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BY MAIL AND EMAIL

October 16, 2018

Joseph Esposito
Commissioner
New York City Emergency Management
165 Cadman Plaza East
Brooklyn, New York 11201

Re: Preliminary Determination for Audit: Review, Evaluation and Monitoring of the New York City Emergency Management's Sexual Harassment Prevention and Response Practices from January 1, 2016 to December 31, 2017.

Dear Commissioner Esposito:

On behalf of the members of the Equal Employment Practices Commission (Commission or EEPC), thank you and your agency for the cooperation extended to our staff during the course of this audit. This letter contains the Commission's findings and preliminary determinations pursuant to our audit and analysis of your agency's sexual harassment prevention and response practices for the period covering January 1, 2016 to December 31, 2017.

Chapter 36, Section 831(d)(5) of the New York City Charter empowers this Commission to audit and evaluate the employment practices and procedures of city agencies and their efforts to ensure fair and effective equal employment opportunity for women and minority employees and applicants seeking employment. Sections 831(d)(2) and 832(c) authorize this Commission to make a determination that any agency's plan, program, procedure, approach, measure or standard does not provide equal employment opportunity, require appropriate corrective action and monitor the implementation of the corrective action it prescribes.

The New York City Emergency Management (NYCEM), which may herein be referred to as "the agency," falls within the Commission's purview under Chapter 36, Section 831(a) of the New York City Charter, which delineates city agency as any "city, county, borough or other office, administration, board, department, division, commission, bureau, corporation, authority, or other 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 purpose of this audit and analysis is to evaluate the agency's sexual harassment prevention and response practices, not to issue findings of discrimination pursuant to the New York City Human Rights Law. This Commission has adopted *Uniform Standards for EEPC Audits*¹ and *Minimum Equal Employment Opportunity Standards for Community Boards* to assess agencies' EEO programs and policies for compliance with federal, state and local laws, regulations, policies and procedures that are designed to increase equality of opportunity for municipal government employees and job applicants. These standards are founded upon and consistent with federal, state and local laws, regulations, procedures and policies including, but not limited to, the Citywide Equal Employment Opportunity Policy - Standards and Procedures to be Utilized by City Agencies; the New York City Human Rights Law (NYC Administrative Code §§8-107(1)(a) and (d), 8-107.13, and 8-107.1); the New York State Civil Service Law §55-a; and the equal employment opportunity requirements of the New York City Charter. Prescribed corrective actions are consistent with the aforementioned parameters.

Since this Commission is empowered to review and recommend actions that each agency should consider including in its annual plan of measures and programs to provide equal employment opportunity (Annual EEO Plan), the audited agency should incorporate required corrective actions in its current EEO Program and prospective Annual EEO Plans.

Scope and Methodology

This Commission's audit methodology includes the collection and analysis of the documents, records and data the agency provides in response to the document and information request; responses to the *EEPC Preliminary Interview Questionnaires* (PIQs) for EEO professionals and others involved in EEO program administration; and, if applicable, review of the agency's *Annual EEO Plans*, *Quarterly EEO Reports* and analysis of *Citywide Equal Employment Database System* (CEEDS) reports.

EEO professionals (including, but not limited to, past or current EEO Officers, Deputy or Co-EEO Officers, EEO Counselors, EEO Trainers, EEO Investigators, Disability Rights Coordinators, Career Counselors, and 55-a Program Coordinators) and others involved in EEO program administration such as the Principal Human Resources Professional are given a three-week deadline to complete and return their individual questionnaires. The Commission's EEO Program Analysts also conduct additional research and follow-up discussions or interviews with EEO professionals, when appropriate.

Description of the Agency

The New York City Emergency Management (hereinafter referred to as "NYCEM") plans and prepares for emergencies, educates the public about preparedness, coordinates emergency response and recovery, and collects and disseminates emergency information. NYCEM is responsible for coordinating citywide planning and response for all types and scales of

¹ Corresponding audit/analysis standards are numbered throughout the document.

emergencies². At the end of the period in review, NYCEM's headcount was 180 employees. (See CEEDS Report: *Workforce Composition Summary*, attached as Appendix 1).

PRELIMINARY DETERMINATIONS AFTER AUDIT AND ANALYSIS

Following are the corresponding audit standards for each subject area along with the EEPC's findings and required corrective actions, where appropriate:

I. ISSUANCE, DISTRIBUTION AND POSTING OF EEO POLICIES:

Determination: The agency is in partial-compliance with the standards for this subject area.

1. Issue a Policy Statement or memorandum reiterating commitment to the prevention of sexual harassment annually.
- ✓ On April 29, 2016, the agency head distributed to all staff via email, an interoffice memorandum entitled *"Agency Diversity and EEO Policies and Designated Agency Staff Members"* (hereinafter referred to as the "2016 EEO Policy Statement"). The 2016 EEO Policy Statement reaffirmed the agency's commitment to EEO and declared, "[a]s Agency Commissioner, I have the expectation that the agency will be run in a way that values fairness, equity and respect. I am committed to ensuring fair employment practices in all aspects at NYC Emergency Management and will take the steps necessary to ensure our work environment supports and enforces the City's Equal Employment Opportunity (EEO) policy."
- The agency did not issue a Policy Statement or memorandum reiterating commitment to the prevention of sexual harassment annually. **Corrective action required.**

NOTE: Subsequent to the period in review, on May 8, 2018, the agency head distributed, as an attachment to an email addressed to all staff, the agency's *"Sexual Harassment Policy Statement"* (hereinafter referred to as the "2018 Sexual Harassment Policy Statement," attached as Appendix 2). The 2018 Sexual Harassment Policy Statement specifically states, "[s]exual harassment is strictly prohibited. Employees who violate this policy are subject to discipline, including termination."

2. Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies – or an agency Policy that conforms to city, state and federal laws against sexual harassment-- for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

² Overview-NYC Emergency Management. (2018). Retrieved August 6, 2018, from <https://www1.nyc.gov/site/em/about/overview.page>.

- During the period in review, the agency did not distribute/post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards to Be Utilized by City Agencies – or an agency Policy that conforms to city, state and federal laws against sexual harassment – for use by managers, supervisors, and legal, human resources and EEO professionals. The *NYC Emergency Management Discrimination Complaint Procedures*, (hereinafter referred to as the “Agency’s Complaint Procedures”, and attached as Appendix 3), in effect during the period in review, were not comprehensive, as they did not provide the option to file a complaint anonymously, and did not require the following: that the agency issue/maintain written confirmation when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office; the issuance of a conclusive report within 90 days of the date the complaint was filed; the commencement of an investigation immediately if allegations raised sufficiently warrant an investigation; in rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, that the agency specify in the complaint file the reason for the delay and project a time frame for completion of the report, and notify the complainant and respondent of the delay; that the conclusive confidential report generated at the end of each complaint investigation include a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, and a determination; that each internal discrimination complaint file contain a written determination of its outcome and corrective action(s) taken as a result; that the agency notify the complainant and respondent in writing when the investigation by the EEO professional has been transferred because of the filing of an external complaint; and a requirement that the agency establish and utilize a complaint tracking and monitoring system that permits the agency to identify the location, status, and length of time elapsed in the complaint investigation process, the issues and the bases of the complaints, the aggrieved individuals, and other information necessary to analyze complaint activity to identify trends. Corrective action required.

NOTE: The 2018 Sexual Harassment Policy Statement that was distributed on May 8, 2018, stated, “[c]omplaints of sexual harassment will be handled under the New York City Equal Employment Opportunity Policy and Procedures”. The statement included links to the following: “Equal Employment Opportunity Policy Standards and Procedures To Be Utilized by City Agencies (City of New York, 2014)” (hereinafter referred to as the “EEO Policy”), “About EEO: What You May Not Know” (hereinafter referred to as the “EEO Handbook”), and the “EEO Complaint Procedural Guidelines (City of New York, 2016)” (hereinafter referred to as the “NYC EEO Complaint Procedural Guidelines”) and attached a contact list for the agency’s EEO professionals, that included their names, telephone numbers and emails addresses. The EEO Policy, EEO Handbook and the NYC EEO Complaint Procedural Guidelines contained uniform and responsive procedures for investigating discrimination/sexual harassment complaints. The EEO Handbook and NYC EEO Complaint Procedural Guidelines contained contact information for federal, state and local agencies that enforce laws against discrimination/sexual harassment. (Both the EEO Handbook and NYC EEO Complaint Procedural Guidelines have the incorrect address listed for the New York City Commission on Human Rights. Additionally, the EEO Handbook has an incorrect phone number listed for the New York City Commission on Human Rights).

