discrimination complaint and investigation procedures. The FISA *Agency Quarterly Diversity and EEO Reports* (Quarterly EEO Report) on efforts to implement the agency Annual EEO Plans indicated that 453 employees (all FISA employees) completed *EEO CBT* in the fourth quarter fiscal year 2016; 21 new employees completed *EEO CBT* in the first quarter of fiscal year 2017; and 18 new employees completed EEO orientation training and 10 existing employees completed *EEO CBT* in the first and second quarters of fiscal year 2018.

### **FISA: III. COMPLAINT & INVESTIGATION PROCEDURES**

**Summary of Complaint Activity:** The Financial Information Services Agency reported a total of 2 internal and 1 external complaints<sup>4</sup> filed during the period in review. In response to the EEPC's request, the agency submitted the last two, completed, internal EEO complaint files, complaint Nos. 127-2016-00001 and 127-2017-00003. The following findings are based on the examination of these complaint files and, wherever applicable, the agency's forms, policies and procedures are used to measure compliance with the standard.

**Determination:** FISA is in partial compliance with the standards for this subject area.

4. Include in the complaint file a completed Complaint Intake Form, or a written complaint that captures facts (including pertinent dates) that identify the respondent(s) with reasonable specificity and provide the essence of the circumstances which gave rise to the complaint.
- ✓ EEO complaint files Nos. 127-2016-00001 and 127-2017-00003 each contained a completed *Financial Information Services/ Office of Payroll Administration Complaint of Discrimination* intake form, which captured facts (including pertinent dates) that identified the respondent(s) with reasonable specificity and provided the essence of the circumstances which gave rise to the complaint.
5. Provide the option to file a complaint anonymously.
- ✓ The option to file a complaint anonymously was communicated to employees via the EEO Complaint Procedural Guidelines, EEO Policy Handbook, and via the EEO CBT. Section C of the EEO Complaint Procedural Guidelines explicitly stated, "[t]he person making the complaint may do so anonymously."
6. Serve the respondent with a notice of the complaint that includes the respondent's right to respond to the allegations and right to be accompanied by a representative of his/her choice.

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<sup>4</sup> Two of the three complaints (approximately 67%) were based on sexual harassment claims.

Maintain in the complaint file documentation regarding the service of notice on the respondent.

- ✓ EEO complaint files Nos. 127-2016-00001 and 127-2017-00003 each contained a copy of a *Notice of Discrimination Complaint* served on the respondent. The *Notice of Discrimination Complaint* informed each respondent of the option to respond to the allegations and right to be accompanied by a representative of his/her choice.
- 7. Issue/maintain written confirmation when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office.
- ✓ Because EEO complaint files Nos. 127-2016-00001 and 127-2017-00003 were not withdrawn, terminated, or resolved by agreement of the parties or EEO Office, the EEO Policy and EEO Complaint Procedural Guidelines were used to measure compliance with this standard. Sections III.C and III.D of the EEO Policy stated, “[a] *complaint of discrimination may be withdrawn at any time by the person who filed the complaint. Withdrawal of a complaint must be made or confirmed in writing... Mediation may be terminated by any party to the mediation. If this occurs, the EEO Officer will inform the other party or parties in writing that the mediation has been terminated.*” In addition, Section D of the EEO Complaint Procedural Guidelines stated, “[i]f the parties agree to a resolution during mediation, a resolution agreement will be drafted and provided to the parties and the referring EEO Officer. The resolution agreement will resolve the pending EEO complaint.”
- 8. Take thorough notes, of words spoken and facts provided, during each interview. Include these notes in each complaint file.
- ✓ EEO complaint files Nos. 127-2016-00001 and 127-2017-00003 each contained typed notes of words spoken and facts provided during each interview.
- 9. Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.
  - Conclusive reports for EEO complaint Nos. 127-2016-00001 and 127-2017-00003 were not issued within 90 days of the date the complaint was filed. Corrective Action Required.

**Corrective Action F.1:** Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.

- 10. In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.

- EEO complaint files Nos. 127-2016-00001 and 127-2017-00003 had conclusive reports issued more than 90 days after the date the complaint was filed, but did not contain notice to the complainant and respondent of the delay, specify the reason for the delay, or project a time frame for completion of the report. Corrective Action Required.

**Corrective Action F.2:** In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.

11. Generate at the end of each complaint investigation, a conclusive confidential report which includes a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head's Review.
  - ✓ Conclusive confidential reports for EEO complaint Nos. 127-2016-00001 and 127-2017-00003 each contained a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination and a recommendation. The agency head's signature within the conclusive reports confirmed the Agency Head's Review.
12. Maintain complaint files in a secure area and ensure that they can be located and reviewed by the agency head, agency general counsel, and other appropriate staff identified by the agency head.
  - ✓ FISA-OPA reported that the FISA complaint files were secured behind a locked door in locked file cabinets in the office of the FISA principal EEO Professional. The FISA principal EEO Professional was in control of the keys to the office and file cabinets. Access to the hard copy complaint files was restricted to EEO staff. Electronic complaint files were maintained on a restricted and secured network of folders only accessible to EEO staff, the FISA-OPA General Counsel and the FISA-OPA Deputy General Counsel. Complaint files were also available to the agency head upon request and partially provided to the agency head and FISA-OPA General Counsel during the course of an investigation at periodic status update meetings. In addition, Section E of the EEO Complaint Procedural Guidelines discussed complaint file record keeping and stated that "[a]ll complaints and related documents, including any investigative notes, records, or copies, are strictly confidential and must be maintained by the EEO Office."
13. Establish and implement a policy whereby the agency head (or an approved direct report other than the General Counsel) reviews the principal investigator's conclusive report; issues a written/electronic determination adopting, rejecting, or modifying the recommended action; and signs each determination, via writing or electronically, to indicate it has been reviewed and adopted.
  - ✓ Section III.E of the EEO Policy established that "[t]he EEO Officer will submit a confidential report of the complaint investigation to the agency head at the conclusion of the

*investigation...The agency head will review the EEO Officer's report and promptly issue a determination adopting, rejecting or modifying the recommended action. Such determination shall be in writing and may be issued electronically."* The agency head's written signature on the principal investigator's conclusive reports for EEO complaint Nos. 127-2016-00001 and 127-2017-00003 indicated that the conclusive report and recommended action were reviewed and adopted.

14. Inform each complainant and respondent of the conclusion and outcome of their complaint investigation in writing as part of the agency's complaint procedure.
  - ✓ The complainants and respondents to EEO complaint Nos. 127-2016-00001 and 127-2017-00003 were notified of the conclusion and outcome of their complaint investigations. Copies of the aforementioned notices were maintained in the respective complaint files. In addition, Section III.E of the EEO Policy stated, "[t]he EEO Officer will advise all parties in writing of the outcome of a complaint."
15. Ensure each internal discrimination complaint file contains a written determination of its outcome and corrective action(s) taken as a result.
  - ✓ EEO complaint files Nos. 127-2016-00001 and 127-2017-00003 each contained a written determination of the complaint outcome and corrective action(s) taken as a result.
16. Notify the complainant and respondent in writing when the investigation by the EEO professional has been transferred because of the filing of an external complaint.
  - ✓ Because EEO complaint files Nos. 127-2016-00001 and 127-2017-00003 were not transferred because of the filing of an external complaint, the agency's EEO Policy was used to measure compliance with this standard. Section III.F of the EEO Policy stated, "[t]he EEO Officer will notify the complainant and the parties who are the subject of the complaint, in writing, that the investigation by the EEO Officer has been transferred because of the filing of the external complaint."
17. Establish and utilize a complaint tracking and monitoring system that permits the agency to identify the location, status, and length of time elapsed in the complaint investigation process, the issues and the bases of the complaints, the aggrieved individuals, and other information necessary to analyze complaint activity to identify trends.
  - ✓ FISA tracked EEO complaints using the *Citywide Equal Employment Database System (CEEDS)* complaint tracking system. Screenshots of *CEEDS* illustrated its ability to capture the following information for each complaint: *Complaint Status, Complainant [Name], Respondent Information, Days Outstanding, [Days] Since Filing, Complaint Type, Complaint Subject(s), Descriptions, Internal Final Disposition, and [Disposition] Date.*
    - Screenshots of the *CEEDS* complaint tracking system did not indicate that *location* for EEO complaints was tracked. Corrective Action Required.

