

DEPARTMENT OF RECORDS AND INFORMATION SERVICES

- Letter of Preliminary Determination December 20, 2008
- Agency Response February 18, 2009
- Letter of Final Determination May 05, 2009



EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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December 18, 2008

Brian G. Andersson

Commissioner

Department of Records & Information Services

31 Chambers Street

New York, NY 10007

Re: Resolution # 08/28-860/Preliminary Determination Pursuant to the Audit of the Department of Records and Information Services (DORIS) and its Compliance with the City's Equal Employment Opportunity Policy from January 1, 2005 through December 31, 2006.

Dear Commissioner Andersson:

Pursuant to Chapter 36 of the New York City Charter, the Equal Employment Practices Commission (EEPC) is empowered to audit and evaluate the employment practices, programs, policies and procedures of city agencies and their efforts to ensure fair and effective equal employment opportunity for minority group members, women and other protected classes. (New York City Charter, Chapter 36, sections 831(d)(2) and (5).)

Pursuant to Chapter 35, Section 814(a)(12) of the New York City Charter, the City established the Citywide Equal Employment Opportunity Policy (EEOP), a set of uniform standards and procedures designed to ensure the equality of opportunity for municipal government employees and job applicants, and, consistent with federal, state and local laws, identified other groups for protection from discrimination in employment by city agencies.

The Charter defines 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..."

This letter contains the preliminary determinations of EEPC pursuant to its audit of compliance by the Department of Records and Information Services (DORIS) during the twenty-four month period commencing January 1, 2005 and ending December 31, 2006. Requests for corrective actions and/or recommendations are included where the EEPC has determined that DORIS has failed to comply in whole or in part with the City's EEO Policy.

All recommendations for corrective actions are consistent with both the audit's findings and the parameters set forth in the EEO Policy, which, in accordance with section 815 of the City Charter, holds agency heads responsible for the effective implementation of Equal Employment Opportunity. Therefore, the Department of Records and Information Services should incorporate these recommendations in its agency-specific EEO Plan. The relevant sections of the City's EEO Policy are cited in parenthesis at the end of each recommendation. In addition, this Commission is empowered by Section 831 of the City Charter to recommend all necessary and appropriate actions to ensure fair and effective affirmative employment plans for minority group members and women.

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

Scope and Methodology

Audit methodology included an analysis of DORIS's responses to an EEPC Document and Information Request Form. EEPC staff also analyzed City-wide Equal Employment Database System (CEEDS) data by which DORIS determines underutilizations and concentrations of targeted groups within the workforce. These designations represent imbalances between the number of employees in a particular job category and the number that would reasonably be expected when compared to their availability in the relevant labor market. Where CEEDS data revealed underutilizations within the DORIS workforce, the auditors determined whether the agency had undertaken reasonable measures to correct those underutilizations. (Appendix 5)

EEPC auditors also conducted in-depth, on-site interviews with DORIS's EEO officer/career counselor (who was appointed in November 2006—at the end of the audit period), and two EEO counselors. The previous EEO officer who served during the majority of the audit period is no longer at the agency. The audit was prolonged for several months because the current EEO officer could not locate her predecessor's EEO files in a timely fashion.

A survey of 60 people employed by DORIS during the audit period was distributed. (This number excludes 7 surveys that were returned as undeliverable.) Twenty-four people (45%) responded. Significant survey findings are attached and discussed in the proceeding pages. (Appendix 1)

Description of the Agency

The Department of Records and Information Services (DORIS) was created by Local Law 49 of 1977, which added Chapter 72 to the Charter of the City of New York. Section 3003 of the Law designates the Commissioner as the chief archivist of the City, and as the chief reference and research librarian and public records officer for the Mayor, Borough Presidents,

and the City Council. This law consolidated responsibility for organization and retrieval of records, reports and archival documents produced by past and present City governments.

Personnel Activity During the Audit Period

According to data provided by the DORIS, during the audit period, 14 people were hired: 5 Caucasians, 4 Hispanics, 3 African-American, and 2 Asian. Of the individuals hired, 7 were female. Nine individuals were promoted during the audit period: 5 Caucasians, 2 African Americans, and 2 Asians. Of the employees promoted, 7 were female. (Appendix 4)

The DORIS reports that 2 full-time employees were involuntarily separated during the audit period: 1 Hispanic female and 1 Black male. Between July 2005 and June 2007, the total number of employees increased by 1 from 60 to 61. The number of African-American employees decreased from 14 to 12, and Asian employees increased from 7 to 8. Female employees decreased from 30 to 29. (Appendices 2 and 3)

Discrimination Complaint Activity During the Audit Period

During the audit period, two internal discrimination complaints were filed: both were based on sexual harassment. The EEO Officer completed and issued reports for both these complaints, which received no probable cause determinations. There was one external complaint based on sexual harassment filed with the State Division of Human Rights, and is pending.

