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BY MAIL AND EMAIL

September 15, 2015

Maria Torres-Springer
President
New York City Economic Development Corporation
110 William Street
New York, NY 10038

RE: Resolution #: **2015/998**: Final Determination Pursuant to the Audit and Analysis of the Economic Development Corporation's Employment Practices and Procedures from January 1, 2012 to December 31, 2014.

Dear President Torres-Springer:

On behalf of the members of the Equal Employment Practices Commission (Commission or EEPC), thank you for your September 11, 2015 response to our August 31, 2015 Preliminary Determination and for the cooperation extended to our staff during the course of this audit.

As indicated in our Preliminary Determination, this Commission has adopted uniform standards¹ to assess agencies' employment practices and programs for compliance with federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for municipal government employees and job applicants. The attached Determination contains the Commission's findings and required corrective actions pertaining to the referenced audit and analysis of your agency's employment practices and procedures.

Chapter 36, Section 832.c of the New York City Charter requires that: 1) the EEPC assign a 6-month compliance period to monitor 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.

¹ Founded upon and consistent with federal, state and local laws, regulations, procedures and policies including, but not limited to, the Citywide Equal Employment Opportunity Policy - Standards and Procedures to be Utilized by City Agencies; New York City Human Rights Law (NYC Administrative Code, §§8-107.1(a) and 8-107.13(d)); New York State Civil Service Law §55-a; Uniform Guidelines on Employee Selection Procedures (29 CFR §§1607.3 - 1607.7) and the equal employment opportunity requirements of the New York City Charter.



The assigned compliance-monitoring period is: October 2015 to March 2016.

If corrective actions remain: Your agency's response should indicate (with attached documentation) what steps your agency has taken, or will take, to implement the corrective actions during the designated period. Thereafter, your agency will be monitored monthly until all corrective actions have been implemented. Compliance-monitoring instructions will be provided. Upon your agency's completion of the last corrective action, this Commission requires a final memorandum signed by the agency head which informs employees of the changes implemented pursuant to our audit/analysis and re-emphasizes commitment to the EEO program. Once received, a *Determination of Compliance* will be issued.

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/analysis and re-emphasizes commitment to the EEO program. This will be considered your agency's final action. Upon receipt of the memo, a *Determination of Compliance* will be issued.

If there are further questions regarding this Final Determination or the compliance-monitoring process, please have the Principal EEO Professional call Marie Giraud, Esq., Agency Attorney/Director of Compliance Monitoring at 212-615-8942.

Thank you and your staff for your continued cooperation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Charise L. Terry".

Charise L. Terry, PHR
Executive Director

c: Carrie Weaver, Principal EEO Professional

FINAL DETERMINATION

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 Form*; the *EEPC Interview Questionnaires* 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 and utilization 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 (if applicable), 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

Identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required to correct deficiencies.

Agency Response: "In review of our workforce analysis, NYCEDC concludes that there is no discriminatory hiring, promotional or termination practices....NYCEDC has strived and will continue to strive to hire and promote the best qualified and most diverse talent available." (Response, pg. 1)

EEPC Response: The EEPC recognizes the agency's efforts to implement this standard. Documentation submitted to the EEPC entitled Workforce Metrics did not include a descriptive assessment interpreting the agency's workforce data analysis and/or the agency's conclusions regarding barriers to equal employment opportunity. A descriptive assessment will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Corrective Action #2

To the extent that adverse impact is discovered, determine whether the selection criteria being utilized are job-related. Discontinue using criteria that are not job-related, and adopt methods which diminish adverse impact.

Agency Response: "NYCEDC concludes there was no adverse impact in hiring and only uses job-related selection criteria." (Response, pg. 2)

EEPC Response: The EEPC recognizes the agency's efforts to implement this standard. Documentation submitted to the EEPC entitled Workforce Metrics did not include a descriptive

assessment interpreting the results of the adverse impact study. Documentation supporting the conclusion that there is no adverse impact will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Corrective Action #3

Use and maintain an applicant/candidate log or tracking system which, in addition to the above, includes the applicants'/candidates' disability or veteran status, and interviewers' names. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.

Agency Response: "...[The] audit response information was misinterpreted. Only the NYCEDC Human Resources staff has access to candidate details in our Applicant Tracking System (Jobvite). Hiring managers are only given an online evaluation form post interview that requests them to rank the candidate's strengths and weaknesses against the position requirements. The hiring managers do not see any candidate demographic information in our applicant tracking system. In addition, our system does capture the interviewer name....Lastly, NYCEDC acknowledges that we were not asking veteran or disability status questions at the application stage. Going forward, NYCEDC will begin asking Veteran status questions, pre-employment,...[and] disability questions...post hire." (Response, pg. 2)

EEPC Response: The EEPC accepts the agency's response to corrective action **#3** pending documentation of implementation. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Corrective Action #4

Designate a professional (may be referred to as the Career Counselor) with appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling to employees upon request. Remind employees of the identity/type of guidance available from the Career Counselor at least once each year.

Agency Response: "NYCEDC employs three (3) Career Counselors which we call Human Resources Business Partners. All are trained in a combination of the fields of Human Resources, Career Counseling, Career Development, I/O Psychology and alike....These individuals can readily contact any of our partnering agencies at a moment's notice to inquire about potential job opportunities within NY City Government if requested by our employees. Additionally, NYCEDC posts the names of the designated Career Counselors (Human Resources Business Partners) to the associated department of employees on our intranet. Additionally, we have monthly HR "Office Hours" that are communicated regularly via our Intranet...where employees are encouraged to come and openly discuss career opportunities with their designated HR Business Partner..." (Response, pg. 2-3)

EEPC Response: The EEPC will accept the agency's response to corrective action **#4** pending receipt of documentation which confirms the responsibilities and training described. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Corrective Action #5

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

Agency Response: *“NYCEDC is committed to reviewing our EEO Program operations with our agency head, however during the audit period; there were two different HR department heads both of whom had departed prior to this most recent EEPCC audit review. Although it is believed these meetings occurred, the current HR department head (as of April 2015) was not able to retrieve former documentation to prove these meetings occurred. Going forward, NYCEDC will judiciously log all meetings, communications and agenda items as they relate to our EEO program discussions with the agency head.”* (Response, pg. 3)

EEPC Response: The EEPC recognizes the agency’s commitment to implement corrective action #5. The focus of this corrective action is on maintaining documentation of decisions. Documentation of communication(s) will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Corrective Action #6

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

Agency Response: *“NYCEDC acknowledges we had not formerly included this item in our managerial reviews and will begin doing so for our next performance management cycle.”*

EEPC Response: Documentation of implementation will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Thank you and your staff for your continued cooperation.