II. EEO TRAINING FOR AGENCY:

Determination: The agency is in non-compliance with the standard for this subject area.

3. Establish and implement a training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on the prevention of sexual harassment as well as discrimination complaint and investigation procedures.
- ✓ The agency's training plans were outlined in its annual *Diversity and Equal Employment Opportunity Plans* (Annual EEO Plan). In its Annual EEO Plan for fiscal year 2017, the agency stated, "[a]ll NYCEM staff members are required to take the DCAS EEO computer based training. New employees must complete this training within the first two months of their employment." The agency's Annual EEO Plan for fiscal year 2017 also stated that the agency's *Training Unit* tracked compliance with this requirement via its *Learning Management System*.
- The agency did not demonstrate implementation of its annual training plan or ensure that all individuals who work within the agency, including managers and supervisors, received training on the prevention of sexual harassment as well as discrimination complaint and investigation procedures. **Corrective action required.**

Corrective Action #1: Establish and implement a training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on the prevention of sexual harassment as well as discrimination complaint and investigation procedures.

III. COMPLAINT & INVESTIGATION PROCEDURES

Summary of Complaint Activity: The New York City Emergency Management reported no employment discrimination complaints were filed during the period in review. As a result, this Commission conducted its analysis of the agency's complaint and investigation procedures based on the policies, procedures and other information provided.

Determination: The agency is in partial-compliance with the standards for this subject area.

4. Include in the complaint file a completed *Complaint Intake Form*, or a written complaint that captures facts (including pertinent dates) that identify the respondent(s) with reasonable specificity and provide the essence of the circumstances which gave rise to the complaint.
- ✓ The agency provided a copy of the complaint intake form, entitled *EEO Inquiry-Intake*, that included the following fields: *complaint number, date received, origin of the complaint, received by, contact information, subject/respondent information, describe nature of the complaint, actions taken by the EEO office (whether it is by counsel/advice, mediation, referral to department for handling, inquiry/investigation commenced), final disposition (whether evidence of inappropriate conduct, insufficient evidence of inappropriate conduct, EEO basis or administrative closure), comments and case status (date opened and closed).*

5. Provide the option to file a complaint anonymously.

- The Agency's Complaint Procedures, which was in effect during the period in review, did not provide the option to file a complaint anonymously. **Corrective action required.**

NOTE: The NYC EEO Complaint Procedural Guidelines, which was adopted subsequent to the period in review, stated, "[t]he person making the complaint may do so anonymously" (see §1.2 for further information).

6. Serve the respondent with a notice of the complaint that includes the respondent's right to respond to the allegations and right to be accompanied by a representative of his/her choice. Maintain in the complaint file documentation regarding the service of notice on the respondent.

- ✓ The Agency's Complaint Procedures stated, "[t]he EEO staff will serve respondent(s) with the Notice of Discrimination Complaint. This will include respondent's right to respond [sic] the complaint allegations and their right to be accompanied by a representative of their choice to the interview(s)."

7. Issue/maintain written confirmation when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office.

- The Agency's Complaint Procedures did not include the requirement to issue/maintain written confirmation when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office. **Corrective action required.**

NOTE: The EEO Policy stated, "[a] complaint of discrimination may be withdrawn at any time by the person who filed the complaint. Withdrawal of a complaint must be made or confirmed in writing." Furthermore, the NYC EEO Complaint Procedural Guidelines stated, "[i]f the parties agree to a resolution during mediation, a resolution agreement will be drafted and provided to the parties and the referring EEO Officer" and "[t]he EEO Office must inform all parties to the complaint, in writing, of the termination of mediation" (see §1.2 for further information).

8. Take thorough notes, of words spoken and facts provided, during each interview. Include these notes in each complaint file.

- ✓ The Agency's Complaint Procedures included the following requirement, "[t]he EEO staff will take and keep thorough notes of words spoken and facts provided during each interview. All such notes will be kept in the complaint file."

9. Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.

- ✓ The Agency's Complaint Procedures stated, "[t]he EEO Officer will create a confidential report and submit it to the agency commissioner for final review and determination."
- The Agency's Complaint Procedures did not require the confidential report be issued within 90 days of the date the complaint was filed or that the investigation commence immediately if allegations raised sufficiently warrant an investigation. **Corrective action required.**

NOTE: The NYC EEO Complaint Procedural Guidelines stated, "[t]he final investigative report must be completed...within 90 calendar days from the date the complaint was filed with the EEO Office." Additionally, the NYC EEO Complaint Procedural Guidelines stated, "...complaint investigation should begin immediately..." (see §1.2 for further information).

10. In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.

- The Agency's Complaint Procedures did not include a directive that in rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, that the agency specify in the complaint file the reason for the delay, project a time frame for completion of the report, and notify the complainant and respondent of the delay. **Corrective action required.**

NOTE: The NYC EEO Complaint Procedural Guidelines stated, "[t]he final investigative report must be completed and the parties must be notified of the outcome within 90 calendar days from the date the complaint was filed with the EEO Office, unless the time period is extended by the EEO Office for good cause, with written notice to the parties and memorialized in the investigative file and/or the complaint tracking system. The EEO Office must document the reason for the delay, and project a time frame for the completion of the report" (see §1.2 for further information).

11. Generate at the end of each complaint investigation, a conclusive confidential report which includes a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head's Review.

- The Agency's Complaint Procedures did not require the conclusive confidential report to include a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, and a determination. **Corrective action required.**

NOTE: The NYC EEO Complaint Procedural Guidelines stated, "[a]fter all the relevant facts have been gathered, the EEO Officer must prepare a confidential written report on the complaint investigation and must submit the report to the Agency Head for review... [t]he

written report should include a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered during the investigation, a conclusion/determination and recommendation... [t]he Agency Head must sign each written report and indicate that it has been reviewed" (see §1.2 for further information).

12. Maintain complaint files in a secure area and ensure that they can be located and reviewed by the agency head, agency general counsel, and other appropriate staff identified by the agency head.
 - ✓ The agency reported that complaint files were maintained in a locked file cabinet within the EEO Officer's locked office, which was accessible by the Agency Head, General Counsel, and the Chief of Security (for emergency purposes only).
13. Establish and implement a policy whereby the agency head (or an approved direct report other than the General Counsel) reviews the principal investigator's conclusive report; issues a written/electronic determination adopting, rejecting, or modifying the recommended action; and signs each determination, via writing or electronically, to indicate it has been reviewed and adopted.
 - ✓ The Agency's Complaint Procedures stated, *"the commissioner will review the report and recommendations. The commissioner may then adopt, reject or modify the report. The commissioner will then indicate in writing that he/she has reviewed the report and facts and has adopted the written report on the effective date. The commissioner will then sign the report."*
14. Inform each complainant and respondent of the conclusion and outcome of their complaint investigation in writing as part of the agency's complaint procedure.
 - ✓ The Agency's Complaint Procedures included the requirement to *"...write to all of the parties informing them of the conclusion and outcome of the investigation."*
15. Ensure each internal discrimination complaint file contains a written determination of its outcome and corrective action(s) taken as a result.
 - The Agency's Complaint Procedures did not include a requirement that each internal discrimination complaint file contain a written determination of its outcome and corrective action(s) taken as a result. **Corrective action required.**

NOTE: The NYC EEO Complaint Procedural Guidelines stated, *"if, based on facts, the EEO Officer determines that ... the Respondent engaged in unlawful discriminatory conduct in violation of the City's EEO Policy, the EEO Officer must determine the most appropriate action ... and make a written recommendation to the Agency Head... "[t]he written report should include ... a conclusion/determination and recommendation."* Further, the EEO Policy states

“[a]ll . . . complaints . . . and their outcomes will be documented by the EEO office” (see §1.2 for further information).

16. Notify the complainant and respondent in writing when the investigation by the EEO professional has been transferred because of the filing of an external complaint.

- The Agency’s Complaint Procedures did not include a directive to notify the complainant and respondent in writing when the investigation by the EEO professional has been transferred because of the filing of an external complaint. **Corrective action required.**

NOTE: The NYC EEO Complaint Procedural Guidelines stated, *“[i]f an external complaint or lawsuit is filed subsequent to the filing of the internal complaint, the matter must also be transferred to the agency’s Office of General Counsel. The EEO Office must notify Complainant (and Respondent, if any) in writing of the transfer”* (see §1.2 for further information).