PRELIMINARY DETERMINATION

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

Plan Dissemination – Internally

The DORIS is in compliance with the following requirements:

1. The Citywide EEO Policy, EEO Policy Handbook and addendums were distributed to all new employees in 2006 during new employee orientation and in 2005 to current employees during EEO training sessions. The citywide EEO policy and EEO policy handbook is included in the DORIS New Hire packet which is given to all employees during orientation. In addition, 81% of the employees surveyed by the EEPC indicated they had received the EEO policies.
2. The Citywide EEO Policy is posted on agency bulletin boards on the 1st and 3rd floors. The EEO Officer stated that the timekeeper continually checks and maintains the boards to ensure the EEO information is clearly posted and current. In addition, 63% of the employees surveyed said that the policy is posted on the bulletin boards.
3. The agency's new hire packet contains the EEO Policy, EEO policy handbook, discrimination complaint procedures, 55-A Program brochure, and reasonable accommodation policy and procedures.

The DORIS is not in compliance with the following requirement:

1. The EEO officer said that the DORIS distributed the agency head's EEO policy statement with the citywide EEO Policies in 2005; however, after several requests for the document, she could not locate a copy of the agency's head EEO Policy statement. Corrective action is required.

Recommendation: The DORIS should re-distribute the agency head's EEO policy statement to all employees reiterating his commitment to EEO; advising employees of the names, locations and phone numbers of the EEO professionals.

Plan Dissemination – Externally

The DORIS is in compliance with the following requirement:

All five job vacancy notices (stock worker, director of human resources, records assistant, records analyst, and photo archivist) submitted by the agency indicate that the DORIS is an equal opportunity employer. The EEO officer stated that due to budget cuts, the DORIS did not advertise job vacancies in newspapers or other publications.

EEO and Reasonable Accommodation for Persons with Disabilities

The DORIS is in compliance with the following requirements:

1. The DORIS participates in the Section 55-A program. There are currently no 55-A program participants.
2. The DORIS's EEO training sessions includes a section on the 55-A program.
3. The DORIS's response to the EEPC's accessibility for persons with disabilities checklist indicates that its office at 31 Chambers Street, which is maintained by the Department of Citywide Administrative Services, is accessible to, and useable by, persons with disabilities. There is a street accessible entrance, ramp access, wheelchair accessible elevators, Braille in elevators, bell in elevators, wide restroom stalls, grab bars in the restroom, and low sink and bathroom fixtures.

The DORIS is not in compliance with the following requirement:

1. The DORIS has not formally appointed a disability rights coordinator to handle reasonable accommodation requests. The EEO officer informed EEPC auditors that no formal requests have been made during or after the audit period. Corrective action is required.

Recommendation: The agency head should formally appoint a disability rights coordinator. (Sect. VB, EEOP)

2. The EEO officer said that the DORIS has the EEO policy statement in an audiotape format for persons with disabilities; however, the EEO officer could not locate the audiotape. During the audit exit meeting, the DORIS informed the EEPC staff that it will submit a large print version of the EEO policy statement with its response. Corrective action is required.

Recommendation: The agency's EEO Policy statement should be available in alternate formats to accommodate persons with disabilities. (Sect. VIII, EEOP)

Discrimination Complaint and Investigation Procedures

The DORIS is in compliance with the following requirements:

1. The EEO officer maintains and updates a monthly log of discrimination complaints filed against the agency. Since her appointment, there have been no complaints filed. During the audit period, two internal complaints (complaint # 860-05-001 and # 860-05-002) were filed.
2. The DORIS's EEO officer and EEO counselors have all attended the basic training course for EEO professionals conducted by the Department of Citywide Administrative Services (DCAS).
3. The DORIS appointed two EEO representatives who are not of the same gender (female EEO officer and male EEO counselor) to receive and investigate discrimination complaints.

The following section refers to the two internal discrimination complaint files (860-05-001 and 860-05-002) submitted by the DORIS. Initially, the EEO officer said that she could not locate her predecessor's discrimination complaint files. After several requests for the 10 latest internal discrimination files during the audit period, the EEO officer provided 10 files to the EEPC that were not labeled. After EEPC auditors reviewed the files, it was determined that these files, in fact, were not formal internal complaints filed with the DORIS. Instead, the files contained correspondence and documents regarding personnel and miscellaneous employee conduct matters. After another request for the two EEO complaints files that were indicated on the DORIS complaint log, the EEO officer provided the files to the EEPC auditors.