*NOTE: FISA captured Location/Dept for each complaint via the FISA-OPA Summary of Complaints log maintained in addition to CEEDS. The FISA-OPA Summary of Complaints log captured Location/Dept., Status [open/closed], Date Filed, Date Resolved, Length of Time, Basis of Complaint, Complainant Name, Respondent Name and Determination.*

18. Ensure that the General Counsel assists the agency head in identifying and determining appropriate responses to sexual harassment; works with the principal EEO Professional in the implementation of the City's policies and procedures pertaining to sexual harassment; informs the principal EEO Professional when external complaints or litigation involving sexual harassment is brought against the agency; is available to consult on internal sexual harassment complaint investigations; and is responsible for the investigation of, and response to, external sexual harassment complaints.
- ✓ During the period in review, the FISA Deputy Executive Director (DED)/General Counsel became the FISA-OPA General Counsel; the job description for the FISA DED/General Counsel position established that the FISA-OPA General Counsel is to serve as principal legal officer for the agency and counsel to the agency head (which includes assisting in identifying and determining appropriate responses to sexual harassment); represent the agency at administrative hearings such as at the New York State Division of Human Rights and the New York City Commission on Human Rights (which includes the responsibility for the investigation of, and response to, external sexual harassment complaints); and advise the agency on Equal Employment Opportunity activities (which includes the responsibility of consulting on internal sexual harassment complaint investigations). In addition, the FISA-OPA General Counsel also participated in the agency's quarterly review of employment practices, policies and programs (see §IV.19).

**FISA: IV. ANNUAL REVIEW OF PRACTICES, POLICIES AND PROGRAMS**

**Determination: FISA is in compliance with the standards for this subject area.**

19. Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.
- ✓ During the period in review, FISA's principal EEO Professional, FISA-OPA's Principal Human Resources Professional and FISA-OPA's General Counsel reviewed the number of sexual harassment complaints, and the agency's employment practices, policies and programs on a quarterly and annual basis to identify whether there were barriers to employment opportunities (including those that may be related to sexual harassment) and determine what, if any, actions were required to correct deficiencies. EEO reports prepared for the review meetings summarized the following: the number of internal EEO complaints (there were two); the number of external EEO complaints (there was one); EEO inquiries; and EEO and diversity

activities. Representative signed meeting attendance sheets, from fiscal years 2017 and 2018 documented that FISA's principal EEO Professional, FISA-OPA's Principal Human Resources Professional and FISA-OPA's General Counsel were in attendance at these meetings. FISA reported that there were not enough complaints during the audit period to form a statistical anomaly to research; and no barriers or trends were identified for 2016 and 2017.

**FISA: V. RESPONSIBILITY FOR IMPLEMENTATION - EEO PROFESSIONALS**

**Determination: FISA is in partial compliance with the standards for this subject area.**

20. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. Ensure the principal EEO Professional is trained regarding city, state and federal EEO laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination and sexual harassment complaints.
- ✓ During the period in review, FISA's *EEO Officer/Director, HR-Payroll Testing* was FISA's (and FISA-OPA's) principal EEO Professional and completed DCAS CTC's five-day *Basic Diversity & EEO Training* for EEO professionals (June 2011), which covered EEO obligations under city, state and federal EEO laws; the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination complaints. In addition, the FISA principal EEO Professional completed the following DCAS CTC trainings: *Family Medical Leave Act (FMLA) Overview and Q&A Session* (January 2012), *Transgender Awareness* (June 2012), *Effective Complaint Investigations* (September 2012), *Impacting Your Mission: Ensuring that Qualified Applicants with Criminal Records Can Fairly Compete for Employment* (October 2012), *Conflict Resolution Training* (November 2012), *ADA and Reasonable Accommodation* (May 2013), *Workplace Bullying: Session One* (November 2013), *Resolving Interpersonal Conflict Webinar* (February 2014), *Religion in the Workplace* (May 2014), *Structured Interviewing and Unconscious Bias* (February 2015), *EEO Complaint Investigation Procedural Guidelines* (October 2016), *LGBT: Are You Ready for the "T"* (April 2016), and *Disability Etiquette* (November 2016).

NOTE: Subsequent to the period in review, in April 2018, the FISA EEO Counselor in the *Timekeeping Configuration Developer* title (see FISA §V.21) was appointed as FISA EEO Officer (the FISA principal EEO Professional). The current FISA principal EEO Professional completed DCAS CTC's *EEO Complaint Investigation Workshop (2 Days)* in November 2017. (See FISA §V.22.) The course summary and objectives of the *EEO Complaint Investigation Workshop (2 Days)* training were to "review the City's Equal Employment Opportunity (EEO) Policy and its obligations under federal, state and city anti-discrimination laws, policy and procedures; ... the role of the EEO Officer and other agency partners in relation to the City's EEO responsibilities and obligations ... the City's EEO Complaint Procedural Guidelines and develop participants' skills in EEO complaint handling and investigations."

21. Ensure that the responsibilities of the principal EEO Professional are competently discharged by providing adequate resources such as opportunities for continuing education and professional development, and/or support staff to meet EEO obligations.

- ✓ FISA responded affirmatively to the EEPCC's preliminary interview questions that the responsibilities of the principal EEO Professional were competently discharged by *dedicated EEO-related support staff* (see FISA §V.22) and *training on EEO-related laws, policies, procedures and EEO analytics subsequent to appointment* (see FISA §V.20), which included *city, state and federal EEO laws and unlawful discriminatory practices, requirements of the City's EEO policies, standards and procedures, requirements of agency-specific EEO policies, prevention and investigation of sexual harassment, investigation and resolution of discrimination complaints, reasonable accommodation intake and procedures, requirements of the ADA / accessibility of facilities, arbitration and mediation, EEO analytics (utilization analysis, adverse impact, etc.), diversity and inclusion, and unconscious bias.*

During the period in review, support staff to the FISA principal EEO Professional included six (6) EEO Counselors (four (4) from FISA and two (2) from OPA) all of whom were responsible for conducting EEO complaint investigations. FISA-OPA's six (6) EEO Counselors each held a dual title, which included FISA's *Director of Business Process*, FISA's *OS & App. Server Director*, FISA's *Timekeeping Configuration Developer*, FISA's *UNIX Systems Administrator*, OPA's *Personnel Analyst* and OPA's *Systems Integrity Analyst*. During the period in review, FISA-OPA employees were informed by the agency head's Policy Statements that "...the Equal Employment Opportunity Office exists as a resource to provide employees with information and guidance on EEO-related matters, as well as investigating and resolving complaints of discrimination. Any employee who wishes to discuss EEO matters may consult with [one of the FISA-OPA EEO Officers or EEO Counselors]." The names of the FISA-OPA professionals were included in the agency head's Policy Statements.

At the end of the period in review, on December 27, 2017, FISA EEO Counselor/*UNIX Systems Administrator* separated from FISA-OPA and five (5) FISA-OPA EEO Counselors remained.

22. Where the agency's organizational structure necessitates multiple EEO professionals, select such individuals from different office locations and, where possible, from a variety of levels within the organizational structure. Appoint EEO professionals who are trained in EEO laws and procedures and their responsibilities under the EEO Policy.

- ✓ At the end of the period in review, FISA's and OPA's combined workforce totaled 590 employees, who were all collocated. During the period in review, FISA-OPA EEO staff consisted of two (2) EEO Officers and six (6) EEO Counselors from various levels of the organizational structure (see FISA §V.21). However, at the end of the period in review, the FISA-OPA organizational charts indicated five (5) divisions, and an EEO staff consisting of two (2) EEO Officers and five (5) EEO Counselors (see FISA §V.21). DCAS CTC's five-day *Basic Diversity & EEO Training* for EEO professionals was completed by three (3) EEO Counselors (FISA's *Director of Business Process*, FISA's *OS & App. Server Director*, and OPA's *Systems Integrity Analyst*) in June 2011, June 2013, and April 2017, respectively. One (1) EEO Counselor (OPA's *Personnel Analyst*) completed two of five days of the DCAS CTC's *Basic Diversity & EEO Training* for EEO professionals in April and May 2012. (See FISA §V.20 for topics covered in DCAS CTC's *Basic Diversity & EEO Training*.) The remaining EEO Counselor (FISA's

*Timekeeping Configuration Developer*) completed DCAS CTC's *EEO Complaint Investigation Workshop (2 Days)* in November 2017 (see FISA §V.20 for training topics).

- FISA did not demonstrate that during the period in review, each EEO professional responsible for EEO complaint investigations (specifically the FISA *EEO Counselor/UNIX Systems Administrator*) was trained in investigation procedures. Corrective Action Required.

**NOTE:** At the end of the period in review, the FISA *EEO Counselor/UNIX Systems Administrator* separated from the agency. Subsequent to the period in review, the FISA EEO Counselor in the title *Timekeeping Configuration Developer* was appointed as FISA's principal EEO Professional. The number of EEO Counselors was reduced to four (4), three (3) of whom received training on EEO complaint investigation procedures. (See OPA §V.22 for associated corrective action.)

23. Ensure that the principal EEO Professional works cooperatively and closely with the General Counsel in the implementation of policies and procedures concerning EEO and sexual harassment.
- ✓ During the period in review, FISA-OPA's General Counsel and FISA's principal EEO Professional reviewed quarterly EEO reports that summarized the following: the number of internal EEO complaints (there were two); external complaints (there was one); EEO inquiries; and EEO and diversity activities. Attendance at the aforementioned quarterly review meetings was documented the by sign-in sheets.

