



EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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August 3, 2006

Tino Hernandez

Chairman

New York City Housing Authority

250 Broadway

New York, NY 10007

Re: Preliminary Determination Pursuant to the Audit of the New York City Housing Authority's (NYCHA) Equal Employment Opportunity Program from July 1, 2003 to June 30, 2005.

Dear Mr. Hernandez:

Pursuant to Chapter 36 of the New York City Charter, the Equal Employment Practices Commission (EEPC) is empowered 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. (New York City Charter, Chapter 36, sections 831(d)(2) and (5).)

The Charter defines city agency as "any 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 New York City Housing Authority (NYCHA) has three board members, all appointed by the Mayor. Therefore the NYCHA is considered a city agency pursuant to Chapter 36, section 831(a) of the New York City Charter.

This audit measures the NYCHA's compliance with its Equal Employment Opportunity Policy, as well as Commission policies and EEO standards expressed in city guidelines (outlined in the City of New York's EEO Policy). The relevant sections of these guidelines and documents are cited in parenthesis, where applicable, at the end of each recommendation.

The purpose of this audit is to evaluate the agency's compliance with the standards cited above, not to issue findings of discrimination pursuant to the New York City Human Rights Law.

Scope and Methodology

Audit methodology included an analysis of the NYCHA's EEO Policy, and a review of responses to an EEOC Document and Information Request Form. EEOC auditors also conducted in-depth, on-site interviews with the Director of NYCHA's Department of Equal Opportunity (DEO), the Assistant Director of the Office of Employment Opportunities (OEO), and three Associate Investigators to determine awareness of their rights and responsibilities under the agency's EEO Plan.

A survey of 2,500 people employed by the NYCHA during the audit period was distributed (this number excludes 88 surveys that were returned as undeliverable.) Two hundred twenty-four people (9.3%) responded. Significant survey findings are attached and discussed in the proceeding pages. (Appendix 1) The survey methodology was established by the EEOC with the assistance of an academic expert from the City University of New York.

Description of the Agency

The New York City Housing Authority (NYCHA) is the largest public housing authority in the nation. The agency provides and maintains housing developments for low and moderate-income residents and administers a citywide Section 8 Leased Housing Program in rental apartments throughout New York City. In addition, the NYCHA offers its residents opportunities to participate in community, educational and recreational programs, as well as job readiness and training initiatives.

The NYCHA's Department of Equal Opportunity consists of four divisions: the Office of Housing Opportunity (OHO) contains a discrimination/disability unit and a language bank with 200 volunteers, the Office of Contract Compliance (OCC) investigates contractors to insure that wage laws are followed, the Office of Business Opportunities (OBO) informs minorities and women's organizations of contracting opportunities with NYCHA, and the Office of Equal Opportunity (OEO) investigates claims of discrimination, makes decisions on reasonable accommodation requests, and conducts EEO training.

Personnel Activity During the Audit Period

On July 1, 2003, there were 15,998 employees at the NYCHA; by June 30, 2005, the agency's workforce had dropped 11% to 14,160 employees. Appendices 2 and 3 provide a statistical profile of the NYCHA's workforce at the beginning and end of the period in review.

During the audit period, 862 people were hired: 126 Caucasians, 456 African Americans, 171 Hispanics, 48 Asians, 10 Native Americans and 51 Unknown. Four hundred ten of these hires were female. (Appendix 4) Five hundred forty-six individuals were promoted during the audit period: 156 Caucasians, 229 African-Americans, 127 Hispanics and 19 Asians, 5 Native Americans and 10 Unknowns. Two Hundred twenty of the individuals promoted were female. The NYCHA also reports that during the audit period, 336 employees were involuntarily

separated: 41 Caucasians, 179 African Americans, 88 Hispanics, 13 Asians, 3 Native Americans and 12 Unknown. (Appendix 4)

Discrimination Complaint Activity During the Audit Period

The agency reports that 254 internal complaints were filed with its Office of Employment Opportunities (OEO) between July 1, 2003 and June 30, 2005. Of these complaints: 74 received administrative closures, 8 were withdrawn, and 2 were resolved through conciliation. OEO investigated and prepared investigative reports for 73 cases. Four cases (based on sexual harassment) received probable cause determinations. The remaining 69 cases received no probable cause determinations. At the time of the EEPC's audit, 97 complaints were still pending.

