



## EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

40 Rector Street, 14<sup>th</sup> Floor, New York, New York 10006

Telephone: (212) 788-8646 Fax: (212) 788-8652

Cesar A. Perez, Esq.  
*Chair*

Angela Cabrera  
Malini Cadambi Daniel  
Elaine S. Reiss, Esq.  
Arva A. Rice  
*Commissioners*

Abraham May, Jr.  
*Executive Director*  
Charise Hendricks, PHR  
*Deputy Director*  
Judith Garcia Quiñonez  
*Counsel*

May 20, 2011

Mark Page  
Director  
Office of Management & Budget  
75 Park Place  
New York, NY 10007

Re: Final Determination Pursuant to the Audit of the Office of Management & Budget (OMB) and its Compliance with the City's Equal Employment Opportunity Policy from January 1, 2007 through December 31, 2009

Dear Mr. Page:

On behalf of the members of the Equal Employment Practices Commission, I thank you for your May 13, 2011 response to our April 14, 2011 Letter of Preliminary Determination pursuant to the Referenced audit.

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

To ensure that all employees are aware of the person responsible for handling reasonable accommodation requests and ensuring compliance with all federal, state, and local laws, as well as City and agency policies, pertaining to persons with disabilities, the agency should redistribute to all employees in writing, the name, location, and telephone number of this person. (Sect. VB and VC, EEOP)

#### Recommendation #2

Because the EEOP holds each agency responsible for retaining information about personnel actions, discretionary hiring, and applicants as required by federal, state and local law and/or the City's official records retention schedule, the agency should maintain complete applicant logs (which include the *Division/Unit, JVN#, Civil Service Title, Office Title, Interviewers' Names, Applicants Names, Security Number, Ethnicity, Gender, Disability, Veteran, Interview Date, Result, Reason Selected/Not Selected, and Recruitment Source*) for all discretionary appointments. (Sect. IV, EEOP and DCAS issued *Applicant Log*)

#### Recommendation #3

Since the EEOP requires that city agencies assess the manner in which candidates are selected for employment to determine whether there is adverse impact upon any particular racial, ethnic, disability, or gender group, the agency should conduct an adverse impact study for [recommended job groups]. The agency can use, and may modify, the Disparate Impact Analysis Program (an on-line Internet based application) recommended by DCAS/DCEEEO by accessing: <http://www.hr-software.net/EmploymentStatistics/DisparateImpact.htm> for this purpose. To the extent that adverse impact is discovered, the agency should determine whether the criteria being utilized are job-related. If the criteria are not job-related, the agency should discontinue using those criteria. (Sect. IV, EEOP)

#### Recommendation #4

To ensure that employees know the identity of the agency's Career Counselor, the personnel officer should re-distribute to all employees the identity of, and the type of guidance which is available from, the Career Counselor. This should be done at least once each year. (12/14/ 2006 Addendum to *EEOP Standards and Procedures to Be Utilized By City Agencies (2005)*) and Sect. VF, EEOP)

#### Recommendation #6

Since the EEO Officer has supervisory responsibility of the EEO Counselors, the EEO Officer should meet with the EEO Counselor at least at quarterly intervals to ensure that the Counselor(s) implement EEO functions satisfactorily and is kept abreast of internal and external EEO developments. These meetings should be documented. (Sect. VB and VC, EEOP)

#### Recommendation #7

Because the EEOP requires the EEO Officer to report directly to the agency head (or if approved by DCAS, to a direct report to the agency head), appropriate documentation of meetings and other communications between the EEO Officer and the agency head regarding decisions that impact the administration of the agency's EEO program must be maintained. (Sect. VB, EEOP, and EEPC Position)

#### **Request Clarification**

For the following reasons, hereafter identified as EEPC Rationale, we request clarification of your response to the following recommendations, which can be addressed in your response or during the compliance period:

#### Recommendation #5

The agency head should direct managers and supervisors to emphasize at least twice a year their commitment to the agency's EEO policies and affirm the right of each employee to file a discrimination complaint with the EEO office. These meetings must be documented. (DCAS, Model Agency EEO Commitment Memo and EEPC Position)

#### Your Response

Managers and supervisors will be reminded at least twice a year of OMB's and the City's commitment to EEO. These meetings will be documented.

#### EEPC Rationale

The recommendation is based on the finding that managers and supervisors were not instructed to re-emphasize the agency's commitment to EEO and discuss the agency's EEO policies and procedures with their subordinates during regular staff meetings. The recommendation seeks a commitment from the agency head to direct managers and supervisors to emphasize the agency's commitment to its EEO policies and affirm the right of each employee to file a discrimination complaint with the EEO office at least twice a year during regular staff meetings. These meetings should be documented.

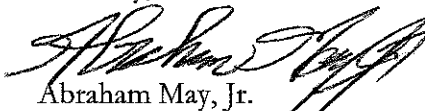
#### **Conclusion**

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

If you choose to issue a written response, please do so within thirty days. If you choose not to issue a written response, we will initiate audit compliance shortly thereafter. EEPC Counsel Judith Quiñonez, or her designee, will contact your EEO Officer in seven days to ascertain your intentions.

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

Sincerely,

  
Abraham May, Jr.  
Executive Director

C: Patricia Herrick, Human Resources Director  
Judith Garcia Quiñonez EEPC Counsel