17. Establish and utilize a complaint tracking and monitoring system that permits the agency to identify the location, status, and length of time elapsed in the complaint investigation process, the issues and the bases of the complaints, the aggrieved individuals, and other information necessary to analyze complaint activity to identify trends.

- ✓ Because the agency reported no employment discrimination complaints were filed during the audit period, compliance with the standard could not be measured for the period in review.

NOTE: The NYC EEO Complaint Procedural Guidelines included the directive, *“[u]pon receiving an EEO complaint..., the EEO Office must memorialize the complaint....and enter it into the complaint tracking system...”*

18. Ensure that the General Counsel assists the agency head in identifying and determining appropriate responses to sexual harassment; works with the principal EEO Professional in the implementation of the City’s policies and procedures pertaining to sexual harassment; informs the principal EEO Professional when external complaints or litigation involving sexual harassment is brought against the agency; is available to consult on internal sexual harassment complaint investigations; and is responsible for the investigation of, and response to, external sexual harassment complaints.

NOTE: The agency reported no internal or external discrimination/sexual harassment complaints were filed during the audit period. Therefore, the responsibilities of General Counsel to assist the agency head in identifying and determining appropriate responses to sexual harassment complaints; consult on sexual harassment complaint investigations; investigate and respond to external sexual harassment complaints; and inform the principal EEO Professional when external complaints or litigation involving sexual harassment is brought against the agency could not be measured for the period in review.

- The agency did not demonstrate that the General Counsel worked with the principal EEO Professional in the implementation of the City's policies and procedures pertaining to sexual harassment. **Corrective action required.**

Corrective Action #2: Ensure that the General Counsel works with the principal EEO Professional in the implementation of the City's policies and procedures pertaining to sexual harassment.

IV. ANNUAL REVIEW OF PRACTICES, POLICIES AND PROGRAMS

Determination: The agency is in **non-compliance** with the standards for this subject area.

19. Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.
- ✓ During the period in review, the agency's Principal EEO Professional was also the agency's principal HR Professional. The agency reported no complaints were filed, which made a review of the annual number of sexual harassment complaints to identify whether there were barriers to employment opportunities that may be related to sexual harassment impractical. The agency also reported that the General Counsel and principal EEO Professional/principal HR Professional met to discuss the agency's employment practices (specifically, *personnel matters, lay-offs, and reasonable accommodations*) on an as needed basis. Calendar invites from 2017 demonstrate these meetings occurred on September 9, October 5, November 17 and December 11.
- The agency did not demonstrate that the principal EEO Professional/principal HR Professional and the General Counsel reviewed the agency's employment practices, policies and programs on an annual basis to identify whether there were barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies. **Corrective action required.**

Corrective Action #3: Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.

V. RESPONSIBILITY FOR IMPLEMENTATION - EEO PROFESSIONALS

Determination: The agency is in **partial-compliance** with the standards for this subject area.

20. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. Ensure the principal EEO Professional is trained regarding city, state and federal EEO

laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination and sexual harassment complaints.

- ✓ The agency's principal EEO Professional was appointed in 2016 (prior to this appointment, the principal EEO Professional served as the agency's General Counsel). The principal EEO Professional received certificates of completion for the following EEO trainings provided by the New York City Department of Citywide Administrative Services' (DCAS) Citywide Diversity and Equal Employment Opportunity Office (CDEEO): *Working Realities: Responding to People with Disabilities (Disability Etiquette)* (May 2016); *LGBT: Are You Ready for the "T"-Creating an Inclusive Culture for Transgender Employees* (April 2016); *Building an Inclusive Culture: Understanding Unconscious Bias Train-the-Trainer* (2 days) (October 2015); and *Diversity and Equal Employment Opportunity Basic Training* (5 days) (November 2014). The course description for *Diversity and Equal Employment Opportunity Basic Training* indicates the training included a review the City's Equal Employment Opportunity (EEO) Policy, its obligations under federal, state and city anti-discrimination laws and procedures, and the City's commitment to Diversity and Inclusion.

21. Ensure that the responsibilities of the principal EEO Professional are competently discharged by providing adequate resources such as opportunities for continuing education and professional development, and/or support staff to meet EEO obligations.

- ✓ During the period in review, the principal EEO Professional had access to continuing education provided by DCAS' CDEEO (see §V.20 for record of participation). The principal EEO Professional's support staff included two part-time EEO Counselors to assist in meeting the agency's EEO obligations. The EEO Counselors' responsibilities, according to their *Tasks and Standards*, included: attend EEO meetings and trainings, provide counseling and guidance to employees on EEO related matters, collaborate with the principal EEO Professional on drafting the agency's Annual EEO Plan and submit the agency's Quarterly EEO Reports.

22. Where the agency's organizational structure necessitates multiple EEO professionals, select such individuals from different office locations and, where possible, from a variety of levels within the organizational structure. Appoint EEO professionals who are trained in EEO laws and procedures and their responsibilities under the EEO Policy.

- ✓ At the end of the period in review, the agency had three EEO professionals (the principal EEO Professional and two part-time EEO Counselors) for its 180 employees, who were located in one office location. The agency's EEO organizational chart indicated that the EEO Counselors were from different levels of the organization (*Assistant Commissioner on Strategic Data* and *Director of Human Resources*).

- The agency did not demonstrate that the EEO Counselors were trained in EEO laws and procedures and their responsibilities under the EEO Policy. **Corrective action required.**

Corrective Action #4: Appoint EEO professionals who are trained in EEO laws and procedures and their responsibilities under the EEO Policy.

23. Ensure that the principal EEO Professional works cooperatively and closely with the General Counsel in the implementation of policies and procedures concerning EEO and sexual harassment.

- The agency did not demonstrate that the principal EEO Professional works cooperatively and closely with the General Counsel in the implementation of policies and procedures concerning EEO and sexual harassment. **Corrective action required.**

Corrective Action #5: Ensure that the principal EEO Professional works cooperatively and closely with the General Counsel in the implementation of policies and procedures concerning EEO and sexual harassment.

24. Assign the principal EEO Professional (or EEO-related designee) the responsibility to supervise the activities of EEO professionals, and ensure that: the policies against sexual harassment and complaint procedures are distributed/posted at all agency locations; employees/managers receive sexual harassment prevention training; EEO-related policies are made available in alternative formats (i.e., large print, audio recording and/or Braille) upon request; managers, supervisors and human resource professionals receive guidance on issues pertaining to sexual harassment; and allegations of sexual harassment are promptly investigated.

- ✓ The principal EEO Professional's responsibilities, as outlined in the *Tasks and Standards* for the position, included: *attend EEO meetings and trainings and provide guidance to agency employees on related issues; prepare the agency's Annual EEO Plan for the Commissioner's signature; collaborate with the Deputy Commissioner of Legal Affairs on all EEO related matters that require a response from the agency and/or the Commissioner (such as EEO complaint investigations that may include sexual harassment); and ensure that the agency's hiring and related documents were processed in conformance with the City's EEO Policy and personnel policies and regulations.* The agency's organizational chart illustrated the principal EEO Professional's supervisory relationship to the two part-time EEO Counselors. The agency head's 2016 EEO Policy Statement reinforced the responsibilities of the principal EEO Professional by stating, "...I [the agency head] hold the Agency's managers and supervisors, EEO officers and counselors, representatives and human resource professionals accountable for the effective implementation of the City's EEO policy together with the Agency's own Diversity and EEO Plan." The Agency's Complaint Procedures stated, [u]pon request, all policies and forms will be made available in large print, audio, or Braille."

- The agency did not demonstrate that the principal EEO Professional (or EEO-related designee) was responsible for ensuring that employees/managers received sexual harassment prevention training or that policies against sexual harassment and complaint procedures were distributed/posted at all agency locations. **Corrective action required.**

Corrective Action #6: Assign the principal EEO Professional (or EEO-related designee) the responsibility of ensuring that employees/managers received sexual harassment prevention

training and that the policies against sexual harassment and complaint procedures are distributed/posted at all agency locations.

25. Ensure that the principal EEO Professional reports directly to the agency head (or a direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities.