FISA also reported that its EEO policies were reviewed annually during the fourth quarter review meetings of each fiscal year, and that either the FISA-OPA General Counsel or the FISA-OPA Deputy General Counsel was involved in all aspects of EEO including training (see FISA §III.18 for FISA-OPA's General Counsel responsibilities). In addition, FISA responded affirmatively to the EEPCC's preliminary interview question that the FISA-OPA General Counsel and FISA principal EEO Professional collaborated regarding internal and external complaint investigations and external complaints or litigation.

24. Assign the principal EEO Professional (or EEO-related designee) the responsibility to supervise the activities of EEO professionals, and ensure that: the policies against sexual harassment and complaint procedures are distributed/posted at all agency locations; employees/managers receive sexual harassment prevention training; EEO-related policies are made available in alternative formats (i.e., large print, audio recording and/or Braille) upon request; managers, supervisors and human resource professionals receive guidance on issues pertaining to sexual harassment; and allegations of sexual harassment are promptly investigated.
- ✓ During the period in review, the FISA principal EEO Professional supervised the activities of the FISA EEO professionals (see FISA §V.21 and FISA §V.22) and ensured that the agency's EEO policies and procedures were posted to the agency's SharePoint site accessible by all employees (see FISA §I.2). The agency head's December 2017 Policy Statement also informed

all employees that “[t]he policy can be viewed in larger font sizes and can be heard audibly” and instructed employees to contact a FISA-OPA EEO professional if any of those options were needed. FISA reported that during the period in review no requests for its policies in alternative formats were made. The OPA principal EEO Professional provided guidance on EEO matters (including sexual harassment) via emailed EEO talking points sent to FISA-OPA managers and supervisors for use during their biannual discussions with their staff to review EEO fundamentals (see FISA §VI.27). The FISA principal EEO Professional ensured that all FISA employees received sexual harassment prevention training (see FISA §II.3) and that EEO complaints, including allegations of sexual harassment, were promptly investigated by adherence to the agency’s EEO Complaint Investigation Procedures (see FISA §I.1 and FISA §III).

25. Ensure that the principal EEO Professional reports directly to the agency head (or a direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities.
- ✓ FISA-OPA’s organizational charts from the period in review indicated that the FISA principal EEO Professional and the OPA principal EEO Professional each directly reported to the agency head.
26. Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.
- ✓ Representative invitations, agendas, and attendance sheets from quarterly EEO meetings during the period in review indicate that the FISA principal EEO Professional and agency head met to review FISA’s workforce profile, employment practices and policy, EEO complaints and reasonable accommodation requests. The outcomes of administrative and operational decisions made regarding FISA’s EEO programs, policies and procedures (including those that concern sexual harassment), were documented in the *EEO and Diversity Activities* section of quarterly EEO reports that were reviewed by the FISA principal EEO Professional and the agency head.

**FISA: VI. RESPONSIBILITY FOR IMPLEMENTATION – MANAGERS**

**Determination: FISA is in compliance with the standards for this subject area.**

27. Ensure that managers and supervisors are held accountable for enforcing the agency’s sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.
- ✓ In April 2016, October 2016, May 2017 and November 2017, the OPA principal EEO Professional emailed FISA-OPA managers and supervisors to remind them that each manager was required to meet with staff at least twice annually to review the fundamentals of EEO. The

OPA principal EEO Professional's emails provided discussion points to facilitate the meetings and required documentation of each staff meeting. In 2016, FISA managers were instructed to forward documentation of the managerial EEO discussions to the OPA principal EEO Professional. The OPA principal EEO Professional emailed 82 FISA managers in May 2017 and 83 FISA managers in November 2017 regarding the managerial EEO discussions. Both emails required recipient managers to confirm implementation of the directives via *Survey Monkey* (a link that was provided). Representative emails, *Survey Monkey* responses, and tracking logs of the aforementioned managerial EEO discussions demonstrated implementation of the directives.

28. Ensure 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).
- ✓ FISA-OPA's managerial performance evaluation form contained an EEO rating to assess that "[t]he manager *performed their EEO responsibilities satisfactorily in the previous 12 months... Circle One: Yes No If No, Reason(s)/Corrective Action(s).*" The managerial performance evaluation form also rated managers and supervisors on their compliance with procedures outlined in the agency's EEO Policy and EEO Complaint Procedural Guidelines, which included, "[s]upervisors, managers, or human resources personnel who receive EEO complaints, or who otherwise become aware of any improper discrimination, must notify the EEO Office. Supervisors and managers should also encourage individuals who believe that the City EEO Policy has been violated to consult with an EEO representative. Supervisors and managers are accountable to the agency head for effectively implementing EEO, including cooperating with the EEO Officer in the policy's implementation (training, complaint resolution, accommodations, etc.). Please review the City EEO Policy for a full description of responsibilities of managers and supervisors."

**FISA: VII. REPORTING STANDARD FOR AGENCY HEAD:**

**Determination: FISA is in compliance with the standards for this subject area.**

29. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports<sup>5</sup> on efforts to implement the Plan within 30 days following each quarter. Include a breakout of sexual harassment complaint activity in each quarterly report.
- ✓ FISA submitted to the EEPC its Annual EEO Plans as well as the Quarterly EEO Reports on efforts to implement those plans for all years and quarters of the period in review. A *Summary of EEO Complaints*, or an *Agency Affirmation of No Complaint\Reasonable Accommodation Request Activity* was included in FISA's Quarterly EEO Report submissions for the 3<sup>rd</sup> and 4<sup>th</sup> quarters of fiscal year 2016; 1<sup>st</sup> and 2<sup>nd</sup> quarters of fiscal year 2017; and 2<sup>nd</sup> quarter of fiscal

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<sup>5</sup> Submission of Quarterly Reports on EEO Activity is optional for non-Mayoral agencies.

year 2018. The *Summary of EEO Complaints* included a breakout of complaint activity which identified the aggregate bases for EEO complaints.

- FISA did not include a *Summary of EEO Complaints*, an *Agency Affirmation of No Complaint/Reasonable Accommodation Request Activity*, or a breakout of complaint activity in its Quarterly EEO Reports for the 3<sup>rd</sup> and 4<sup>th</sup> quarters of fiscal year 2017 and the 1<sup>st</sup> quarter of fiscal year 2018. Corrective Action Required.

**NOTE:** Subsequent to the period in review, FISA's Quarterly EEO Report for the 3<sup>rd</sup> and 4<sup>th</sup> quarters of fiscal year 2018 each included a *Summary of EEO Complaints*.

### PRELIMINARY DETERMINATIONS AFTER AUDIT AND ANALYSIS-OPA

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

#### OPA: I. ISSUANCE, DISTRIBUTION AND POSTING OF EEO POLICIES:

**Determination: OPA is in compliance with the standards for this subject area.**

1. Issue a Policy Statement or memorandum reiterating commitment to the prevention of sexual harassment annually.
- ✓ In December 2016 and December 2017, a Policy Statement from the agency head was distributed to all FISA-OPA employees by email from OPA's principal EEO Professional. The December 2017 Policy Statement, entitled *City's Equal Employment Opportunity Policy*, stated, "[a]s Executive Director, I want to reaffirm our agency's strong commitment to the principles of diversity, inclusion, and equal employment opportunity and our commitment to maintain fair employment practices for all of its employees, and for all qualified job applicants ... I want to particularly point out that under the City's EEO Policy, FISA and OPA strictly prohibit sexual harassment as well as any type of discrimination or harassment based on any and all of the protected categories..."
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 Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.
- ✓ During the period in review, FISA-OPA adopted the City of New York's *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies* (EEO Policy). The EEO Policy included sections on sexual harassment and discrimination complaint

investigations; and contained links to the City of New York's *EEO Complaint Procedural Guidelines, City of New York* (EEO Complaint Procedural Guidelines) and City of New York's EEO Policy Handbook *About EEO: What You May Not Know* (EEO Policy Handbook). The individual names, EEO titles, telephone numbers, office locations and email addresses of the FISA-OPA EEO professionals were specified in the agency head's 2016 and 2017 Policy Statements. The 2016 and 2017 Policy Statement distributions requested for all employees to "[p]lease review and familiarize yourselves with the following EEO and Reasonable Accommodation information ... The forms are also available on the FISA/OPA SharePoint site ... The City's EEO Policy and Reasonable Accommodation Policy and Procedures along with information on the 55-a Program can also be obtained from DCAS' EEO website ... Please feel free to contact any of the FISA/OPA EEO Office members listed below if you have any questions." The 2016 and 2017 Policy Statement distributions also provided employees with links to the agency's SharePoint site and the DCAS EEO website. Contact information (telephone number, address and web address) for the federal, state and local agencies that enforce laws against discrimination was contained in the EEO Policy Handbook. All new employees received copies of the EEO Policy and EEO Policy Handbook during onboarding, and signed a *Receipt of City of New York EEO Policy & Guidelines*, which was maintained in each employee's personnel file.