The OEO also received an additional 641 non-jurisdictional complaints, which were referred to their appropriate departments for review. In addition, 67 external complaints were filed against the agency.

PRELIMINARY DETERMINATION

Following are our preliminary determinations with required corrective actions and recommendations pursuant to the audit.

EEO Policy Statements

The NYCHA is in partial compliance with the following requirements:

The NYCHA's EEO Policy Statements (which include a general EEO Policy Statement, Sexual Harassment Policy Statement, Reasonable Accommodation Policy and Procedure, Non-Discrimination Policy, Policies on Anti-retaliation and Confidentiality, and Discrimination Complaint Procedure) were last distributed agency-wide in 2005. An Anti-Discrimination Policy poster is also distributed to each department director, who ensures that it is conspicuously posted at each site. The policy statements are also distributed at new employee orientation sessions and posted on agency bulletin boards. Upon receipt of the policies, each employee is required to sign an Employee Acknowledgement form. Also, 80% of the survey respondents said that they have a copy of the agency's sexual harassment policies.

NOTE: Although the Equal Employment Opportunity Policy Statement and Sexual Harassment Policy Statement are distributed together, 37% of survey respondents indicated that they had not received, or did not remember receiving, the agency's EEO Policy Statement. In addition, 50% of the survey respondents indicated that they either do not have, or do not remember having, a copy of the NYCHA's discrimination complaint procedure.

The NYCHA is not in compliance with the following requirements:

1. The Assistant Director of the OEO informed EEPC auditors that the agency's EEO policies are not available in alternate formats (e.g. audio cassette and large print) for use by persons with disabilities. Instead, the agency provides TDY for the hearing impaired and interpreters for translation of the policy. Corrective action is required.

Recommendation: The NYCHA should follow section V(C)(4) of the Citywide EEO Policy and ensure that its EEO policies are available in formats accessible to applicants and employees with disabilities. Specifically, the NYCHA should ensure that its EEO policy is equally accessible to persons with visual impairments (e.g., large print, audio cassette or Braille). (Sect. V(C)(4), Citywide EEOP, 2005)

EEO Training Standards

The NYCHA is in compliance with the following requirement:

Employees receive agency-wide training (which includes Sexual Harassment and Retaliation Prevention, Understanding Diversity-Sensitivity, an overview of EEO Laws, and a review of the NYCHA's Policy Statements) on an on-going basis. In addition, the Authority's Department of Equal Opportunity (DEO) conducts mandatory Retaliation Prevention Training for newly promoted managerial and supervisory employees. DEO also conducts special, targeted training for individual departments or work locations pursuant to a DEO investigation, incident report, or department director's request. The NYCHA's Department of Staff Development also provides training to managers, supervisors and staff on AIDS in the Workplace, Communicating Across Barriers, Understanding Americans with Disabilities and Sexual Harassment Prevention.

EEO Complaint and Investigation Procedures

The NYCHA is in compliance with the following requirements:

1. The NYCHA has ensured that two persons, not of the same gender, are available to receive and investigate discrimination complaints.
2. The NYCHA identifies its OEO personnel in its EEO Policy manual, which is posted on bulletin boards at each location. In addition, OEO personnel are introduced at new employee orientation and EEO training sessions.
3. The Assistant Director of the OEO maintains a log of all complaints filed with, or against, the agency. Bi-weekly, the Assistant Director of the OEO presents a confidential report to the Director of the DEO that details current investigations, training, personnel matters and other important DEO issues. Monthly, the Director of the DEO submits a confidential report to the Chair outlining the operating activities and significant issues within each division of the DEO (the Office of Housing Opportunity, the Office of Contract Compliance, the Office of Business Opportunities, and the Office of Employment Opportunity).
4. The NYCHA investigates complaints according to protocol set forth in its Investigator's Manual, which is consistent with Federal and City guidelines.