The DORIS is in compliance with the following requirement:

The two internal discrimination complaint files provided to the EEPC contained discrimination complaint intake forms.

The DORIS is not in compliance with the following requirement:

1. Both of the discrimination complaint file folders were not labeled to indicate the file or complaint number. Corrective action is required.

Recommendation: The EEO officer should maintain EEO-related files in a clearly marked and secure area so that files can be located and reviewed by the EEO officer's successor(s).

2. Both of the complaint files were missing a written notice of discrimination complaint to the respondent. Corrective action is required.

Recommendation: A written notice of discrimination complaint should be sent notifying the respondent of the complaint filed. (DCPIG, Sect. 12(b))

3. Both of the complaint files did not contain a confidential written report with the agency head signature. Corrective action is required.

Recommendation: At the conclusion of a discrimination complaint investigation, the EEO professional should prepare a confidential written report in accordance with the Discrimination Complaint Procedure Implementation Guidelines. (DCPIG, sect. 12b)

Recommendation: The agency head should sign each confidential report to indicate that it has been reviewed and whether the recommendation, if any, is approved and adopted. Such sign off may be in written or electronic form. (Sect, VB, EEO and DCPIG, sect. 12b)

4. Both of the complaint files do not contain word processed investigation interview notes. Corrective action is required.

Recommendation: All relevant complaint files should include word processed notes of the discrimination investigation interviews.

EEO Training

The DORIS is in compliance with the following requirement:

The DORIS has a plan to train all employees. The DORIS provides EEO refresher courses and new employee training on an ongoing basis. In 2005, DORIS held 5 agency-wide EEO training sessions, where approximately 64 employees were trained. The training focused on Federal, State, and City EEO laws, sexual harassment, ADA review, diversity initiatives, and an overview of the internal complaint procedure. In 2006, DORIS conducted 19 EEO training sessions where approximately 92 employees were trained. In 2007, DORIS conducted 22 EEO training sessions where approximately 114 employees were trained.

Underutilization

The DORIS's CEEDS data indicated persistent underutilization of at least one "protected" class in two job groups. (See Appendix 5 for underutilizations at the beginning and end of the audit period.)

Following is an analysis of personnel activity in these job groups.

EEO Job Groups / Hires and Promotions:

Management Specialists (003): African Americans and Hispanics were underutilized in this job group throughout the audit period. Four individuals were hired into this job group: 2 Whites and 2 Hispanics; one of the four was female. Two employees were promoted to or within this job group: 1 White, and 1 Asian. Both were female.

Clerical (013) African Americans and females were underutilized in this group throughout the audit period. 1 individual was hired into this job group: 1 African American female. There were no promotions in this job group.

Addressing Underutilization

The DORIS is not in compliance with the following requirement:

The DORIS's CEEDS data indicated the underutilization of African Americans, Hispanics, and females. The EEO officer informed EEPAC auditors that the DORIS has not addressed this underutilization. Corrective action required.

Recommendation: Since the DORIS's workforce shows underutilization in certain protected groups, it should further expand its recruitment efforts to address underutilization by acquiring "Making the Most of New York City's Recruitment Resources," 2004, http://extranet.dcas.nycnet/eo/pdf/apomasterclass_recruitment.pdf, a list of recruitment sources compiled by DCAS. This publication provides agencies with recruitment resources to address the underutilization of protected groups. (Sect. IV, EEOP)

Selection

The DORIS is not in compliance with the following requirement:

According to the DORIS's EEO officer, the agency did not conduct adverse impact studies during the audit period. Corrective action required.

Recommendation: Since the EEOP requires that city agencies assess the manner in which candidates are selected for employment to determine whether there is any adverse impact upon any particular racial, ethnic, disability, or gender group, DORIS should conduct an adverse impact study. (Section IV, EEOP).

Promotional Opportunities

The DORIS is in compliance with the following requirements:

The DORIS managerial performance evaluation form contains a rating for EEO.

The DORIS is in partial compliance with the following requirements:

The EEO Officer also serves as the career counselor. According to the EEO officer, a memorandum indicating she is the agency's career counselor was distributed to DORIS

employees; however, in response to several requests by EEPC auditors for a copy of that memo, the EEO officer said she could not locate it. 24% of the respondents to the EEPC survey indicated that they do not know the person who is responsible for providing career counseling.

Recommendation: The DORIS should re-distribute information to all employees about the identity, location, and telephone number of the person appointed as the career counselor. (Sect. VI, EEOP)

Supervisory Responsibility in EEO Plan Implementation

The DORIS is in partial compliance with the following requirement:

The EEO officer informed EEPC auditors that she has instructed managers and supervisors to discuss the department's EEO policies with their subordinates during normal staff meetings; however, the EEO officer said that these meetings are not documented. Corrective action is required.