NOTE: The address listed for the New York City Commission on Human Rights in the EEO Policy Handbook is inaccurate. If the agency chooses to distribute the EEO Policy Handbook, it should include an updated address for the New York City Commission on Human Rights with that distribution.

**OPA: II. EEO TRAINING FOR AGENCY:**

**Determination: OPA is in compliance with the standards for this subject area.**

3. Establish and implement a training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on the prevention of sexual harassment as well as discrimination complaint and investigation procedures.
- ✓ During the period in review and within its Annual EEO Plans, OPA established plans to train all employees in the prevention of sexual harassment as well as discrimination complaint and investigation procedures. OPA's Annual EEO Plans for fiscal years 2016 and 2018 included plans to train all employees in DCAS CTC's *EEO CBT* by February 28, 2016 and again in the third and fourth quarter of fiscal year 2018 (refresher training on a rotating basis every two years). OPA's Annual EEO Plan for fiscal year 2018 also included sexual harassment prevention training for the fourth quarter of fiscal year 2018 (new DCAS training offering). In addition, OPA's Annual EEO Plans for fiscal years 2017 and 2018 included plans to train new employees in DCAS CTC's *EEO CBT* within the first two months of employment. Training topics in DCAS CTC's *EEO CBT* included the prevention of sexual harassment and discrimination complaint and investigation procedures. The OPA *Agency Quarterly Diversity and EEO Reports* (Quarterly EEO Report) for all quarters of the period in review indicated that in the fourth

quarter fiscal year 2016, 131 employees (approximately 82% the OPA workforce) completed the *EEO CBT*.

**OPA: III. COMPLAINT & INVESTIGATION PROCEDURES**

**Summary of Complaint Activity:** The Office of Payroll Administration reported a total of 0 internal and 1 external complaints<sup>6</sup> filed during the period in review. As a result, this Commission conducted its analysis of the agency's complaint and investigation procedures based on the policies, procedures and other information provided.

**Determination: OPA is in compliance with the standards for this subject area.**

4. Include in the complaint file a completed Complaint Intake Form, or a written complaint that captures facts (including pertinent dates) that identify the respondent(s) with reasonable specificity and provide the essence of the circumstances which gave rise to the complaint.
  - ✓ The *Financial Information Services/ Office of Payroll Administration Complaint of Discrimination* intake form permitted the agency to capture facts (including pertinent dates) to identify the respondent(s) with reasonable specificity and provide the essence of the circumstances which gave rise to the complaint.
5. Provide the option to file a complaint anonymously.
  - ✓ The option to file a complaint anonymously was communicated to employees via the EEO Complaint Procedural Guidelines, EEO Policy Handbook, and via the EEO CBT. Section C of the EEO Complaint Procedural Guidelines explicitly stated, “[t]he person making the complaint may do so anonymously.”
6. Serve the respondent with a notice of the complaint that includes the respondent’s right to respond to the allegations and right to be accompanied by a representative of his/her choice. Maintain in the complaint file documentation regarding the service of notice on the respondent.
  - ✓ Section III.B of the EEO Policy established that “[a]ny person who is the subject of the complaint will have an opportunity to respond in writing.” Section E of the EEO Complaint Procedural Guidelines stated, “[t]he EEO Office must serve Respondent with a notice of complaint..., [s]chedule a meeting with Respondent, ensuring that Respondent is informed of the right to be accompanied by a representative [and] ... [i]nform Respondent of the right to respond in writing to the complaint.”
7. Issue/maintain written confirmation when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office.

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<sup>6</sup> OPA’s one complaint was not based on sexual harassment claims.

- ✓ Sections III.C and III.D of the EEO Policy stated, “[a] complaint of discrimination may be withdrawn at any time by the person who filed the complaint. Withdrawal of a complaint must be made or confirmed in writing ... Mediation may be terminated by any party to the mediation. If this occurs, the EEO Officer will inform the other party or parties in writing that the mediation has been terminated.” In addition, Section D of the EEO Complaint Procedural Guidelines stated, “[i]f the parties agree to a resolution during mediation, a resolution agreement will be drafted and provided to the parties and the referring EEO Officer. The resolution agreement will resolve the pending EEO complaint.”
8. Take thorough notes, of words spoken and facts provided, during each interview. Include these notes in each complaint file.
- ✓ Section E of the EEO Complaint Procedural Guidelines stated, “[d]uring each interview, take thorough notes, as close to verbatim as possible. Notes should reflect the content of the interview, both the questions and answers, as completely as possible.... All complaints and related documents, including any investigative notes, records, or copies, are strictly confidential and must be maintained by the EEO Office.”
9. Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.
- ✓ Section E of the EEO Complaint Procedural Guidelines stated that “[t]he complaint investigation should begin immediately after a determination that the allegations raised, if true, are sufficient to establish discrimination under the Policy, that the complaint is timely, and that the EEO Office is responsible for investigating the complaint. The complaint investigation should be completed and the Complainant should be notified of the outcome within 90 calendar days of the filing of a complaint.” In addition, Section F of the EEO Complaint Procedural Guidelines stated that “[t]he final investigative report must be completed and the parties must be notified of the outcome within 90 calendar days from the date the complaint was filed with the EEO Office, unless the time period is extended by the EEO Office for good cause, with written notice to the parties and memorialized in the investigative file and/or the complaint tracking system.”
10. In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.
- ✓ Section F of the EEO Complaint Procedural Guidelines stated that “[t]he final investigative report must be completed and the parties must be notified of the outcome within 90 calendar days from the date the complaint was filed with the EEO Office, unless the time period is extended by the EEO Office for good cause, with written notice to the parties and memorialized in the investigative file and/or the complaint tracking system. The EEO Office must document the reason for the delay, and project a time frame for the completion of the report.”

11. Generate at the end of each complaint investigation, a conclusive confidential report which includes a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head's Review.
  - ✓ Section F of the EEO Complaint Procedural Guidelines stated that “[a]fter all the relevant facts have been gathered, the EEO Officer must prepare a confidential written report on the complaint investigation. ... The written report should include a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered during the investigation, a conclusion/determination and recommendation. Conclusions must be supported by facts uncovered during the investigation. The Agency Head must sign each written report and indicate that it has been reviewed and whether the determination and recommendation, if any, is adopted, rejected or modified.”
12. Maintain complaint files in a secure area and ensure that they can be located and reviewed by the agency head, agency general counsel, and other appropriate staff identified by the agency head.
  - ✓ FISA-OPA reported that the OPA complaint files were secured behind a locked door in locked file cabinets in the office of the OPA principal EEO Professional. The OPA principal EEO Professional was in control of the keys to the office and file cabinets. Access to the hard copy complaint files was restricted to EEO staff. Electronic complaint files were maintained on a restricted and secured network of folders only viewable and accessible to the EEO staff, the FISA-OPA General Counsel and the FISA-OPA Deputy General Counsel. Complaint files were also available to the agency head upon request and partially provided to the agency head and FISA-OPA General Counsel during the course of an investigation at periodic status update meetings. In addition, Section E of the EEO Complaint Procedural Guidelines discussed complaint file record keeping and stated that “[a]ll complaints and related documents, including any investigative notes, records, or copies, are strictly confidential and must be maintained by the EEO Office.”
13. Establish and implement a policy whereby the agency head (or an approved direct report other than the General Counsel) reviews the principal investigator's conclusive report; issues a written/electronic determination adopting, rejecting, or modifying the recommended action; and signs each determination, via writing or electronically, to indicate it has been reviewed and adopted.
  - ✓ Section III.E of the EEO Policy established that “[t]he EEO Officer will submit a confidential report of the complaint investigation to the agency head at the conclusion of the investigation...The agency head will review the EEO Officer's report and promptly issue a determination adopting, rejecting or modifying the recommended action. Such determination shall be in writing and may be issued electronically.”

14. Inform each complainant and respondent of the conclusion and outcome of their complaint investigation in writing as part of the agency's complaint procedure.

- ✓ Section III.E of the EEO Policy stated, “[t]he EEO Officer will advise all parties in writing of the outcome of a complaint.” In addition, Section F of the EEO Complaint Procedural Guidelines stated that “[a]fter review of the report by the Agency Head, the EEO Office should inform all parties in writing of the outcome of the investigation. The decision after investigation should be communicated to the parties, in writing, in a discreet and confidential manner, indicating the conclusion reached, whether the misconduct alleged has been substantiated, and the agency’s opposition to that kind of activity.”

15. Ensure each internal discrimination complaint file contains a written determination of its outcome and corrective action(s) taken as a result.