✓ The agency's EEO organizational chart illustrated the principal EEO Professional reported directly to the agency head for EEO responsibilities.

26. Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.

➤ The agency did not maintain documentation regarding directives or decisions between the agency head and principal EEO Professional that impacted the administration and operation of programs, policies or procedures concerning sexual harassment. **Corrective action required.**

Corrective Action #7: Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.

VI. RESPONSIBILITY FOR IMPLEMENTATION – MANAGERS

Determination: The agency is in **partial-compliance** with the standards for this subject area.

27. Ensure that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.

✓ The agency head's April 29, 2016 EEO Policy Statement communicated the following expectation for managers and supervisors, "...I [the agency head] *hold the Agency's managers and supervisors, EEO officers and counselors, representatives and human resource professionals accountable for the effective implementation of the City's EEO Policy together with the Agency's own Diversity and EEO Plan.*"

➤ The agency did not document implementation of the aforementioned managerial expectation. **Corrective action required.**

Corrective Action #8: Ensure that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.

28. Ensure the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

- The agency's managerial performance evaluation form did not contain a rating for EEO, during the period in review. **Corrective action required.**

Corrective Action #9: Ensure the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

REPORTING STANDARD FOR AGENCY HEAD:

Determination: The agency is in compliance with the standards for this subject area.

29. Submit to the EEPD an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports³ on efforts to implement the Plan within 30 days following each quarter. Include a breakout of sexual harassment complaint activity in each quarterly report.

- ✓ During the period of review, the agency submitted to the EEPD its Annual Plans of measures and programs to provide equal employment opportunity, and quarterly reports on efforts to implement those plans for each quarter and year of the period in review. Each *Agency Quarterly Diversity and EEO Report* included an *Agency Affirmation of No Complaint/Reasonable Accommodation Request Activity*.

After implementation of the EEPD's corrective actions, if any:

1. Distribute a memorandum from the agency head informing employees of any changes implemented in the agency's policies and procedures against sexual harassment pursuant to the EEPD's audit, and re-emphasizing the agency head's commitment to the EEO program and the prevention of sexual harassment.

Final Action: Distribute a memorandum from the agency head informing employees of the EEPD's audit and any changes implemented in the agency's policies and procedures against sexual harassment pursuant to the EEPD's audit, and re-emphasizing the agency head's commitment to the EEO program and the prevention of sexual harassment.

Conclusion 9 required corrective action(s) at this time.

Pursuant to Chapter 36 of the New York City Charter, your agency has the *option* to respond to this *preliminary determination*, but must respond to our Final Determination if corrective action is

³ Submission of *Quarterly Reports on EEO Activity* is optional for non-Mayoral agencies.



required.

Optional Response to preliminary determination: If submitted, your optional response should indicate, with attached documentation, what steps your agency has taken or will take to implement the prescribed corrective actions, and must be received in our office within 14 days from the date of this letter. No extensions will be granted for the *option* to respond to the *preliminary determination*.

(Optional Conference) During the Optional Conference, we will discuss the immediate steps your agency should take and address questions regarding your agency's implementation of the prescribed corrective action(s).

(No Response Option) If your agency does not respond to this preliminary determination within 14 days, it will become the EEPC's Final Determination.

Mandatory Response to Final Determination: Following this preliminary determination, the EEPC will issue a Final Determination where we may modify or eliminate the corrective actions based on verified information; identify remaining action which requires further monitoring in order to ensure implementation; and assign a mandatory compliance-monitoring period of up to 6 months for this purpose. Pursuant to Chapter 36 of the New York City Charter your agency must respond to our Final Determination within 30 days. Your response to the Final Determination will initiate the compliance-monitoring period.

In closing, we want to thank you and your staff for the cooperation extended to the Equal Employment Practices Commission's EEO Program Analysts during the course of our audit and analysis.

Respectfully submitted by,

A handwritten signature in black ink, appearing to read "Zuell", written over a horizontal line.

Ilacia N. Zuell, Manager, EEO Analysis and Audit Unit

Approved by,

A handwritten signature in blue ink, appearing to read "Charise L. Terry", written over a horizontal line.

Charise L. Terry, PHR
Executive Director

c: Annette Santiago, Principal EEO Professional

Appendix – 1

New York City Emergency Management

CEEDS Work Force Composition Summary – Report EBEPR210

December 2017

PAGE: 30
REPORT: EBEPR210

WORK FORCE COMPOSITION SUMMARY
AGENCY 017 OFFICE OF EMERGENCY MANAGEMENT

[illegible]

RUN DATE: 01/03/18
RUN TIME: 14:40:13.8

NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
CITYWIDE EQUAL EMPLOYMENT DATABASE SYSTEM (CEEDS)
WORK FORCE COMPOSITION SUMMARY
QUARTER 2 YEAR 2018 AGENCY 017 OFFICE OF EMERGENCY MANAGEMENT

PAGE: 31
REPORT: EBEP210

AGENCY CODE : 017 OFFICE OF EMERGENCY MANAGEMENT
EEO JOB GROUP : 008 LAWYERS

		MALE						FEMALE						OTHER	TOTAL EMP
TITLE CODE	TITLE DESCRIPTION	WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN	WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN		
30087	AGENCY ATTORNEY	1	0	1	1	0	0	0	0	0	0	0	0	0	3
EEO JOB GROUP TOTAL.....:		1	0	1	1	0	0	0	0	0	0	0	0	0	3
		33.34	0.00	33.33	33.33	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	100.00

AGENCY CODE : 017 OFFICE OF EMERGENCY MANAGEMENT
EEO JOB GROUP : 031 PARA PROFESSIONAL OCCUPATIONS

		MALE						FEMALE						OTHER	TOTAL EMP
TITLE CODE	TITLE DESCRIPTION	WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN	WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN		
56057	COMMUNITY ASSOCIATE	0	0	0	1	0	0	0	1	0	0	0	0	0	2
56058	COMMUNITY COORDINATOR	1	0	1	0	0	0	0	0	0	0	0	0	0	2
EEO JOB GROUP TOTAL.....:		1	0	1	1	0	0	0	1	0	0	0	0	0	4
		25.00	0.00	25.00	25.00	0.00	0.00	0.00	25.00	0.00	0.00	0.00	0.00	0.00	100.00

AGENCY TOTAL.....:		59	17	10	6	0	7	47	10	10	8	2	3	1	180
		32.77	9.44	5.56	3.33	0.00	3.89	26.11	5.56	5.56	4.44	1.11	1.67	0.56	100.00

Appendix – 2

New York City Emergency Management
Sexual Harassment Policy Statement

May 8, 2018

SEXUAL HARASSMENT POLICY STATEMENT

The City of New York is an equal opportunity employer. The City's Equal Employment Opportunity ("EEO") Policy prohibits employment discrimination based on race, creed, color, national origin, gender, disability, marital status, partnership status, caregiver status, sexual orientation, uniformed service or alienage or citizenship. Every City of New York employee -- paid or unpaid, permanent or temporary, managerial or non-managerial -- is protected from unlawful discrimination by the EEO policy and by federal, state, and local anti-discrimination laws. The EEO Policy and anti-discrimination laws protect those who seek to work for the City, as well.

Sexual harassment is a form of employment discrimination prohibited by the EEO Policy and law. All New York City Emergency Management employees should be familiar with the EEO Policy's protections against sexual harassment. The EEO Policy incorporates the protection provided by federal, state and local laws and implements them by providing for disciplinary sanctions to be imposed on employees who engage in sexual harassment.

Federal guidelines define sexual harassment as "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature . . . when: 1) submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment; 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment." Under the New York City Human Rights Law, verbal or physical conduct that treats a person "less well" because of gender is unlawful.

Sexual harassment may involve individuals of the same or different genders. A broad range of conduct by supervisors and co-workers may constitute sexual harassment, including, but not limited to, making remarks or gestures or displaying pictures that are sexually suggestive; engaging in verbal banter, abuse or harassment of a sexual nature; requesting -- directly or subtly -- sexual favors; and subjecting another person to unwelcome touching, patting, pinching or other contact.

Sexual harassment is strictly prohibited. Employees who violate this policy are subject to discipline, including termination. Persons who violate this policy may also be subject to civil damages or criminal penalties.

The City's policy prohibiting sexual harassment does not forbid consensual social relationships between employees. But it does prohibit gender-based conduct that is unwanted or creates an intimidating and hostile work environment.

