

NYC
Equal Employment
Practices Commission

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February 21, 2013

Honorable John C. Liu
New York City Comptroller
Municipal Building
One Centre Street
New York, NY 10007

RE: Final Determination Pursuant to the Audit of the Comptroller's Equal Employment Opportunity Program from July 1, 2009 to June 30, 2012.

Dear Comptroller Liu:

Thank you for your February 8, 2013 response to our December 18, 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, EEO Counselor, EEO Trainer, Disability Rights Coordinator, Section 55-a Coordinator, Director of Personnel or Human Resources and Agency Counsel (or individual responsible for responding to external EEO complaints); 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

Each complaint file should include a *Discrimination Complaint Form* or a *complaint* that captures: the facts (including pertinent dates) that identify the respondent(s) with reasonable specificity and provide the essence of the circumstances which gave rise to the alleged discrimination.



Response: With the exception of one complaint file submitted during the audit period, each of the remaining three complaint files included a Discrimination Complaint Form. However, we accept the Commission's recommendation and will ensure that all future complaint files include a Discrimination Complaint Form.

EEPC Response: We are pleased that the agency will ensure that all future complaint files include a *Discrimination Complaint Form*. Implementation of this action will be monitored during the compliance monitoring period.

Recommendation #2

The EEO Officer/Counselor should serve the respondent with a notice of complaint (or another document that includes the respondent's right to respond to the allegations and right to be accompanied by a representative of his/her choice) along with a copy of the complaint. The EEO Officer should keep receipts regarding the service of notice on the respondent in the complaint file.

Response: We accept the Commission's recommendation and have implemented procedures to document that respondents are provided with the information necessary to fully prepare to defend themselves. Please see Attachment #1, sample Notice of Complaint Filing.

EEPC Response: We are pleased that the agency has implemented procedures to document that respondents will be provided with a notice of complaint. We accept Attachment # 1, a sample notice of complaint filing.

Recommendation #3

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.

Response: We strive to commence investigations immediately and to issue reports within 90 days. We accept the Commission's recommendation, however, if circumstances arise where we cannot meet these standards, we will note such in the complaint file and notify complainant and respondent of the delay in writing.

EEPC Response: We are pleased that the agency will notify the complainant and respondent in writing of a delay and note it in the complaint file. A copy of a notice of delay letter should be provided during the compliance monitoring period.



Recommendation #4

The agency head, or a direct report, should review the EEO Officer's report and promptly issue a written/electronic determination adopting, rejecting, or modifying the recommended action. The agency head, or a direct report, should sign (in writing or electronically) each final determination to indicate that it has been reviewed and adopted.

Response: As of October 2012, this process had been implemented consistent with the Commission's recommendation.

EEPC Response: We are pleased that the agency has implemented a process for the agency head or a direct report to review and sign each complaint's final determination. Documentation of this process should be provided during the compliance monitoring period.

Recommendation #5

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.

Response: The City's E-Hire system, which enables agencies to collect this information in an efficient manner, and on a voluntary basis where required by law, has not yet been made available to the Comptroller's Office. Nonetheless, we appreciate the Commission's desire to have this agency collect applicant information and accept the Commission's recommendation to implement a system to capture candidate information (i.e., those individuals who are interviewed) on a voluntary basis as we currently do with those individuals hired. In addition, the agency will collect requested information from all applicants when the E-Hire system is made available to the Comptroller's Office.

EEPC Response: We are pleased that the agency plans to collect requested information from all applicants. This information is germane to understanding the effectiveness of your agency's current recruitment strategies. Documentation and a time-frame for implementation of this action should be provided during the compliance monitoring period.

Recommendation #6

The agency's HR/Personnel Officer should re-distribute the identity of the agency Career Counselor and ensure that all employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings.