Section F of the EEO Complaint Procedural Guidelines stated that “[t]he Agency Head must sign each written report and indicate that it has been reviewed and whether the determination and recommendation, if any, is adopted, rejected or modified... [and] the EEO Office should inform all parties in writing of the outcome of the investigation.”

16. Notify the complainant and respondent in writing when the investigation by the EEO professional has been transferred because of the filing of an external complaint.

- ✓ Section III.F of the EEO Policy stated, “[t]he EEO Officer will notify the complainant and the parties who are the subject of the complaint, in writing, that the investigation by the EEO Officer has been transferred because of the filing of the external complaint.”

17. Establish and utilize a complaint tracking and monitoring system that permits the agency to identify the location, status, and length of time elapsed in the complaint investigation process, the issues and the bases of the complaints, the aggrieved individuals, and other information necessary to analyze complaint activity to identify trends.

- ✓ OPA tracked EEO complaints using the CEEDS complaint tracking system. Screenshots of CEEDS illustrated its ability to capture the following information for each complaint: *Complaint Status, Complainant [Name], Respondent Information, Days Outstanding, [Days] Since Filing, Complaint Type, Complaint Subject(s), Descriptions, Internal Final Disposition, and [Disposition] Date.*

- Screenshots of the CEEDS complaint tracking system did not indicate that *location* for EEO complaints was tracked. Corrective Action Required.

NOTE: OPA reported that complaints were also tracked via the FISA-OPA *Summary of Complaints* log. The FISA-OPA *Summary of Complaints* log captured *Location/Dept., Status [open/closed], Date Filed, Date Resolved, Length of Time, Basis of Complaint, Complainant Name, Respondent Name and Determination.*

18. Ensure that the General Counsel assists the agency head in identifying and determining appropriate responses to sexual harassment; works with the principal EEO Professional in the implementation of the City's policies and procedures pertaining to sexual harassment; informs the principal EEO Professional when external complaints or litigation involving sexual harassment is brought against the agency; is available to consult on internal sexual harassment complaint investigations; and is responsible for the investigation of, and response to, external sexual harassment complaints.
- ✓ During the period in review, the FISA *Deputy Executive Director (DED)/General Counsel* became the FISA-OPA General Counsel; the job description for the FISA *DED/General Counsel* position established that the FISA-OPA General Counsel is to serve as principal legal officer for the agency and counsel to the agency head (which includes assisting in identifying and determining appropriate responses to sexual harassment); represent the agency at administrative hearings such as at the New York State Division of Human Rights and the New York City Commission on Human Rights (which includes the responsibility for the investigation of, and response to, external sexual harassment complaints); and advise the agency on Equal Employment Opportunity activities (which includes the responsibility of consulting on internal sexual harassment complaint investigations). In addition, the FISA-OPA General Counsel also participated in the agency's quarterly review of employment practices, policies and programs (see §IV.19).

**OPA: IV. ANNUAL REVIEW OF PRACTICES, POLICIES AND PROGRAMS**

**Determination: OPA is in compliance with the standards for this subject area.**

19. Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.
- ✓ During the period in review, OPA's principal EEO Professional, FISA-OPA's Principal Human Resources Professional and FISA-OPA's General Counsel reviewed the number of internal and external sexual harassment complaints, and the agency's employment practices, policies and programs on a quarterly and annual basis to identify whether there were barriers to employment opportunities (including those that may be related to sexual harassment) and determine what, if any, actions were required to correct deficiencies. EEO reports prepared for the review meetings summarized the following: the number of internal EEO complaints (there were none); external complaints (there was one); EEO inquiries; and EEO and diversity activities. Representative signed meeting attendance sheets, from fiscal years 2017 and 2018 documented that OPA's principal EEO Professional, FISA-OPA's Principal Human Resources Professional, and FISA-OPA's General Counsel were in attendance. OPA reported that there were no internal complaints to research; and no barriers or trends were identified for 2016 and 2017.

**OPA: V. RESPONSIBILITY FOR IMPLEMENTATION - EEO PROFESSIONALS**

**Determination: OPA is in partial compliance with the standards for this subject area.**

20. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. Ensure the principal EEO Professional is trained regarding city, state and federal EEO laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination and sexual harassment complaints.
- ✓ During the period in review, OPA's *EEO Officer/Director, HR-Payroll System Training* was OPA's principal EEO Professional and completed DCAS CTC's *Basic Diversity & EEO Training* (April 2017), which covered EEO obligations under city, state and federal EEO laws; the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination complaints. In addition, the OPA principal EEO Professional received a certificate of completion for the following DCAS CTC trainings: *Everybody Matters* (July 2013), *Structured Interviewing and Unconscious Bias* (December 2016), *LGBT: Are You Ready for the "T"* (December 2016), *LGBT: Are You Ready for the "T"* (July 2017), and *Disability Etiquette* (October 2017).
21. Ensure that the responsibilities of the principal EEO Professional are competently discharged by providing adequate resources such as opportunities for continuing education and professional development, and/or support staff to meet EEO obligations.
- ✓ OPA responded affirmatively to the EEPCC's preliminary interview questions that the responsibilities of the principal EEO Professional were competently discharged by *dedicated EEO-related support staff* (see OPA §V.22) and *training on EEO-related laws, policies, procedures and EEO analytics subsequent to appointment* (see OPA §V.20), which included *city, state and federal EEO laws and unlawful discriminatory practices, requirements of the City's EEO policies, standards and procedures, requirements of agency-specific EEO policies, prevention and investigation of sexual harassment, investigation and resolution of discrimination complaints, reasonable accommodation intake and procedures, requirements of the ADA / accessibility of facilities, arbitration and mediation, EEO analytics (utilization analysis, adverse impact, etc.), diversity and inclusion, and unconscious bias.*

During the period in review, support staff to the OPA principal EEO Professional included six (6) EEO Counselors (four (4) from FISA and two (2) from OPA) all of whom were responsible for conducting EEO complaint investigations. FISA-OPA's six (6) EEO Counselors each held a dual title, which included FISA's *Director of Business Process*, FISA's *OS & App. Server Director*, FISA's *Timekeeping Configuration Developer*, FISA's *UNIX Systems Administrator* OPA's *Personnel Analyst* and OPA's *Systems Integrity Analyst*. During the period in review, FISA-OPA employees were informed by the agency head's Policy Statements that "...the Equal Employment Opportunity Office exists as a resource to provide employees with information and guidance on EEO-related matters, as well as investigating and resolving complaints of discrimination. Any employee who wishes to discuss EEO matters may consult with [one of the FISA-OPA EEO Officers or EEO Counselors]." The names of the FISA-OPA professionals were included in the agency head's Policy Statements.

At the end of the period in review, on December 27, 2017, FISA's *UNIX Systems Administrator* separated from FISA-OPA and five (5) EEO Counselors remained.

22. Where the agency's organizational structure necessitates multiple EEO professionals, select such individuals from different office locations and, where possible, from a variety of levels within the organizational structure. Appoint EEO professionals who are trained in EEO laws and procedures and their responsibilities under the EEO Policy.
- ✓ At the end of the period in review, FISA's and OPA's combined workforce totaled 590 employees, who were all collocated. During the period in review, FISA-OPA EEO staff consisted of two (2) EEO Officers and six (6) EEO Counselors from various levels of the organizational structure (see OPA §V.21). However, at the end of the period in review, the FISA-OPA organizational charts indicated five (5) divisions, and an EEO staff consisting of two (2) EEO Officers and five (5) EEO Counselors (see OPA §V.21). DCAS CTC's five-day *Basic Diversity & EEO Training* for EEO professionals was completed by three (3) EEO Counselors (FISA's *Director of Business Process*, FISA's *OS & App. Server Director*, and OPA's *Systems Integrity Analyst*) in June 2011, June 2013, and April 2017, respectively. One (1) EEO Counselor (OPA's *Personnel Analyst*) completed two of five days of the DCAS CTC's *Basic Diversity & EEO Training* for EEO professionals in April and May 2012. (See OPA §V.20 for topics covered in DCAS CTC's *Basic Diversity & EEO Training*.) The remaining EEO Counselor (FISA's *Timekeeping Configuration Developer*) completed DCAS CTC's *EEO Complaint Investigation Workshop (2 Days)* in November 2017 (see FISA §V.20 for training topics).
  - OPA did not demonstrate that during the period in review, each EEO professional responsible for EEO complaint investigations (specifically the OPA *EEO Counselor/Personnel Analyst*) was trained in investigation procedures. Corrective Action Required.

NOTE: Subsequent to the period in review, the FISA EEO Counselor in the title *Timekeeping Configuration Developer* was appointed FISA's principal EEO Professional. The number of EEO Counselors was reduced to four (4), three (3) of whom received training on EEO complaint investigation procedures.