Managers, supervisors and human resources personnel must promptly notify the agency EEO Officer in writing, either via email or a memorandum, if they receive a complaint alleging sexual harassment or if they observe, learn about, or suspect that any violation of the Policy has

occurred. Managers and supervisors should encourage subordinates to consult with the EEO Officer.

New York City Emergency Management urges anyone covered by the NYC EEO Policy who believes he or she has been subjected to sexual harassment or any unwelcome sexual attention to report the conduct to a supervisor or manager or to the agency EEO Officer, who is Assistant Commissioner Annette Santiago, who may be contacted at (718) 422-8917. Attached also is a list of New York City Emergency Management EEO Counselors and how they may be contacted. It is important to report all concerns about sexual harassment or inappropriate sexual conduct to the EEO Officer or a supervisor or manager as soon as possible.

Complaints of sexual harassment will be handled under the New York City Equal Employment Opportunity Policy and Procedures. See links below:

1. EEO Policy - <http://www.nyc.gov/html/dcas/html/about/eeopol.shtml>.
2. About EEO Handbook (companion booklet to the EEO Policy)
http://www.nyc.gov/html/dcas/html/about/eo_booklet.shtml
3. EEO Complaint Procedural Guidelines
http://www.nyc.gov/html/dcas/downloads/pdf/misc/eo_discriminationcomplaintprocedures.pdf

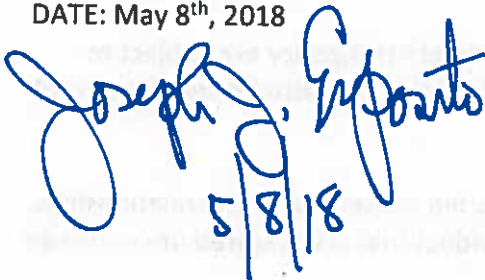
All inquiries, complaints and investigations are treated confidentially. Information is revealed strictly on a need-to-know basis. Information contained in a formal complaint is kept as confidential as possible.

No employee may retaliate against or harass any person for filing a complaint or cooperating in the investigation of the complaint. Retaliation or harassment is unlawful and subject to disciplinary action.

Joseph Esposito

Commissioner of New York City Emergency Management

DATE: May 8th, 2018

A handwritten signature in blue ink that reads "Joseph Esposito" with the date "5/8/18" written below it.

Appendix – 3

New York City Emergency Management

NYC Emergency Management Discrimination Complaint Procedures

April 15, 2015

NYC Emergency Management Discrimination Complaint Procedures

GOALS:

- To resolve internal complaints of discrimination, discriminatory harassment and retaliation within the agency through a fair and prompt process of mediation and/or investigation.
- To take immediate and appropriate corrective action to remedy EEO violations in the workplace.

STEPS:

Effective April 15, 2015, NYC Emergency Management EEO staff will formally address EEO Discrimination Complaints with the following procedures:

- For each complaint, the EEO staff will create a confidential file folder and keep all such files in a password protected electronic folder and a secure file cabinet.
- On the Discrimination Complaint Form the EEO staff will capture facts and pertinent dates that identify respondents with reasonable specificity and that provide the heart or essence of the circumstances that gave rise to the alleged discrimination.
- The EEO staff will serve respondent(s) with the Notice of Discrimination Complaint. This will include respondent's right to respond the complaint allegations and their right to be accompanied by a representative of their choice to the interview(s).
- The EEO staff will take and keep thorough notes of words spoken and facts provided during each interview. All such notes will be kept in the complaint file. The EEO staff will ensure that all hard copy and digital files and notes are kept confidential.
- After all interviews are completed and the facts of the case and allegations investigated, the EEO Officer will review the material in relation to EEO laws and procedures. After a careful analysis, he/she will come to a conclusion and make a recommendation in writing and properly documented.
- The EEO Officer will create a confidential report and submit it to the agency commissioner for final review and determination.
- The commissioner will review the report and recommendations. The commissioner may then adopt, reject or modify the report. The commissioner will then indicate in writing that he/she has reviewed the report and facts and has adopted the written report on the effective date. The commissioner will then sign the report.
- The EEO Officer will then write to all of the parties informing them of the conclusion and outcome of the investigation.
- In all cases, the EEO staff will utilize the standardized forms developed for these purposes.
- Upon request, all policies and forms will be made available in large print, audio, or Braille.



NEW YORK CITY EMERGENCY MANAGEMENT
165 CADMAN PLAZA EAST BROOKLYN, NEW YORK 11201

718-422-4616 FAX 718-422-8453

JOSEPH J. ESPOSITO
COMMISSIONER

October 30, 2018

Ilacia N. Zuell
Manager, EEO Analysis and Audit Unit
NYC Equal Employment Practices Commission
253 Broadway, Suite 602
New York, NY 10007

Re: Preliminary Determination for Audit: Review, Evaluation and Monitoring of the New York City Emergency Management's Sexual Harassment Prevention and Response Practices from January 1, 2016 to December 31, 2017

Dear Ilacia Zuell:

We are in receipt of your *Preliminary Determination for Audit: Review, Evaluation and Monitoring of the New York City Emergency Management's Sexual Harassment Prevention and Response Practices from January 1, 2016 to December 31, 2017*, dated October 16, 2018.

My staff has reviewed the Commission's findings and the required corrective actions provided to the agency.

Enclosed is the agency's Response to the Preliminary Determination. . Please note that we have taken and will continue to take steps to implement the prescribed corrective actions into our current EEO Program and prospective Annual EEO Plans. The agency is committed to be in complete compliance with all federal, state and local laws, regulations, policies and procedures designed to increase equality of opportunity for municipal government employees and job applicants.

We look forward to our continued work with the EEPC staff.

If there are any questions or comments concerning this report, please contact Annette Santiago, Assistant Commissioner of Human Resources and NYCEM EEO Officer by e-mail: asantiago@oem.nyc.gov or by telephone at: (718) 422-8917.

Yours truly,

A handwritten signature in black ink that reads "Joseph J. Esposito".

Joseph J. Esposito
Commissioner



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

Charise L. Terry, PHR
Executive Director

Judith Garcia Quiñonez, Esq.
Executive Agency Counsel

Jennifer Shaw, Esq.
Executive Agency Counsel/
Director of Compliance

253 Broadway
Suite 602
New York, NY 10007

212. 615. 8939 tel.
212. 676.2724 fax

BY MAIL AND EMAIL

November 15, 2018

Joseph Esposito
Commissioner
New York City Emergency Management
165 Cadman Plaza East
Brooklyn, New York 11201

RE: Audit Resolution #2018AP/225-017-(2018): Final Determination Pursuant to the Review, Evaluation and Monitoring of the New York City Emergency Management's Sexual Harassment Prevention and Response Practices from January 1, 2016 to December 31, 2017.

Dear Commissioner Esposito:

On behalf of the members of the Equal Employment Practices Commission (Commission or EEPC), thank you for your October 31, 2018 response to our October 16, 2018 Preliminary Determination and for the cooperation extended to our staff during the course of this audit. Consistent with the powers and duties of agency heads, set forth in New York City Charter, this Commission requires your signed response to this Final Determination.

The New York City Emergency Management falls within this Commission's purview under Chapter 36, Section 831.a of the New York City Charter (Charter), which delineates city agency as any "city, county, borough or other office, administration, board, department, division, commission, bureau, corporation, authority, or other 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..."

Section 815 of the Charter, which sets forth the duties of all heads of city agencies, mandates in Subdivision h, that "[t]he head of each city agency shall ensure that such agency does not discriminate against employees or applicants for employment as prohibited by federal, state and local law." To this end, Charter Section 815.a(19) specifies that "heads of city agencies shall have the following powers and duties... to establish measures and programs to ensure



a fair and effective affirmative employment plan to provide equal employment opportunity for minority group members and women... and, in accordance with the uniform procedures and standards established... for this purpose, to adopt and implement an annual plan... [c]opies of such plans shall be filed with the... equal employment practices commission."

As indicated in our Preliminary Determination, this Commission has adopted uniform standards¹ to assess agencies' employment practices and programs for compliance with federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for municipal government employees and job applicants. The attached Determination contains the Commission's findings and required corrective actions pertaining to the referenced review, evaluation and monitoring of your agency's employment practices and procedures.