The NYCHA is in partial compliance with the following requirement:

1. The Assistant Director of the OEO has approximately 15 years legal experience -- 9 practicing employment law at the Board of Education and the Department of Homeless Services.

Prior to their appointment, 2 of the Authority's 3 Associate Investigators completed the EEO Studies Program at Cornell's School of Industrial and Labor Relations and received in-house ADA, sexual harassment prevention, and diversity training. One of the three Associate Investigators has attended Cornell's School of Industrial Labor Relations (specifically, its Law of EEO course) but has not received an EEO Certificate. She received additional "on the job" training through Senior OEO Staff.

At the audit exit meeting of July 21, 2006, the Assistant Director of OEO provided documentation of the investigator's completion of the 'Law of EEO' course – which is only 18 units in the 72-unit requirement for a certificate in EEO studies from Cornell's School of Industrial Labor Relations. Corrective action is required.

Recommendation: The Associate Investigator who has not completed EEO training should complete such training by either attending standard training for EEO professionals conducted by the Department of Citywide Administrative Services or completing the EEO certificate program at Cornell University's School of Industrial and Labor Relations. (Sect. IV and V(C)(I), Citywide EEOP, 2005)

2. Although the Director of the DEO and the Assistant Director of the OEO keep the Chair abreast of the nature and status of complaints and recommended corrective actions, the Chair has designated responsibility for reviewing and signing EEO complaints to the Director of the DEO. Upon the completion of an investigation, the Director of the DEO sends a confidential memo with recommendations to the director of the relevant department. In cases where the department's director fails to respond, the Deputy General Manager facilitates implementation of the recommendation. Corrective action is required.

Recommendation: The Director of the DEO should memorialize meetings with the Chair where discrimination complaints are discussed and resolutions of those complaints are decided. These notes should indicate that the Chair has reviewed, and approved or disapproved, of the recommendations.

The NYCHA is not in compliance with the following requirements:

1. The investigation of four complaints took more than the required 90 days to complete: complaint nos. 220-05 (6/21/05 – 2/9/06), 231-05 (7/1/05 – 2/7/06), 271-05 (8/11/05 – 1/31/06), 250-05 (7/15/05 – 2/15/06) and 287-05 (8/16/05 – present). Corrective action is required.

Recommendation: Consistent with the NYCHA's OEO Investigator's Manual, the Investigator should complete the investigation and issue the draft Investigation Report to the Assistant Director of the OEO within 90 business days of the filing of the complaint. (Sect. IV (A)(2), the NYCHA's Investigator's Manual)

2. None of the aforementioned files contain explanations for delay. Corrective action is required.

Recommendation: In the event that there is some impediment to concluding the investigation within 90 business days, the reason for delay should be noted in the OEO case file. (Sect. IV (A)(2), the NYCHA's Investigator's Manual)

Selection and Recruitment

The NYCHA is in compliance with the following requirements:

1. In April 2004, the DEO conducted an adverse impact analysis to determine whether protected classes were adversely affected by the layoffs of 268 employees. Although the analysis showed that the layoffs had a disproportionate impact on some protected groups based on race, gender and age, the impact was not statistically significant, and thus a validation study was unnecessary.

The NYCHA is in partial compliance with the following requirement:

The 6 most recent newspaper advertisements and 4 citywide postings submitted by the NYCHA for the EEPC's review include a tagline indicating the agency is an equal opportunity employer. Five internal job vacancy notices from the NYCHA's Human Resources Employment Division, however, do not include an EEO tagline. Corrective action is required.

Recommendation: The NYCHA should include a tagline indicating the agency is an equal opportunity employer on all internal and external job vacancy notices. (Sect. IV, Citywide EEO, 2005)

Responsibilities of the Assistant Director of the OEO

The NYCHA is in compliance with the following requirement:

1. The Assistant Director of the OEO reports to the Director of the DEO, who reports to the Chair. The Director and Assistant Director keeps the Chair abreast of DEO and OEO issues via regularly scheduled monthly meetings; notes are kept on pertinent issues.
2. The Assistant Director of the OEO supervises the Associate Investigators. She schedules monthly meetings with each investigator to discuss workload issues; additional meetings are held on an informal, ad-hoc basis.