**Corrective Action 0.1:** Where the agency's organizational structure necessitates multiple EEO professionals, select such individuals from different office locations and, where possible, from a variety of levels within the organizational structure. Appoint EEO professionals who are trained in EEO laws and procedures and their responsibilities under the EEO Policy.

23. Ensure that the principal EEO Professional works cooperatively and closely with the General Counsel in the implementation of policies and procedures concerning EEO and sexual harassment.
- ✓ During the period in review, FISA-OPA's General Counsel and OPA's principal EEO Professional reviewed quarterly EEO reports that summarized the following: the number of internal EEO

complaints (there were none); external complaints (there was one); EEO inquiries; and EEO and diversity activities. Attendance at the aforementioned quarterly review meetings was documented the by sign-in sheets.

OPA also reported that its EEO policies were reviewed annually during the fourth quarter fiscal year review meetings, and that either the FISA-OPA General Counsel or the FISA-OPA Deputy General Counsel was involved in all aspects of EEO including training (see OPA §III.18 for FISA-OPA General Counsel responsibilities). In addition, OPA responded affirmatively to the EEPC's preliminary interview question that the FISA-OPA General Counsel and OPA principal EEO Professional collaborated regarding external complaint investigations and external complaints or litigation.

24. Assign the principal EEO Professional (or EEO-related designee) the responsibility to supervise the activities of EEO professionals, and ensure that: the policies against sexual harassment and complaint procedures are distributed/posted at all agency locations; employees/managers receive sexual harassment prevention training; EEO-related policies are made available in alternative formats (i.e., large print, audio recording and/or Braille) upon request; managers, supervisors and human resource professionals receive guidance on issues pertaining to sexual harassment; and allegations of sexual harassment are promptly investigated.
- ✓ During the period in review, the OPA principal EEO Professional supervised the activities of the OPA EEO professionals (see OPA §V.21 and OPA §V.22) and ensured that the agency's EEO policies and procedures were posted to the agency's SharePoint site accessible by all employees (see OPA §I.2). The agency head's December 2017 Policy Statement also informed all employees that "[t]he policy can be viewed in larger font sizes and can be heard audibly" and instructed employees to contact a FISA-OPA EEO professional if any of those options were needed. The OPA reported that during the period in review no requests for its policies in alternative formats were made. The OPA principal EEO Professional provided guidance on EEO matters (including sexual harassment) via emailed EEO talking points to FISA-OPA managers and supervisors for use during their biannual discussions with their staff to review EEO fundamentals (see OPA §VI.27). The OPA principal EEO Professional also ensured that all OPA employees received sexual harassment prevention training (see OPA §II.3).

NOTE: OPA had no complaints and reported that EEO complaints, including allegations of sexual harassment, would be promptly investigated by adherence to the agency's EEO Complaint Investigation Procedures (see OPA §I.1 and OPA §III).

25. Ensure that the principal EEO Professional reports directly to the agency head (or a direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities.
- ✓ FISA-OPA's organizational charts from the period in review indicated that the OPA principal EEO Professional and the FISA principal EEO Professional each directly reported to the agency head.

26. Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.
- ✓ Representative invitations, agendas, and attendance sheets from quarterly EEO meetings during the period in review indicate that the OPA principal EEO Professional and agency head met to review OPA workforce profile, employment practices and policy, EEO complaints and reasonable accommodation requests. The outcomes of administrative and operational decisions made regarding OPA's EEO programs, policies and procedures (including those that concern sexual harassment), were documented in the *EEO and Diversity Activities* section of quarterly EEO reports that were reviewed by the FISA principal EEO Professional and the agency head.

**OPA: VI. RESPONSIBILITY FOR IMPLEMENTATION – MANAGERS**

**Determination: OPA is in compliance with the standards for this subject area.**

27. Ensure that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.
- ✓ In April 2016, October 2016, May 2017 and November 2017, the OPA principal EEO Professional emailed FISA-OPA managers and supervisors to remind them that each manager was required to meet with staff at least twice annually to review the fundamentals of EEO. The OPA principal EEO Professional's emails provided discussion points to facilitate the meetings and required documentation of each staff meeting. In 2016, OPA managers were instructed to forward documentation of the managerial EEO discussions to the OPA principal EEO Professional. The OPA principal EEO Professional emailed 40 OPA managers in May 2017 and 44 OPA managers in November 2017 regarding the managerial EEO discussions. Both emails required the managers to confirm implementation of the directives via *Survey Monkey* (a link that was provided). Representative emails, *Survey Monkey* responses, and tracking logs of the aforementioned managerial EEO discussions demonstrated implementation of the directives.
28. Ensure 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).
- ✓ FISA-OPA's managerial performance evaluation form contained an EEO rating to assess that "[t]he manager performed their EEO responsibilities satisfactorily in the previous 12 months... Circle One: Yes No If No, Reason(s)/Corrective Action(s)." The managerial performance evaluation form also rated managers and supervisors on their compliance with procedures outlined in the agency's EEO Policy and EEO Complaint Procedural Guidelines, which included, "[s]upervisors, managers, or human resources personnel who receive EEO complaints, or who

*otherwise become aware of any improper discrimination, must notify the EEO Office. Supervisors and managers should also encourage individuals who believe that the City EEO Policy has been violated to consult with an EEO representative. Supervisors and managers are accountable to the agency head for effectively implementing EEO, including cooperating with the EEO Officer in the policy's implementation (training, complaint resolution, accommodations, etc.). Please review the City EEO Policy for a full description of responsibilities of managers and supervisors.”*

**OPA: VII. REPORTING STANDARD FOR AGENCY HEAD:**

**Determination: OPA is in compliance with the standards for this subject area.**

29. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports<sup>7</sup> on efforts to implement the Plan within 30 days following each quarter. Include a breakout of sexual harassment complaint activity in each quarterly report.
- ✓ OPA submitted to the EEPC its Annual EEO Plans as well as the Quarterly EEO Reports on efforts to implement those plans for all years and quarters of the period in review. A *Summary of EEO Complaints*, or an *Agency Affirmation of No Complaint\Reasonable Accommodation Request Activity* was included in OPA's Quarterly EEO Report submissions for the 3<sup>rd</sup> quarter of fiscal year 2016; 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> quarters of fiscal year 2017; and 1<sup>st</sup> quarter of fiscal year 2018. The *Summary of EEO Complaints* included a breakout of complaint activity which identified the aggregate bases for EEO complaints.
  - OPA did not include a *Summary of EEO Complaints*, an *Agency Affirmation of No Complaint\Reasonable Accommodation Request Activity*, or a breakout of complaint activity in its Quarterly EEO Reports for the 4<sup>th</sup> quarter of fiscal year 2016, 4<sup>th</sup> quarter of fiscal year 2017 and the 2<sup>nd</sup> quarter of fiscal year 2018. Corrective Action Required.

**NOTE:** Subsequent to the period in review, OPA's Quarterly EEO Reports included a *Summary of EEO Complaints* for the 3<sup>rd</sup> quarter of fiscal year 2018 and an *Agency Affirmation of No Complaint\Reasonable Accommodation Request Activity* for the 4<sup>th</sup> quarter of fiscal year 2018.

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

1. Distribute a memorandum from the agency head informing employees of any changes implemented in the agency's policies and procedures against sexual harassment pursuant to the EEPC's audit, and re-emphasizing the agency head's commitment to the EEO program and the prevention of sexual harassment.

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<sup>7</sup> Submission of Quarterly Reports on EEO Activity is optional for non-Mayoral agencies.



Final Action: Distribute a memorandum from the agency head informing employees the EEPC's audit and of any changes implemented in the agency's policies and procedures against sexual harassment pursuant to the EEPC's audit, and re-emphasizing the agency head's commitment to the EEO program and the prevention of sexual harassment.

## Conclusion

The agency (FISA-OPA) has 3 required corrective action(s) at this time.

The Financial Information Services Agency (FISA) has 2 required corrective action(s) at this time.

Corrective Action F.1: Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.

Corrective Action F.2: In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.

The Office of Payroll Administration (OPA) has 1 required corrective action(s) at this time.

Corrective Action O.1: Where the agency's organizational structure necessitates multiple EEO professionals, select such individuals from different office locations and, where possible, from a variety of levels within the organizational structure. Appoint EEO professionals who are trained in EEO laws and procedures and their responsibilities under the EEO Policy.

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 EEPCC 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,

A handwritten signature in blue ink that reads "William Peterson". The signature is written over a horizontal line.

William Peterson, EEO, Employment and Labor Relations Analyst

Approved by,

A handwritten signature in blue ink that reads "Charise L. Terry". The signature is written over a horizontal line.