Chapter 36, Section 832.c of the New York City Charter requires that: 1) the EEPC assign a compliance-monitoring period of up to six (6) months to monitor your agency's efforts to eliminate remaining required corrective actions; and 2) the agency provide a written response within 30 days from the date of this letter indicating corrective action taken.

The assigned compliance-monitoring period is: November 2018 to April 2019. Implementing all the corrective actions prior to the conclusion of the six months is highly encouraged and will serve to shorten the compliance-monitoring period.

If corrective actions remain: Your agency's response should indicate what steps your agency has taken, or will take, to implement the corrective actions during the designated period. Documentation which supports the implementation of each corrective action shall be uploaded to TeamCentral, the EEPC's Automated Compliance-Monitoring System. Your agency will be monitored monthly until all corrective actions have been implemented. Instruction on how to access and navigate TeamCentral is attached. Upon your agency's completion of the final corrective action, this Commission requires that your agency upload a final memorandum signed by the agency head which informs employees of the changes implemented pursuant to our audit and re-emphasizes commitment to the EEO program. Upon receipt of the final memorandum, the EEPC will issue a *Determination of Compliance*.

If no corrective actions remain: Your agency is exempt from the aforementioned monitoring period. However, this Commission requires a final memorandum signed by the agency head which informs employees of the changes implemented pursuant to our audit and re-emphasizes commitment to the EEO program. This will be considered your agency's final action. Upon receipt of the memo, a *Determination of Compliance* will be issued.

If there are further questions regarding this Final Determination or the compliance-monitoring process, please have the Principal EEO Professional contact Jennifer Shaw, Esq., Executive Agency Counsel/Director of Compliance at jshaw@eepc.nyc.gov or 212-615-8942.

¹ Founded upon and consistent with federal, state and local laws, regulations, procedures and policies including, but not limited to, the Citywide Equal Employment Opportunity Policy - Standards and Procedures to be Utilized by City Agencies; New York City Human Rights Law (NYC Administrative Code, §§8-107.1(a) and 8-107.13(d)); New York State Civil Service Law §55-a and the equal employment opportunity requirements of the New York City Charter.



Thank you and your staff for your continued cooperation.

Sincerely,



Charise L. Terry, PHR
Executive Director

c: Annette Santiago, Principal EEO Professional

Enclosed: TeamCentral Agency Manual

FINAL DETERMINATION

Agency response indicating corrective action taken with documentation is due within 30 days.

The Equal Employment Practices Commission's findings and required corrective actions are based on the audit methodology which includes collection and analysis of the documents, records and data the agency provided in response to the *EEPC* document and information request; the *EEPC Preliminary Interview Questionnaires* (PIQ) for EEO professionals and others involved in EEO program administration; and, if applicable, the *EEPC Employee Survey*; the *EEPC Supervisor/Manager Survey*; the agency's *Annual EEO Plans* and *Quarterly EEO Reports*; and workforce data from the *Citywide Equal Employment Database System*. Additional research and follow-up discussions or interviews were conducted as appropriate.

After reviewing the agency's optional response² (if applicable) to the EEPC's preliminary Determination, our Final Determination is as follows:

Agree

Regarding your responses to the following EEPC required corrective actions, we Agree based on documentation that is attached to your response.

Corrective Action #3: Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.

Agency Response: *The risk assessment tool was completed for the agency on 10/15/2018. The EEO Officer emphasizes structured interviewing for all job candidate interviews and a presence by an HR manager for at least one level of interviewing, the EEO Officer is always present for the final round executive interview. Emergency Management conducts three level interviews for prospective full time employment candidates. Please see Exhibit F."*

EEPC Response: The agency provided as Exhibit F, it's completed 2018 NYC Agency Risk Assessment (ARA). The stated purpose of the ARA is to "assess workplace risk factors associated with sexual harassment in order to help provide a fair and safe work environment for all city workers. ...intended to assist ... each agency to develop responsive strategies to combat sexual harassment". The EEPC accepts the agency's ARA as documentation of the principal EEO Professional, principal HR Professional the Director of Legal Affairs, and the Commissioner of Legal Affairs' review and analysis of the agency's employment practices, policies and programs to identify whether there are barriers to employment opportunities that may be related to sexual harassment.

Monitoring Required

The agency's implementation of the following required corrective actions will be monitored during the assigned compliance monitoring period.

² Excerpts are italicized.

Corrective Action #1: Establish and implement a training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on the prevention of sexual harassment as well as discrimination complaint and investigation procedures.

Agency Response: *“NYCEM has required all employees to take the DCAS sexual harassment training. The training was open to the agency on July 19th, 2018. By August 18th, 2018 the agency was in full compliance. Email notification and reminder attached. Please see Exhibit D.”*

EEPC Response: The EEPC recognizes the agency’s commitment to the implementation of corrective action #1. The *Sexual Harassment Prevention Training log* (Exhibit C) provided by the Department of Administrative Services indicates that 184 of 212 (or 84%) deployed trainings were completed by agency employees, interns and consultants. In order to demonstrate compliance please provide the agency’s annual training plan (for all employees) that includes a timetable.

Corrective Action #2: Ensure that the General Counsel works with the principal EEO Professional in the implementation of the City’s policies and procedures pertaining to sexual harassment.

Agency Response: *“EEO Officer and General Counsel meet on a regular basis with regard to the implementation of the City’s policies and procedures pertaining to sexual harassment. Moving forward the agency will maintain records of these meetings and keep them on file utilizing an EEO Agenda. Please see Exhibit E.”* Exhibit E is the agency’s *EEO Agenda* template that provides space for recording the names and titles of attendees, agenda items, issues, and notes.

EEPC Response: The EEPC recognizes the agency’s commitment to implement corrective action #2. In order to demonstrate compliance please provide documentation/directive/statement or commitment of the General Counsel’s responsibility to work with principal EEO Professional in the implementation of the City’s policies and procedures pertaining to sexual harassment.

Corrective Action #4: Appoint EEO professionals who are trained in EEO laws and procedures and their responsibilities under the EEO Policy.

Agency Response: *“The EEO Officer has appointed three EEO counselors. Each has an expressed interest in EEO policy and are almost all fully training [sic] in EEO policy via DCAS. Please see Exhibit G. EEO Officer and Principal HR Professional: Assistant Commissioner of Human Resources[;] EEO Counselors: Deputy Director of Human Resources: [;]– EEO training completed see transcript attached; Director of Continuity of Operation: [;] Continuity of Operations Planner: [;].”*

EEPC Response: EEPC recognizes the agency’s commitment to the implementation of corrective action #4. In order to demonstrate compliance, the please provide a description of each EEO Professional’s responsibilities along with documentation that each EEO Professional completed training in EEO-related laws/procedures that pertains to the assigned roles/responsibilities, and

an organizational chart that indicates the hierarchy of the EEO unit. Implementation of this corrective action will be monitored during the compliance-monitoring period.

Corrective Action #5: Ensure that the principal EEO Professional works cooperatively and closely with the General Counsel in the implementation of policies and procedures concerning EEO and sexual harassment.

Agency Response: *“The EEO professional works cooperatively and closely with the GC in the implementation of policies and procedures concerning EEO and sexual harassment. Moving forward and effective immediately, the EEO Officer and the GC will document such meetings and moving forward those meetings will be documented. **Please see Exhibit H.**”*

EEPC Response: The EEPC recognizes the agency’s commitment to implement corrective action #5. Exhibit H contained a subtitle, “*place holder for future reference*” with no content to support the agency’s statement. Please provide a copy of a procedure/policy which requires a cooperative relationship between the legal and EEO staff or units. Implementation of this corrective action will be monitored during the compliance-monitoring period.

Corrective Action #6: Assign the principal EEO Professional (or EEO-related designee) the responsibility of ensuring that employees/managers received sexual harassment prevention training and that the policies against sexual harassment and complaint procedures are distributed/posted at all agency locations.

Agency Response: *“[An] Counselor notified the agency about the sexual harassment training and the agency EEO Officer receives completion data from DCAS periodically. Agency maintains a near 100 percent completion rate. Agency has placed the Sexual Harassment policy notification on agency billboards, in the handbook and as part of the new hire orientation. **Please see Exhibit I** for the content that has been displayed physically or electronically in those three locations.”*

EEPC Response: EEPC recognizes the agency’s commitment to the implementation of corrective action #6. Documentation that the principal EEO professional or designee was assigned the responsibility of ensuring that employees/managers receive sexual harassment prevention training is required to demonstrate compliance with this corrective action.