Equal Employment Opportunity and Reasonable Accommodation for Persons with Disabilities

The NYCHA is in compliance with the following requirements:

1. The Director for Facilities Planning has affirmed that the NYCHA's Central Office Locations are ADA compliant. In addition, the Department of Buildings reviews and approves the Authority's bids for construction. All central office locations have been fully renovated within the past 10 years. As required by lease, these facilities are compliant with legal codes and mandates.

2. The NYCHA has designated an Employee Reasonable Accommodation Coordinator (ERAC), who is responsible for monitoring and maintaining records of reasonable accommodations. The Director of Human Resources, to whom the ERAC reports, makes the final decision on whether to grant or deny accommodation requests.
3. The NYCHA has granted reasonable accommodations such as a heater for an employee with a medical condition that prohibited exposure to cold environments, and limited fieldwork for an employee who could not lift heavy objects. Additional accommodations include an air purification system, printers, ergonomic and high back chairs, revised work schedules, and departmental transfers.
4. The NYCHA has designated a Section 55-a Program Coordinator and provides information on the program via a Department of Citywide Administrative Services web link (<http://www.nyc.gov/html/dcas/html/resources/55a.shtml>). Currently, the agency has 10 program participants.

SUMMARY OF RECOMMENDED CORRECTIVE ACTIONS

1. The NYCHA should follow section V(C)(4) of the Citywide EEO Policy and ensure that its EEO policies are available in formats accessible to applicants and employees with disabilities. Specifically, the NYCHA should ensure that its EEO policy is equally accessible to persons with visual impairments (e.g., large print, audio cassette or Braille). (Sect. V(C)(4), Citywide EEOP, 2005)
2. The Associate Investigator who has not completed EEO training should complete such training by either attending standard training for EEO professionals conducted by the Department of Citywide Administrative Services or completing the EEO certificate program at Cornell University's School of Industrial and Labor Relations. (Sect. IV and V(C)(1), Citywide EEOP, 2005)
3. The Director of the DEO should memorialize meetings with the Chair where discrimination complaints are discussed and resolutions of those complaints are decided. These notes should indicate that the Chair has reviewed, and approved or disapproved, of the recommendations.
4. Consistent with the NYCHA's OEO Investigator's Manual, the Investigator should complete the investigation and issue the draft Investigation Report to the Assistant Director of the OEO within 90 business days of the filing of the complaint. (Sect. IV(A)(2), the NYCHA's Investigator's Manual)
5. In the event that there is some impediment to concluding the investigation within 90 business days, the reason for delay should be noted in the OEO case file. (Sect. IV(A)(2), the NYCHA's Investigator's Manual)
6. The NYCHA should include a tagline indicating the agency is an equal opportunity employer on all internal and external job vacancy notices. (Sect. IV, Citywide EEOP, 2005)

Conclusion

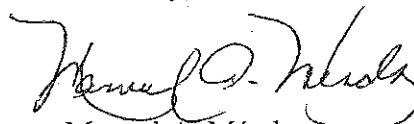
Pursuant to Chapter 36 of the New York City Charter and the previously cited preliminary determinations relating to EEPC's audit of the NYCHA's compliance with its Equal Employment Opportunity Policy from July 1, 2003 to June 30, 2005, as well as Commission policies and EEO standards expressed in the Citywide EEO Policy, we respectfully request your response to the aforementioned preliminary determinations.

Your response should indicate what corrective actions your office will take to bring the agency in compliance with the aforementioned policies and which recommendations it intends to follow. As you informed us during the exit meeting of July 21, 2006, you have already implemented some of our recommended corrective actions. Please specify these corrective actions in your response. Please forward your response within thirty days of receipt of this letter.

Pursuant to Section 832 of the New York City Charter, if you do not implement all of these recommendations for corrective actions during a compliance period not to exceed six months, this Commission may publish a report and recommend to the Mayor the appropriate corrective actions that you should implement in your agency's EEO Plan.