Charise L. Terry, PHR  
Executive Director

c: Lois Valero, Principal EEO Professional, Office of Payroll Administration  
Margaret Withers, Principal EEO Professional, Financial Information Services Agency

**From:** [REDACTED]  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** EEPC's Preliminary Determination - Financial Information Services Agency (FISA 127)  
**Date:** Tuesday, October 16, 2018 4:22:26 PM  
**Attachments:** [REDACTED]

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Hello,

Per the attached Preliminary Determination for Audit regarding our agency's Sexual Harassment, Prevention and Response Practices January 1, 2016 to December 31, 2017, we agree with the audit findings and we are in the process of implementing the following two (2) required correction actions:

**Corrective Action F.1:** Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.

**Corrective Action F.2:** In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.

Sincerely,

Margaret Withers

FISA EEO Officer  
City of New York, FISA-OPA

[REDACTED]



[REDACTED]

[REDACTED]



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

Jennifer Shaw, Esq.  
Executive Agency Counsel/  
Director of Compliance

253 Broadway  
Suite 602  
New York, NY 10007

212. 615. 8939 tel.  
212. 676.2724 fax

## BY MAIL AND EMAIL

October 17, 2018

Maureen Murphy  
Acting Executive Director and General Counsel  
Financial Information Services Agency  
5 Manhattan West, 4<sup>th</sup> Floor  
New York, NY 10001

RE: Audit Resolution #2018AP/224-127-(2018): Final Determination Pursuant to the Review, Evaluation and Monitoring of the Financial Information Services Agency's Sexual Harassment Prevention and Response Practices from January 1, 2016 to December 31, 2017.

Dear Executive Director Murphy:

On behalf of the members of the Equal Employment Practices Commission (Commission or EEP), thank you for your Principal EEO Professional's October 16, 2018 response to our October 5, 2018 Preliminary Determination and for the cooperation extended to our staff during the course of this audit. Consistent with the powers and duties of agency heads, set forth in New York City Charter, this Commission requires your signed response to this Final Determination.

The Financial Information Services Agency falls within this Commission's purview under Chapter 36, Section 831.a of the New York City Charter (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..."

Section 815 of the Charter, which sets forth the duties of all heads of city agencies, mandates in Subdivision h, that "[t]he head of each city agency shall ensure that such agency does not discriminate against employees or applicants for employment as prohibited by federal, state and local law." To this end, Charter Section 815.a(19) specifies that "heads of city agencies shall have the following



**Equal Employment  
Practices Commission**

*powers and duties... to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity for minority group members and women... and, in accordance with the uniform procedures and standards established... for this purpose, to adopt and implement an annual plan... [c]opies of such plans shall be filed with the... equal employment practices commission."*

As indicated in our Preliminary Determination, this Commission has adopted uniform standards<sup>4</sup> 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 compliance-monitoring period of up to six (6) months to monitor 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: NOVEMBER 2018 TO APRIL 2019.** Implementing all the corrective actions prior to the conclusion of the six months is highly encouraged and will serve to shorten the compliance-monitoring period.

**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 EEPC'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 EEPC 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 contact Jennifer Shaw, Esq., Executive Agency Counsel/Director of Compliance at [jshaw@eepc.nyc.gov](mailto:jshaw@eepc.nyc.gov) or 212-615-8942.

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<sup>4</sup> 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 and the equal employment opportunity requirements of the New York City Charter.



Thank you and your staff for your continued cooperation.

Sincerely,



Charise L. Terry, PHR  
Executive Director

C: Margaret Withers, Principal EEO Professional, Financial Information Services Agency

Enclosed: TeamCentral Agency Manual

**FINAL DETERMINATION**

Agency response indicating corrective action taken with documentation is due within 30 days.

The Equal Employment Practices Commission's findings and required corrective actions are based on the audit methodology which includes collection and analysis of the documents, records and data the agency provided in response to the *EEPC* document and information request; the *EEPC Preliminary Interview Questionnaires (PIQ)* for EEO professionals and others involved in EEO program administration; and, if applicable, the *EEPC Employee Survey*; the *EEPC Supervisor/Manager Survey*; the agency's *Annual EEO Plans* and *Quarterly EEO Reports*; and workforce data from the *Citywide Equal Employment Database System*. Additional research and follow-up discussions or interviews were conducted as appropriate.

After reviewing the agency's optional response<sup>2</sup> (if applicable) to the EEPC's preliminary Determination, our Final Determination is as follows:

**Monitoring Required**

The agency's implementation of the following required corrective actions will be monitored during the assigned compliance monitoring period.

**Corrective Action #1**

Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.

*Agency Response:* "[... W]e agree with the audit findings and we are in the process of implementing the [...] required correction actions."

*EEPC Response:* The EEPC recognizes the agency's efforts to implement corrective action **#1**. The agency will need to demonstrate timely commencement and completion of complaint investigations (within 90 days of the date the complaint was filed) during the compliance-monitoring period. If the agency did not receive any internal EEO complaints, a commitment must be provided from the agency head to abide by the audit standards.

**Corrective Action #2**

In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.

*Agency Response:* "[... W]e agree with the audit findings and we are in the process of implementing the [...] required correction actions."

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<sup>2</sup> Excerpts are italicized.



EEPC Response: The EEPC recognizes the agency's efforts to implement corrective action **#2**. In circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, the agency will need to demonstrate that it specified in the complaint file the reason for the delay and project a time frame for completion of the report. The agency must also demonstrate that the complainant and respondent were notified of the delay. If the agency did not receive any internal EEO complaints where the investigation extended beyond 90 days, a commitment must be provided from the agency head to abide by the audit standards.

Thank you and your staff for your continued cooperation.

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

**RESOLUTION #2018AP/224-127-(2018):** Final Determination pursuant to the Audit: Review, Evaluation and Monitoring of the Financial Information Services Agency's Sexual Harassment Prevention and Response Practices from January 1, 2016 through December 31, 2017.

**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 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 Financial Information Services Agency's (FISA) Sexual Harassment Prevention and Response Practices, the Equal Employment Practices Commission (EEPC) issued a Preliminary Determination letter, dated October 5, 2018, setting forth findings and the following required corrective actions:

1. Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.
2. In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.

**Whereas**, the agency submitted its response to the EEPC's Preliminary Determination letter on October 16, 2018; and

**Whereas**, in accordance with Chapter 36, Section 832(c) of the New York City Charter, the EEPC considered the agency's response and issued a Final Determination on October 17, 2018, which agreed and indicated that corrective action(s) nos. 1 through 2 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 November 2018 through April 2019, to determine whether it implemented the 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 its implementation of such corrective actions; 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 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 approves issuance of this Final Determination to Acting Executive Director Maureen Murphy of the Financial Information Services Agency.

Approved unanimously on October 25, 2018.



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**Angela Cabrera**  
Commissioner

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**Arva Rice**  
Commissioner



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**Malini Cadambi Daniel**  
Commissioner



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**Elaine S. Reiss, Esq.**  
Commissioner



*The City of New York*

Financial Information Services Agency

Office of Payroll Administration

Maureen A. Murphy  
Acting Executive Director

November 13, 2018

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

RE: Audit Resolution #2018AP/224-127-(2018). Final Determination Pursuant to the Review, Evaluation and Monitoring of the Financial Information Services Agency's Sexual Harassment Prevention and Response Practices from January 1, 2016 to December 31, 2017.

Dear Executive Director Terry,

On behalf of the New York City Financial Information Services Agency ("FISA"), thank you for providing the Final Determination and the following required corrective actions to ensure FISA's compliance with Federal, State and Local Laws, Regulations, Policies and Procedures regarding Sexual Harassment prevention and response practices:

**Corrective Action #1**

*Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.*

**Corrective Action #2**

*In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.*

As stated in FISA's October 16, 2018 email response ("Reply") to the EEPC's preliminary determination, FISA reaffirms that it agrees with this same EEPC Final Determination and it has already begun to implement the required corrective actions to ensure that FISA complete its complaint investigations and conclusive reports within 90 calendar days of the date the complaint was filed. If in a rare circumstance, a complaint investigation cannot be commenced immediately, or a conclusive report cannot be issued within 90 days, FISA will provide written notice of the delay to both the complainant and respondent.

As requested in the EEPC's response to FISA's Reply, if there are no internal EEO complaints received during the EEPC's 6-month monitoring period (November 2018 – April 2019), FISA will also upload to TeamCentral, an official memorandum signed by the Agency Head that reaffirms FISA's commitment to follow the City's EEO program, including the relevant section of the City's EEO

Complaint Procedural Guidelines to show our compliance with this standard.

FISA will upload all required documentation that supports the implementation of the aforementioned corrective actions to TeamCentral, the EEPC's Compliance-Monitoring System.

Upon completion of the final corrective action, FISA will also upload to TeamCentral, an official memorandum signed by the Agency Head, informing our employees of the changes implemented per the EEPC's audit and to reaffirm FISA's commitment to the EEO program

Thank you to the entire EEPC Team for your guidance and recommendations.