Corrective Action #7: Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.

Agency Response: *“Completed. **Please see Exhibit J.**”*

EEPC Response: Exhibit J, contained a subtitle, “*place holder for future reference*” with no content to support the agency’s statement. Documentation pertaining to directives or decisions between the agency head/direct report and the principal EEO professional that impact the administration

and operation of programs, policies or procedures concerning sexual harassment, will be reviewed during the compliance-monitoring period.

Corrective Action #8: Ensure that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.

Agency Response: *"Managers and supervisors are already informed about EEO and sexual harassment policies during either their onboarding process or their managerial processing appointment with Human Resources. Employees are made aware of this policy in multiple ways, onboarding orientation, managerial processing for promoted employees and via agency wide notifications. Starting January 1, 2019 an EEO/Sexual Harassment task will be added to all managerial tasks and standards. Please see Exhibit K."*

EEPC Response: The EEPC recognizes the agency's commitment to the implementation of Corrective Action #8. Exhibit K, contained a subtitle, "place holder for future reference" with no content to support the agency's statement. Please provide documentation (EEO Policy/statement or memorandum, email directive, task/standards or meeting agenda) from the agency or agency head to managers and supervisors communicating the expectation that they must enforce the agency's sexual harassment prevention policies/procedures. Implementation of this corrective action will be monitored during the compliance-monitoring period.

Corrective Action #9: Ensure the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

Agency Response: *"Performance evaluations will be amended to include tasks and standards associated with EEO matters as outlined above and the managerial staff will be rated on these tasks and standards. Starting January 1, 2019 an EEO/Sexual Harassment task will be added to all managerial tasks and standards. Please see Exhibit L."*

EEPC Response: The EEPC recognizes the agency's commitment to the implementation of Corrective Action #9. Exhibit L, contained a subtitle, "place holder for future reference" with no content to support the agency's statement. In order to demonstrate compliance please provide a copy of the agency's managerial performance evaluation which contains a pertinent EEO rating.

Thank you and your staff for your continued cooperation.

**EQUAL EMPLOYMENT PRACTICES COMMISSION
CITY OF NEW YORK**

RESOLUTION #2018AP/225-017-(2018): Final Determination pursuant to the Audit: Review, Evaluation and Monitoring of the New York City Emergency Management's Sexual Harassment Prevention and Response Practices from January 1, 2016 through December 31, 2017.

Whereas, pursuant to Chapter 36, Section 831(d)(2) and (5) of the New York City Charter, the Equal Employment Practices Commission is authorized 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, and to make recommendations to city agencies to insure equal employment opportunity for minority group members and women; and

Whereas, pursuant to Chapter 36, Section 831(d)(2), this Commission has adopted *Uniform Standards for EEPD Audits* and *Minimum Equal Employment Opportunity Standards for Community Boards* to assess agencies' EEO programs and policies for compliance with federal, state and local laws, regulations, policies and procedures designed to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination in employment within municipal government; and

Whereas, pursuant to its audit of the New York City Emergency Management's (NYCEM) Sexual Harassment Prevention and Response Practices, the Equal Employment Practices Commission (EEPC) issued a Preliminary Determination letter, dated October 16, 2018, setting forth findings and the following required corrective actions:

1. Establish and implement a training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on the prevention of sexual harassment as well as discrimination complaint and investigation procedures.
2. Ensure that the General Counsel works with the principal EEO Professional in the implementation of the City's policies and procedures pertaining to sexual harassment.
3. Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.
4. Appoint EEO professionals who are trained in EEO laws and procedures and their responsibilities under the EEO Policy.
5. Ensure that the principal EEO Professional works cooperatively and closely with the General Counsel in the implementation of policies and procedures concerning EEO and sexual harassment.
6. Assign the principal EEO Professional (or EEO-related designee) the responsibility of ensuring that employees/managers received sexual harassment prevention training and that the policies against sexual harassment and complaint procedures are distributed/posted at all agency locations.

7. Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.
8. Ensure that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.
9. Ensure the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

Whereas, the agency submitted its response to the EEPD's Preliminary Determination letter on October 31, 2018, with documentation of its actions to rectify required corrective action no. 3; and

Whereas, in accordance with Chapter 36, Section 832(c) of the New York City Charter, the EEPD considered the agency's response and issued a Final Determination on November 15, 2018, which agreed and indicated that corrective action(s) nos. 1 - 2 and 4 - 9 require compliance monitoring; and

Whereas, in accordance with Chapter 36, Section 832(c) of the City Charter, the EEPD is required to monitor the agency for a period not to exceed six months, from November 2018 through April 2019, to determine whether it implemented the remaining required corrective actions; and

Whereas, in accordance with Chapter 36, Section 832(c) of the City Charter, the agency is required to respond in 30 days and make monthly reports thereafter to the Commission on the progress of its implementation of such corrective actions; and

Whereas, all of the EEPD's corrective actions are required by, or are consistent with, federal, state and local laws, regulations, policies and procedures designed to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination in employment within municipal government; Now Therefore,

Be It Resolved, that the Commission approves issuance of this Final Determination to New York City Emergency Management Commissioner Joseph J. Esposito.

Approved unanimously on November 29, 2018.

absent

Angela Cabrera
Commissioner

Arva Rice

Arva Rice
Commissioner

Malini Cadambi Daniel

Malini Cadambi Daniel
Commissioner

Elaine S. Reiss

Elaine S. Reiss, Esq.
Commissioner



NEW YORK CITY EMERGENCY MANAGEMENT

165 CADMAN PLAZA EAST BROOKLYN, NEW YORK 11201

718-422-4616 FAX 718-422-8453

JOSEPH J. ESPOSITO
COMMISSIONER

December 17, 2018

Charise L. Terry, PHR
Executive Director
NYC Equal Employment Practices Commission
253 Broadway, Suite 602
New York, NY 10007

Re: Audit Resolution #2018AP/225-017-(2018): Final determination Pursuant to the Review, Evaluation and Monitoring of the New York City Emergency Management's Sexual Harassment Prevention and Response Practices from January 1, 2016 to December 31, 2017.

Dear Executive Director Terry:

Please accept this letter as correspondence to the November 15, 2018 corrective action request, we are in receipt.

My EEO Officer and General Counsel have reviewed the Commission's findings and the required corrective actions provided to the agency.

Enclosed is the agency's Response to the Corrective Actions. Please note that we have taken and will continue to take steps to implement the prescribed corrective actions into our current EEO Program and prospective Annual EEO Plans. The agency is committed to be in complete compliance with all federal, state and local laws, regulations, policies and procedures designed to increase equality of opportunity for municipal government employees and job applicants. We look forward to our continued work with the EEPC staff.

If there are any questions or comments concerning this report, please contact Annette Santiago, Assistant Commissioner of Human Resources and NYCEM EEO Officer by e-mail: asantiago@oem.nyc.gov or by telephone at: (718) 422-8917.

Thank you,


Joseph J. Esposito
Commissioner




NEW YORK CITY EMERGENCY MANAGEMENT
165 CADMAN PLAZA EAST BROOKLYN, NEW YORK 11201

718-422-4616 FAX 718-422-8453

JOSEPH J. ESPOSITO
COMMISSIONER

TO: All Employees

FROM: Commissioner Joseph J. Esposito 

DATE: April 26, 2019

RE: Equal Employment Practices Commission Audit of NYC Emergency Management

The New York City Equal Employment Practices Commission (EEPC) recently conducted an audit and evaluation of NYC Emergency Management's (NYC EM) Sexual Harassment Prevention and Response Practices, consistent with its New York City Charter mandated responsibility to audit the employment practices, policies and procedures of every City agency once every four years. The EEPC conducts audits to ensure each agency's compliance with federal, state and local laws, regulations, policies and procedures that are designed to increase equality of opportunity for City employees and job applicants.