In closing, we want to thank you and your staff for the cooperation extended to the Equal Employment Practices Commission auditors during the course of this audit. If you have any questions regarding these preliminary determinations, please let us know.

Sincerely,



Manuel A. Méndez
Vice-Chair

APPENDIX - 1

NEW YORK CITY HOUSING AUTHORITY SURVEY RESULTS

A. GENERAL OVERVIEW

1. Do you know who your agency's EEO Officer is?
Yes 19% No 79% No answer 2%
2. Is your agency's EEO policy statement posted on the agency bulletin boards?
Yes 65% No 32% No answer 3%
3. Is your agency's Sexual Harrassment Policy Statement posted on the agency bulletin boards?
Yes 70% No 28% No answer 2%
4. Were you given the EEO Policy Statement?
Yes 63% No 11% Do not remember 26%
5. Were you given the Sexual Harassment Policy Statement?
Yes 80% No 6% Do not remember 13% No answer 1%
6. Do you have a copy of the Discrimination Complaint Procedures?
Yes 49% No 28% Do not remember 22% No answer 1%
- 7a. Do you agree with the principles of Equal Employment Opportunity?
Yes 92% No 8%
- 7b. Do you agree with the priciples of Affirmative Action?
Yes 84% No 16%
8. Do you know how to obtain your agency's EEO Policy?
Yes 54% No 45% No answer 1%
9. Has your supervisor emphasized his/her commitment to the agency's EEO policies at any staff meeting during the past 8 months?
Yes 29% No 49% Do not remember 22%

B. EEO COMPLAINTS

10. Do you know how to file an EEO Complaint?
Yes 52% No 46% No answer 2%
11. If you had a discrimination complaint, would you bring it to your agency's EEO Officer?
Yes 62% No 11% Undecided 26% No answer 1%
12. Did you ever file a discrimination complaint with the EEO Office?
(If No, please skip to question #16)
Yes 8% No 91% No answer 1%

13. What was the basis of the complaint? _____

14. If you have filed a complaint, were you satisfied with the manner in which your complaint was managed?
 Yes 6% No 76% No answer 18%

15. Was your manager or supervisor supportive of your right to file a complaint?
 Yes 12% No 60% N/A 24% No answer 4%

C. SEXUAL HARASSMENT

16. Did you receive Sexual Harassment Prevention training? (If No, please skip to question #18)
 Yes 58% No 18% No answer 24%

17. Did you find this training helpful?
 Very 33% Somewhat 29%
 Not really 9% Waste of time 4% No answer 25%

18. Would you prefer to file a sexual harassment complaint with an office outside your agency instead of your agency's EEO office?
 Yes 39% No 46% No answer 15%

D. JOB ADVANCEMENT

19. Do you see job postings on agency bulletin boards for vacant positions prior to the application deadline?
 Yes 71% No 23% Do not remember 4% No answer 2%