Sincerely,



Maureen A. Murphy  
Acting Executive Director

C: Margaret Withers, FISA EEO Officer



*The City of New York*

Financial Information Services Agency

Office of Payroll Administration

Maureen A. Murphy  
Acting Executive Director

To: All Staff

Date: December 13, 2018

From: Maureen A. Murphy

**FINAL ACTION MEMO REGARDING EEPC AUDIT  
AND CITY'S EQUAL EMPLOYMENT OPPORTUNITY POLICY**

The Financial Information Services Agency and the Office of Payroll Administration are Equal Employment Opportunity Employers. As Acting Executive Director, I want to reaffirm our agency's strong commitment to the principles of diversity, inclusion, and equal employment opportunity and our commitment to maintain fair employment practices for all of its employees, and for all qualified job applicants.

Employment decisions at FISA and at OPA will be made in compliance with federal, state and local laws prohibiting discrimination on the basis of age, alienage, color, creed, disability, gender, marital status, partnership status, genetic information, military status, national origin, prior records of arrest or conviction, race, religion, sexual orientation, status as a victim of domestic violence, status as a victim of sexual offenses or stalking, and unemployment status.

I want to particularly point out that under the City's EEO Policy, FISA and OPA strictly prohibit any type of discrimination or harassment based on any and all of the protected categories listed above. Anyone at FISA-OPA should feel free to make an EEO inquiry, file a complaint or participate in an EEO claim without retaliation, as retaliation will not be tolerated at this agency.

All employees are encouraged to familiarize themselves with the New York City "Equal Employment Opportunity Policy" and the "About EEO: What You May Not Know" booklet, distributed herewith. The policies and information can also be obtained from the DCAS EEO website link: <http://www.nyc.gov/html/dcas/html/about/eeopol.shtml>.

Also, the Equal Employment Opportunity Office exists as a resource to provide employees with information and guidance on EEO-related matters, as well as investigating and resolving complaints of discrimination. Any employee who wishes to discuss EEO matters may consult with one of our EEO Officers: **Lois Valero** or **Margaret Withers**, or with one of our EEO Counselors: **Hiroko Miyamoto**, **Sherine Wright**, **Diana Herrera** or **Angela Roberts**. In addition to being named EEO Officers, Lois Valero and Margaret Withers also serve as **OPA's and FISA's 55a & ADA Coordinators**. Any employee who seeks guidance on career development may consult with one of our Career Counselors: **Sherri Roth** or **Kristel Simmonds-Cobb**.

Between May and November, 2018, FISA-OPA was audited by the New York City Equal Employment Practices Commission (EEPC) regarding our agency's Sexual Harassment Prevention and Response Practices for the period January 1, 2016 to December 31, 2017. Pursuant to the EEPC's Final Determination/Audit Report, FISA-OPA has instituted and hereby reiterates its EEO

commitment to ensure that the following three (3) corrective actions are continuously performed, as recommended by the EEPAC:

Corrective Action #1 (FISA)

Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.

Corrective Action #2 (FISA)

In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.

Corrective Action #3 (OPA)

Where the agency's organizational structure necessitates multiple EEO professionals, select such individuals from different office locations and, where possible, from a variety of levels within the organizational structure. Appoint EEO professionals who are trained in EEO laws and procedures and their responsibilities under the EEO Policy.

I am sure you will join with me in supporting these policies, and in making certain that they are taken very seriously within our agency. Together we can create a workplace environment which is free from discrimination and harassment, and which encourages inclusion and respect for the diversity of backgrounds represented by FISA and OPA employees. The policy can be viewed in larger font sizes and can be heard audibly. If you need one of these options please contact the FISA or OPA EEO Office.

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

**RESOLUTION #2018AP/226-127-(2018)C21:** Determination of Compliance (Monitoring Period Required) by the Financial Information Services Agency with the Equal Employment Practices Commission's required corrective actions pursuant to the Review, Evaluation and Monitoring of the Sexual Harassment Prevention and Response Practices Audit from January 1, 2016 through December 31, 2017.

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

**Whereas**, pursuant to Charter Chapter 36, Section 831(d)(2), the EEPC 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, and regulations, policies, and procedures 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 Financial Information Services Agency's (FISA) EEO Program, the EEPC issued a Preliminary Determination letter, dated October 5, 2018, setting forth findings and the following required corrective actions:

1. Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.
2. In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.

**Whereas**, the FISA submitted its response to the EEPC's Preliminary Determination letter on October 16, 2018; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), the EEPC considered the agency's response and issued a Final Determination letter on October 17, 2018, and indicated corrective actions nos. 1 and 2 required compliance monitoring; and

**Whereas**, the FISA submitted its response to the EEPC's Final Determination letter on November 14, 2018; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), the EEPC monitored the agency's implementation of the remaining corrective actions from November 2018 through December 2018, with no extension of the monitoring period; and

**Whereas**, at the EEPC's request pursuant to Charter Section 815.a.(15), the FISA submitted a copy of the agency head's memorandum to staff dated December 13, 2018, which outlined the

corrective actions implemented in response to the EEPC's audit and reiterated her commitment to the agency's EEO Program; and

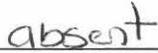
**Whereas**, all of the EEPC's corrective actions are required by, or are consistent with, federal, state, and local laws, and regulations, policies and procedures designed to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from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

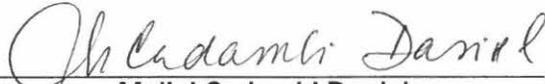
**Be It Resolved**, that the Financial Information Services Agency has implemented the required corrective actions deemed necessary to ensure compliance with the EEPC's equal employment opportunity standards and the requirements of Charter Chapters 35 and 36.

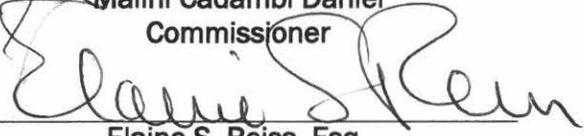
**Be It Resolved**, that the EEPC will forward this Determination of Compliance to the Acting Executive Director Maureen A. Murphy of the Financial Information Services Agency.

Approved unanimously on December 17, 2018.

  
\_\_\_\_\_  
**Angela Cabrera**  
Commissioner

  
\_\_\_\_\_  
**Arva R. Rice**  
Commissioner

  
\_\_\_\_\_  
**Malini Cadambi Daniel**  
Commissioner

  
\_\_\_\_\_  
**Elaine S. Reiss, Esq.**  
Commissioner

**NYC**  
**Equal Employment  
Practices Commission**

**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

**Jennifer Shaw, Esq.**  
Executive Agency Counsel/  
Director of Compliance

**253 Broadway**  
**Suite 602**  
**New York, NY 10007**

**212. 615. 8939 tel.**  
**212. 676. 2724 fax**

December 17, 2018

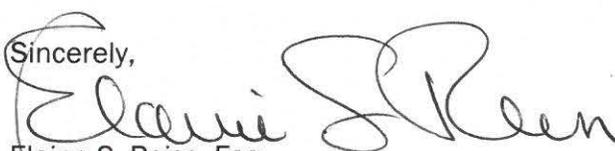
**Maureen A. Murphy**  
Acting Executive Director  
Financial Information Services Agency  
5 Manhattan West, 4th Floor  
New York, NY 10001

Re: Resolution #2018AP/226-127-(2018)C21: Determination of Agency Compliance

Dear Acting Executive Director Murphy:

On behalf of the members of the Equal Employment Practices Commission (EEPC), I want to inform you that the EEPC has issued the attached Determination of Compliance to the Financial Information Services Agency. The EEPC has determined that the Financial Information Services Agency has implemented the required corrective actions it deemed necessary for ensuring a fair and effective affirmative employment program of equal opportunity as required by the EEPC's equal employment opportunity standards and Chapters 35 and 36 of the New York City Charter.

On behalf of the EEPC, I want to thank you and EEO Officer Margaret Withers for the cooperation extended to the EEPC.

Sincerely,  
  
Elaine S. Reiss, Esq.  
Commissioner

c: Margaret Withers, Principal EEO Professional

**EEPC**

EQUAL EMPLOYMENT PRACTICES COMMISSION

*This*

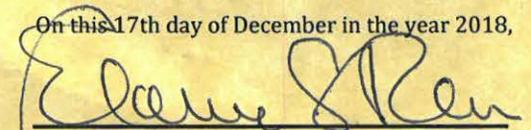
# *Determination of Compliance*

*is issued to the*

## *Financial Information Services Agency*

*for successfully implementing 2 of 2 required corrective actions pursuant to the Equal Employment Practices Commission's Sexual Harassment Prevention and Response Practices Audit from January 1, 2016 to this date.*

On this 17th day of December in the year 2018,



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Elaine S. Reiss, Esq., Commissioner



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Charise L. Terry, PHR, Executive Director

*In care of Acting Executive Director Maureen A. Murphy  
and Principal EEO Professional Margaret Withers*