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February 11, 2013

Raymond W. Kelly  
Commissioner  
New York City Police Department  
One Police Plaza  
New York, New York 10038

RE: Final Determination Pursuant to the Audit of the City's Equal Employment Opportunity Program from July 1, 2008 to June 30, 2011

Dear Commissioner Kelly:

Thank you for your December 31, 2012 response to our November 7, 2012 Letter of Preliminary Determination pursuant to the Referenced audit.

As we indicated in our Preliminary Determination Letter, our findings and recommendations are based on: the collection of documents in response to an *EEPC Document and Information Request Form*; *EEPC Interview Questionnaires* completed by your agency's EEO Officer/Disability Rights Coordinator, Counselors, EEO Managers, Supervising EEO Investigators, EEO Trainers, Section 55-A Coordinator, Director of Human Resources and Agency Counsel (or individual responsible for responding to external EEO complaints); as well as follow-up discussions with your agency's EEO Officer and any of the aforementioned individuals.

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

**Agree**

We agree with your responses to the following EEPC recommendations, pending documentation that can be attached to your reply or provided during the compliance period:

**Recommendation #1**

Since the EEO Policy holds agencies responsible for ensuring



**Equal Employment  
Practices Commission**

compliance with all federal, state, and local laws, as well as City and agency policies, pertaining to persons with disabilities, the agency should develop a plan to demonstrate accessibility compliance for the facilities it identified as non-compliant. This plan should identify the number of locations that are accessible for employees/applicants with physical disabilities, identify barriers in non-accessible facilities, identify the distribution of job titles among accessible/non-accessible facilities, detail the efforts the NYPD has taken to remove barriers, and identify the agency (if not NYPD) responsible for rendering the facility accessible to employees/applicants with disabilities.

**Your Response:**

Your proposal to develop a plan for accessibility on selected facilities has been accepted. The Police Department is committed to complying with current laws regarding access for all individuals to all of its facilities. An overall plan to develop these facilities has been presented with a goal of full access by individuals with disabilities. Included in the many stipulations in this plan are that the Police Department will, in future contracts, lease only those facilities which are compliant with regulations incorporated in the Americans with Disability [sic] Act (unless not possible due to law enforcement operations), or, if it owns those facilities, renovate in a manner which is compliant with regulations. We are currently in the process of renovating the 66th Precinct stationhouse to include a handicap ramp on the first floor. The 121 Precinct stationhouse in Staten Island is [sic] currently being built and, upon its completion, will fully comply with ADA requirements.

**EEPC Response:**

We are pleased the Police Department has demonstrated its commitment to the goal of accessibility compliance for employees/applicants for employment with disabilities by presenting an overall plan to develop these facilities. Submit a copy of the overall plan, as well as copies of the plans which address the remaining eighteen facilities identified as non-accessible on the EEPC's Checklist to Determine Accessibility. Documentation will be reviewed during the compliance monitoring period.

**Recommendation #2**

In rare circumstances where the investigation cannot commence immediately, or where the confidential report cannot be issued within 90 days, a note should be made in the complaint file explaining the reason for the delay and projecting a time frame for completion of the report. The complainant and respondent should be notified of the delay in writing.

**Your Response:**

Your recommendation on the need for EEO case delay notifications will be adapted. The appropriate notations will be inserted in case folders and both complainant and respondent notified where applicable.



**EEPC Response:**

Provide redacted 90-day delay notifications to complainant and respondent that were recently issued. Documentation will be reviewed during the compliance period.

**Recommendation #4**

To ensure the integrity and continuity of the EEO Program, the agency should maintain appropriate documentation of meetings and other communications between the agency head (or a direct report to the agency head) and EEO Officer regarding decisions that impact the administration and operation of the agency's EEO program.

**Your Response:**

Your suggestion that formal notes be maintained on meetings with the Police Commissioner will be applied. A diary of relevant discussions impacting the administration and operation of the EEO Program will be maintained.

**EEPC Response:**

Provide an excerpt of the diary of relevant discussions between the EEO Officer and the Police Commissioner. Documentation will be reviewed during the compliance monitoring period.

**Recommendation #5**

The agency is required to file with the EEPC copies of its finalized Agency EEO Specific Plans. The agency must also submit quarterly to the EEPC a report on its efforts during the previous quarter to implement the Agency Specific EEO Plan. All reports must be submitted no later than thirty (30) days following the reporting period.

**Your Response**

Your request for the Police Department to submit to the EEPC an Annual Agency Specific EEO Plan will be applied. These reports, although previously forwarded to DCAS as required, will, in the future, together with the quarterly reports, be submitted electronically to the EEPC during the required periods. The Agency Specific EEO Plans for fiscal years 2009 and 2010 will be submitted to the EEPC in a separate mailing.

**EEPC Response:**

Pursuant to Sect. 815 (a) 19 of the New York City Charter, the Police Department is required to establish and file with the EEPC its Annual Agency Specific EEO Plans to accomplish objectives in accordance with the uniform procedures and standards established by the DCAS, and quarterly reports on the agency's efforts during the previous quarter to implement the plan adopted. Provide the 2009 and 2010 Annual Plans.



**Disagree:**

For the following reason, hereafter identified as EEPC rationale, we disagree with your response to the following EEPC recommendation:

**Recommendation #3**

The agency's HR/Personnel division should use and maintain an applicant log -- which, at minimum, includes the Position, Applicants' Names, Security or Identification Number, Ethnicity, Gender, Disability or Veteran Status, Interview Date, Interviewers' Names, Result, Reason Selected/Not Selected, and Recruitment Source -- for all discretionary appointments.

**Your Response:**

Your recommendation that a candidate log should be maintained for all discretionary applications as part of our employment procedure will be applied. A candidate interview sheet is, in fact, currently being used which identifies position title, source of recruitment, interview date, applicant's name, gender interviewer's name and result of the interview process. These candidate interview sheets will all be centralized and information of discretionary appointments will now include reasons for selection of non-selection of candidates. Following the advice from our Deputy Commissioner Legal Matters, however, veteran status, identification number, ethnicity, disability, or social security number will not be included, as requests for this information from the candidates would be impermissible.

**EEPC Rationale:**

HR Officers are responsible for reviewing statistical information (including total employment, new hires and promotions by race/ethnicity and gender), employment practices, policies and programs for purposes of identifying whether there are barriers to equal opportunity, and informing the EEO Officer of efforts that the agency has made to employ, promote or accommodate qualified individuals with disabilities. The EEPC recommends that the Police Department delegate responsibility for generating, recording and maintaining information regarding discretionary applicants to HR Officers who are separate from the selection process, thus avoiding the appearance that the contents of the applicant log, e.g., ethnicity, gender, disability or veteran status, play any part in the selection process for discretionary positions.

**Conclusion**

Please issue a written response to the aforementioned determinations, with appropriate documentation, within thirty days. Consistent with §815 a. (15), this commission requires that the written response is signed by the agency head.

Pursuant to Section 832 of the New York City Charter, this Commission will then contact your agency to commence a compliance monitoring for a six-month period.

If there are further questions regarding this Letter of Final Determination or the compliance process, please have the EEO Officer call the EEPC Counsel and Director of Compliance Judith Garcia Quiñonez within two weeks.



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

Sincerely,

A handwritten signature in black ink that reads "Charise Hendricks". The signature is written in a cursive style with a large, prominent initial "C".

Charise Hendricks, PHR  
Executive Director

cc: Neldra M. Zeigler, Deputy Commissioner, EEO  
Judith Garcia Quifonez, Counsel/Compliance Director