20. Do you believe your agency practices equal employment opportunity?
 Yes 60% No 37% No answer 3%

AFFIRMATIVE ACTION FOR PERSONS WITH DISABILITIES

21. Has your agency made facilities accessible for persons with disabilities?
 Yes 70% No 15% No answer 15%

22. Did you ever ask for an accommodation for a physical or mental disability?
 Yes 7% No 81% No answer 12%

23. If so, did the agency accommodate you?
 Yes 63% No 37%

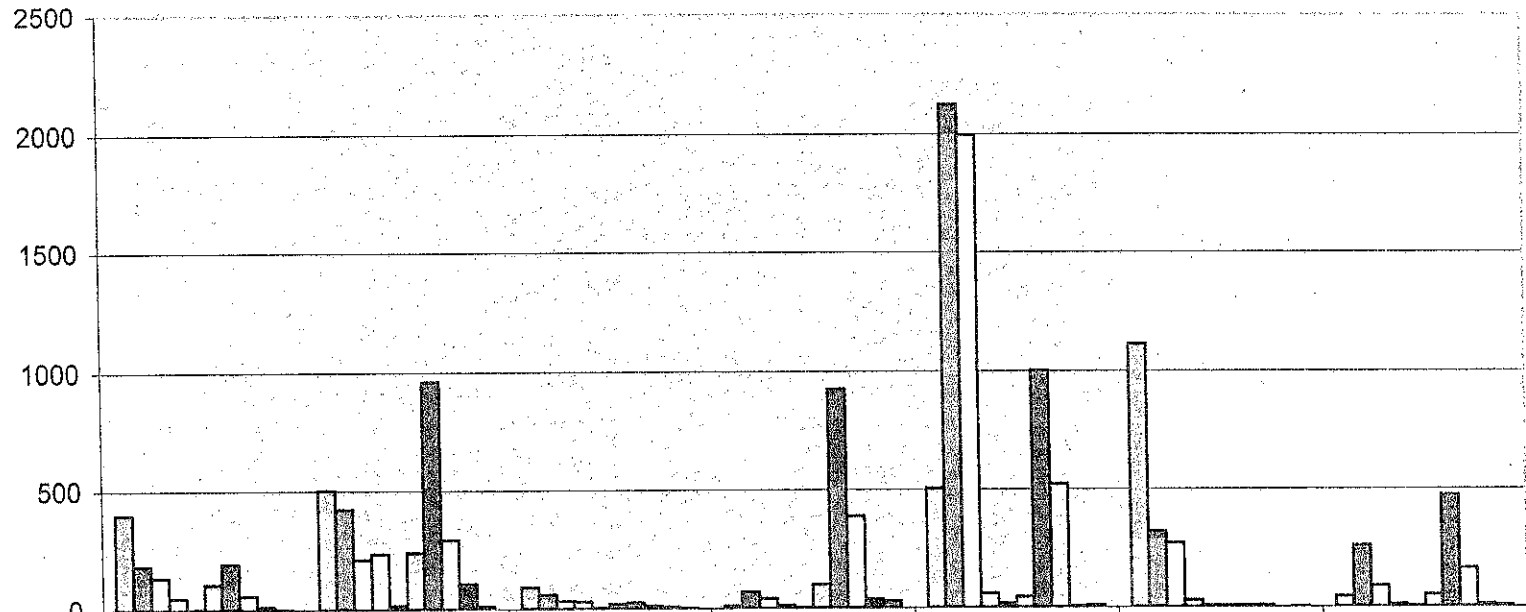
OPTIONAL

24. What is your race/ethnicity?	30%	Afr. Am.	12%	Hisp.
	6%	Asian	0%	Nat. Am.
	43%	Cauc.	36%	No Answer

25. What is your sex?					
Male	43%	Female	49%	No answer	8%

Appendix-2

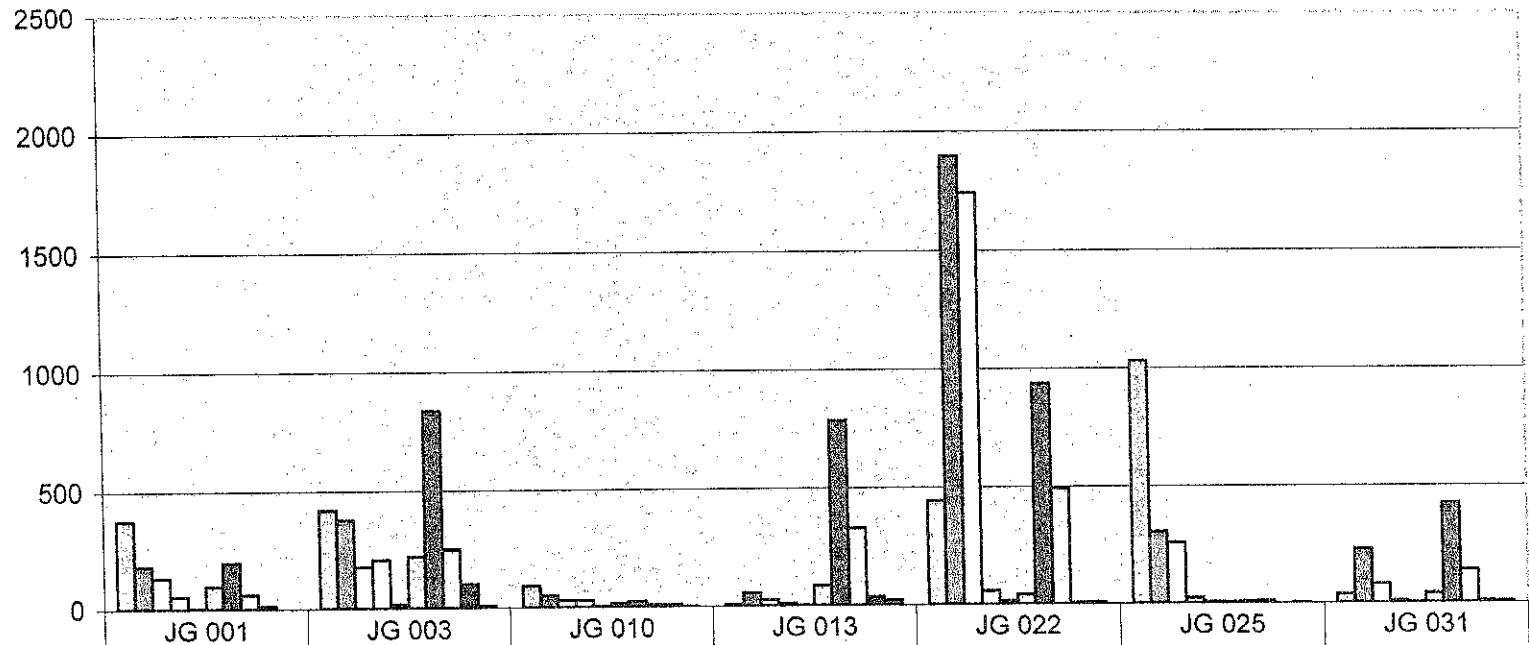
NYCHA's June 30, 2003 Workforce by Job Group, Race and Gender



	JG 001	JG 003	JG 010	JG 013	JG 022	JG 025	JG 031
□ WHITE MALE	399	503	90	10	505	1114	43
■ BLACK MALE	184	423	58	68	2122	321	257
□ HSPN MALE	135	211	31	39	1995	270	88
□ ASIAN MALE	49	234	29	11	59	27	10
■ NATIVE AMER MALE	3	16	3	1	17	6	3
□ WHITE FEMALE	106	238	18	99	43	4	51
■ BLACK FEMALE	192	964	25	929	1002	6	475
□ HSPN FEMALE	57	292	11	388	521	7	164
■ ASIAN FEMALE	12	106	7	36	4	0	11
■ NATIVE AMER FEMALE	1	11	1	28	8	1	5

Appendix-3