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Response: For easy access by employees, the agency has and will continue to post on its website information regarding examinations, training opportunities, job postings, performance evaluations, and related material. We accept the Commission's recommendation and have re-distributed the identity of the Career Counselor to ensure employees have a contact if they have questions on this and other career information. Please see Attachment #2, e-mail to all staff.

EEPC Response: We are pleased that the agency has re-distributed the identity of the Career Counselor to all employees. We accept Attachment #2, email to all staff.

Recommendation #7

The agency head should appoint at least one EEO Representative of each gender to receive discrimination complaints and conduct investigations.

Response: This administration has always had EEO representatives of each gender to receive complaints, but given the size of the agency and the history of complaints, only the EEO Officer would investigate complaints. Nonetheless, we accept the Commission's recommendation and have appointed Jose Quiroz and Annabelle Walters as EEO Counselors. Mr. Quiroz and Ms. Walter's will be available to receive and investigate complaints and also to address possible delays in the event the EEO Officer is out for an extended time.

EEPC Response: We are pleased that the agency has appointed at two EEO Counselors, of both genders, to receive and investigate complaints. We accept Attachment #3, revised EEO Policy identifying the newly appointed EEO Counselors.

Recommendation #8

The agency should update its EEO policy to include the identity and contact information for the EEO professionals.

Response: We accept the Commission's recommendation that, although the previous EEO professionals were trained and appointed, their identity and contact information should be in the Policy and have updated the EEO Policy to reflect this information for the new EEO professionals. Please see Attachment #3, updated Equal Opportunity Policy Statement.

EEPC Response: We are pleased that the agency has updated its EEO Policy to include the identity and contact information for all EEO professionals including the newly appointed EEO Counselors. We accept Attachment #3, revised EEO Policy identifying the newly appointed EEO Counselors.



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Recommendation #9

To ensure that all employees know the identity of the person responsible for handling reasonable accommodation requests, the agency should re-distribute and post -- on its electronic bulletin boards, intranet site, and at each site where it conducts business -- the name, location, and contact information of the Disability Rights Coordinator.

Response: We accept the Commission's recommendation and have re-distributed and posted the name, location, and contact information of the Disability Rights Coordinator to all employees. Please see Attachment #4, e-mail to all staff.

EEPC Response: We are pleased that the agency has re-distributed and posted the name, location, and contact information of the Disability Rights Coordinator to all employees. We accept Attachment #4, email to staff.

Recommendation #10

The agency's managerial performance evaluation form should be revised to include a rating for EEO (which covers responsibilities and processes for assuring that people are appropriately employed, effectively and efficiently utilized, and dealt with in a fair and equitable manner)

Response: Although the current managerial evaluations include the requirement that a manager follow the rules and procedures of the agency, which include EEO matters, we accept the Commission's recommendation and have revised the agency's managerial performance evaluation to specifically include an EEO rating. Please see Attachment #5, revised Managerial Performance Evaluation.

EEPC Response: We are pleased that the agency has included an EEO rating in the managerial performance evaluations. We accept Attachment #5, revised Managerial Performance Evaluation.

Recommendation #11

The agency head should direct managers and supervisors to emphasize their commitment to the EEO policies and affirm the right of each employee to file a discrimination complaint with the EEO office at least once a year during staff meetings. These meetings should be documented.

Response: We accept the Commission's recommendation. Please see Attachment #6, memorandum to all supervisory staff from the First Deputy Comptroller.

EEPC Response: We are pleased that the First Deputy Comptroller has directed managers and supervisors to emphasize their commitment to the EEO policies during staff meetings and document these meetings. Please provide the number of Supervisors and Managers to whom this applies, and how the EEO office will track the implementation of this policy. We accept Attachment #6, memo to supervisory staff.



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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 L. Hendricks". The signature is written in a cursive style with a large, stylized "H".

Charise L. Hendricks, PHR
Executive Director

cc: Sharina Soriano, EEO Officer
Judith Garcia Quiñonez, Counsel/Compliance Director