

EQUAL EMPLOYMENT PRACTICES COMMISSION CITY OF NEW YORK

RESOLUTION #05/11-801: Preliminary Determination Pursuant to the Audit of the Department of Small Business Services's (SBS) Equal Employment Opportunity Program from July 1, 2002 through June 30, 2004.

Whereas, pursuant to Chapter 36, Section 831(d)(2) of the New York City 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 insure 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, the Equal Employment Practices Commission audited the Department of Small Business Services's Equal Employment Opportunity Program; and

Whereas, in accordance with Chapter 36, Section 832(c) of the City Charter, the EEPC may make a preliminary determination pursuant to Section 831(d) that any plan, program, procedure, approach, measure or standard adopted or utilized by any city agency does not provide equal employment opportunity. Now, Therefore,

Be It Resolved,

that pursuant to the audit of the Department of Small Business Services' compliance with its Equal Employment Opportunity Policy, as well as Commission policies and EEO standards expressed in City guidelines, the Equal Employment Practices Commission hereby affirms and adopts the following preliminary findings:

1. SBS's general EEO Policy did not include an up-to-date list of "protected classes" under the New York City Human Rights Law, or an indication that it is illegal to discriminate on the basis of gender identity (Local Law No. 3 of 2002) and status as a victim of sex offenses and stalking (Local Law No. 75 of 2003).
2. SBS did not utilize a "Complaint of Discrimination" intake form when internal complaints were filed. (Sect. 12 (a), DCPIG)
3. SBS did not include a Notice of Discrimination Complaint form to notify respondents of allegations being made. (Sect. 12 (b), DCPIG)
4. SBS's EEO Officer did not submit a confidential written report to the agency head, which consists of the 3 sections outlined in the DCPIG: (1) Findings of Facts, (2) Discussion and Conclusion and (3) Recommendations. (Sect. 12 (b), DCPIG)

5. SBS's agency head did not sign each confidential written report to indicate that it had been reviewed and whether the recommendation, if any, was approved and adopted. (Sect. 12 (b), DCPIG)
6. SBS did not advertise job vacancies for which underutilization of women and/or minorities were identified in female-and minority-oriented publications or utilize professional and community organizations serving minorities, women, and persons with disabilities.
7. SBS did not secure the necessary training to conduct adverse impact studies, either from DCAS or another appropriate source. (Section IV, EEOP).
8. SBS's managers/supervisors were not aware that the "Utilizing Human Resources" section of their annual performance evaluation form includes tasks and standards relevant to EEO performance that will be considered in determining their eligibility for promotions or merit increases. (Sect. IV, EEOP)
9. SBS employees were not aware of the identities, location and telephone numbers of the Career Counselors. (Sect. IV, EEOP)

Be It Finally Resolved,

that the Commission authorizes the Chair, Ernest Hart, Esq., to forward a letter to the Department of Small Business Services' Commissioner, Robert W. Walsh, formally informing him of the findings with appropriate explanations and recommendations and requesting, pursuant to Chapter 36 of the City Charter, his response to these findings within thirty days of receipts of the letter indicating what corrective actions the Department of Small Business Services will take to bring it into compliance with the aforementioned policies and standards on equal employment opportunity.

Approved unanimously on July 28, 2005.

Chereé A. Buggs, Esq.
Commissioner

Angela Cabrera
Commissioner

Manuel A. Méndez
Vice-Chair

Veronica Villanueva, Esq.
Commissioner



Ernest F. Hart, Esq.
Chair