NYCHA's June 30, 2005 Workforce by Job Group, Race and Gender



	JG 001	JG 003	JG 010	JG 013	JG 022	JG 025	JG 031
WHITE MALE	375	418	90	7	446	1030	36
BLACK MALE	180	377	49	55	1898	306	231
HSPN MALE	130	176	29	24	1741	261	79
ASIAN MALE	53	207	29	10	56	22	8
NATIVE AMER MALE	3	16	3	1	14	6	3
WHITE FEMALE	96	221	15	83	41	4	40
BLACK FEMALE	196	835	23	785	936	7	428
HSPN FEMALE	60	251	9	329	494	8	141
ASIAN FEMALE	11	100	9	35	5		7
NATIVE AMER FEMALE		10	2	20	7	1	5

APPENDIX – 4

New York City Housing Authority

The following table indicates personnel activity during the audit period, July 1, 2003 through June 30, 2005.

Hires by Sex and Ethnicity

Total Hires: 862

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Native American	Unknown	Total
452	410	862	126	456	171	48	10	51	862

Promotions by Sex and Ethnicity

Total Promotions: 546

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Native American	Unknown	Total
326	220	546	156	229	127	19	5	10	546

Involuntary Separations by Sex and Ethnicity

Total Involuntary Separations: 336

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Native American	Unknown	Total
110	226	336	41	179	88	13	3	12	336

Source: Audit data supplied by the New York City Housing Authority