The EEPC found that NYC EM was generally in compliance with the law and policies, and identified certain areas for corrective action. NYC EM has implemented changes in its policies and procedures against sexual harassment, and will incorporate these into NYC EM's prospective Annual Equal Employment Opportunity (EEO) Plans. The following are a summary of the changes implemented:

- The EEO Officer will download reports and send reminders to new and existing employees to ensure compliance on EEO and sexual harassment training deadlines
- The EEO Officer and the General Counsel will track the implementation or changes to the agency's EEO and/or sexual harassment policies by maintaining comprehensive agendas and meeting minutes
- The EEO Officer will maintain training transcripts, and will ensure that EEO Counselors continue to receive diversity, EEO and compliant investigation training in accordance with their delineated duties
- Documentation, directives and decisions between the EEO Officer and the Commissioner that impact the EEO program, will be recorded and archived
- Managers will be held accountable for enforcing the agency's sexual harassment prevention policies and compliant procedures. Performance evaluations have been updated to include an EEO rating

As Commissioner, I hereby reaffirm my commitment to New York City Emergency Management's EEO program and the prevention of sexual harassment. I take this opportunity to reaffirm our office's strong commitment to

maintaining a workplace and employment practices free from unlawful discrimination and harassment for all our employees and applicants for employment.

I am firmly committed to preventing discrimination and sexual harassment by ensuring that all employees are aware of their rights and obligations under the EEO policy and by encouraging a work environment that tolerates and appreciates differences among employees. I thank you for sharing this commitment.

A handwritten signature in dark ink, appearing to be "B. B.", is located in the center of the page. The signature is written in a cursive, stylized font.

RESOLUTION NO.
2018AP/230-017-(2019) C9
Office of Emergency Management
Commissioner Joseph J. Esposito
Sexual Harassment Prevention and Response Practices
DETERMINATION: COMPLIANCE

SYNOPSIS

Corrective Action(s)	Total: 9		
Period Audit Covered	January 1, 2016 to December 31, 2017		
Preliminary Determination Issued	October 16, 2018	Response Received	October 31, 2018
Final Determination Issued	November 15, 2018	Response Received	December 17, 2018
Compliance-Monitoring	Required	November 1, 2018 to April 30, 2019 without extension	

Whereas, pursuant to Chapter 36, Sections 830(a) and 831(d)(2) and (5) of the New York City Charter (Charter), the Equal Employment Practices Commission (EEPC) is authorized to audit, review, evaluate, and monitor the employment procedures, practices and programs of city agencies and other municipal entities (hereinafter "entities") and their efforts to ensure fair and effective equal employment opportunity (EEO) for minority group members and women who are employed or seek employment, and to recommend practices, procedures, approaches, measures, standards, and programs to be utilized by such entities in these efforts; and

Whereas, pursuant to Charter Chapter 36, Sections 830(a) and 831(d)(2) and (5), the EEPC has adopted uniform standards for auditing agencies and municipal entities, and minimum standards for auditing community boards, to review, evaluate, and monitor entities' practices, procedures, approaches, measures, standards, and programs for compliance with federal, state, and local laws and regulations, and policies and procedures to increase equal opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), the EEPC may make a determination pursuant to Charter Section 831(d) whether any plan, program, procedure, approach, measure, or standard adopted or utilized by any municipal entity does not provide equal employment opportunity, and the EEPC's determinations of compliance or non-compliance and prescribed corrective action are required by, or consistent with federal, state, and local laws and regulations, and policies and procedures to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

Whereas, the EEPC conducted an audit, review, and evaluation of the Office of Emergency Management's Sexual Harassment Prevention and Response Practices; and

Whereas, pursuant to the audit, review, and evaluation of the Office of Emergency Management's Sexual Harassment Prevention and Response Practices, the EEPC issued a Preliminary Determination, dated October 16, 2018, setting forth findings and the following corrective actions required to remedy areas of non-compliance:

1. Establish and implement a training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training

on the prevention of sexual harassment as well as discrimination complaint and investigation procedures.

2. Ensure that the General Counsel works with the principal EEO Professional in the implementation of the City's policies and procedures pertaining to sexual harassment.
3. Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.
4. Appoint EEO professionals who are trained in EEO laws and procedures and their responsibilities under the EEO Policy.
5. Ensure that the principal EEO Professional works cooperatively and closely with the General Counsel in the implementation of policies and procedures concerning EEO and sexual harassment
6. Assign the principal EEO Professional (or EEO-related designee) the responsibility of ensuring that employees/managers received sexual harassment prevention training and that the policies against sexual harassment and complaint procedures are distributed/posted at all agency locations.
7. Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.
8. Ensure that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.
9. Ensure the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

Whereas, within a two-week deadline following the EEP's Preliminary Determination, the entity submitted a preliminary response; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), after consideration, the EEP issued a Final Determination on November 15, 2018, which indicated that the following areas required corrective action: no(s). 1, 2, and 4 through 9; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), in the Final Determination, the EEP assigned a monitoring period from November 1, 2018 to April 30, 2019, to determine whether the entity eliminated areas of non-compliance, if any; and

Whereas, in accordance with Charter Chapter 36, Section 832(c) the entity was required to respond in 30 days, and make monthly reports thereafter for a period not to exceed six months, on the progress of its efforts to correct outstanding areas of non-compliance; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), on December 17, 2018, the entity issued a response to the EEPC's Final Determination; and


Whereas, in accordance with Charter Chapter 36, Section 832(c), the Office of Emergency Management was monitored until April 26, 2019; and

Whereas, pursuant to Charter Chapter 35, Sections 815(a)(15) and (19), which requires agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity for minority group members and women, the Commissioner submitted a copy of a memorandum to staff dated April 26, 2019, which recognized the EEPC's audit and reiterated commitment to the Office of Emergency Management's equal employment practices; Now Therefore,


Be It Resolved, that the Office of Emergency Management has satisfied the equal employment standards set by the EEPC pursuant to its authority under New York City Charter Chapters 35 and 36; and

Be It Resolved, that the EEPC's Board of Commissioners approves the issuance of this Determination of Compliance to Commissioner Joseph J. Esposito of the Office of Emergency Management.

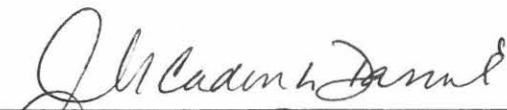
Approved unanimously on May 21, 2019.



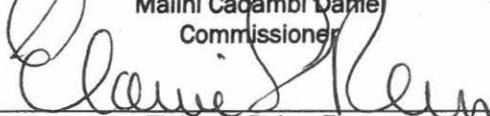
Angela Cabrera
Commissioner



Arva R. Rice
Commissioner



Malini Cadambi Danne
Commissioner



Elaine S. Reiss, Esq.
Commissioner



BY MAIL AND EMAIL

Vacant
Chair

May 21, 2019

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

Joseph J. Esposito
Commissioner
New York City Emergency Management
165 Cadman Plaza East
Brooklyn, New York 11201

Charise L. Terry, PHR
Executive Director

Judith Garcia Quiñonez, Esq.
Executive Agency Counsel/
Director of Learning and Development

Re: Resolution #2018AP/230-017-(2019)C9
DETERMINATION: Compliance

Jennifer Shaw, Esq.
Executive Agency Counsel/
Director of Compliance

Dear Commissioner Esposito:

253 Broadway
Suite 602
New York, NY 10007

212. 615. 8939 tel.
212. 676. 2724 fax

On behalf of the members of the Equal Employment Practices Commission (EEPC), I write to inform you that pursuant to New York City Charter Chapter 35, Sections 815(a)(15) and (19), which requires agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity (EEO) for minority group members and women, the EEPC's Board of Commissioners has approved the attached Determination.

Thank you and principal EEO Professional Annette Santiago for the cooperation extended to the EEPC during the course of our review, evaluation, and monitoring of your agency's employment and EEO-related practices.

Sincerely,

A handwritten signature in black ink, appearing to read "Arva R. Rice". The signature is fluid and cursive.

Arva R. Rice
Commissioner

Enc.

C: Principal EEO Professional Annette Santiago, OEM

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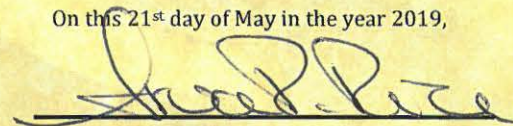
Determination of Compliance

is hereby issued to

Office of Emergency Management

for successful implementation of 9 of 9 required corrective action(s),
thereby achieving compliance with the Equal Employment Practices Commission's
Sexual Harassment Prevention and Response Practices
from January 1, 2016 to this date.

On this 21st day of May in the year 2019,



Arva R. Rice, Commissioner



Charise L. Terry, Executive Director

In care of Commissioner Joseph J. Esposito
and Principal EEO Professional Annette Santiago