Recommendation: It is the position of the DCAS ("Model Agency EEO Commitment Memo," http://extranet.dcas.nycnet/eoo/pdf/model_memo.pdf) and the EEPC that at least twice a year during normal staff meetings, managers and supervisors should emphasize their commitment to the agency's EEO policies and affirm the right of each employee to file a discrimination complaint with the EEO office. These meetings should be documented.

EEO Officer Reporting Arrangement

The DORIS is in partial compliance with the following requirement:

The EEO officer reports to the agency head, and meets with him on EEO matters. However, notes and/or agendas of the meetings are not kept. Corrective action is required.

Recommendation: Appropriate documentation of meetings between the EEO officer and the agency head discussing EEO operational decisions should be maintained. (Sect. VII, EEOP)

The DORIS is not in compliance with the following requirement:

The DORIS did not submit its EEO plan and quarterly reports for Fiscal years 2005, 2006, and 2007 to the EEPC.

Recommendation: The DORIS should submit copies of its agency-specific EEO plans and quarterly reports to the EEPC. (Sect. VI, EEOP)

EEO Officer Responsibilities

The DORIS is not in compliance with the following requirements:

1. The EEO officer is the agency's director of human resources. To discharge her responsibilities under the Citywide EEO Policy, the EEO officer must review all personnel policies and practices – including selection and termination policies – to ensure they are non-discriminatory. The EEPC believes that it is an inherent conflict of interest for individuals involved in the development of such policies to review them for bias. The EEO officer is also required to investigate and supervise the investigation of discrimination complaints. The potential for conflict of interest is equally obvious in this situation. In typical discrimination cases involving failure to hire or termination, for example, the human resources director provides guidance to the line manager prior to the selection or termination decision. The human resources official, wearing the hat of the EEO officer, must then determine if the decision by the line manager was non-discriminatory. Corrective action is required.

Recommendation: The DORIS should appoint an EEO Officer who is not involved in setting or implementing human resources policies.

Special Contingencies

During the audit exit meeting, the Commissioner indicated that the DORIS' male EEO counselor was laid off. Mr. May informed him that the DORIS will have to identify another male EEO counselor to comply with the Citywide EEO Policy. The DORIS agreed to address this issue during the charter-mandated compliance period.

SUMMARY OF RECOMMENDED CORRECTIVE ACTIONS

1. The DORIS should re-distribute the agency head's EEO policy statement to all employees reiterating his commitment to EEO; advising employees of the names, locations and phone numbers of the EEO professionals.
2. The agency head should formally appoint a disability rights coordinator. (Sect. VB, EEOP)
3. The agency's EEO Policy statement should be available in alternate formats to accommodate persons with disabilities. (Sect. VIII, EEOP)
4. The EEO officer should maintain EEO-related files in a clearly marked and secure area so that files can be located and reviewed by the EEO officer's successor(s).
5. A written notice of discrimination complaint should be sent notifying the respondent of the complaint filed. (DCPIG, Sect. 12(b))
6. At the conclusion of a discrimination complaint investigation, the EEO professional should prepare a confidential written report in accordance with the Discrimination Complaint Procedure Implementation Guidelines. (DCPIG, sect. 12b)

7. The agency head should sign each confidential report to indicate that it has been reviewed and whether the recommendation, if any, is approved and adopted. Such sign off may be in written or electronic form. (Sect. VB, EEOP and DCPIG, sect. 12b)
8. All relevant complaint files should include word processed notes of the discrimination investigation interviews.
9. Since the DORIS's workforce shows underutilization in certain protected groups, it should further expand its recruitment efforts to address underutilization by acquiring "Making the Most of New York City's Recruitment Resources," 2004, http://extranet.dcas.nycnet/eoo/pdf/apomasterclass_recruitment.pdf, a list of recruitment sources compiled by DCAS. This publication provides agencies with recruitment resources to address the underutilization of protected groups. (Sect. IV, EEOP)
10. Since the EEOP requires that city agencies assess the manner in which candidates are selected for employment to determine whether there is any adverse impact upon any particular racial, ethnic, disability, or gender group, DORIS should conduct an adverse impact study. (Section IV, EEOP).
11. The DORIS should re-distribute information to all employees about the identity, location, and telephone number of the person appointed as the career counselor. (Sect. VI, EEOP)
12. It is the position of the DCAS ("Model Agency EEO Commitment Memo," http://extranet.dcas.nycnet/eoo/pdf/model_memo.pdf) and the EEPC that at least twice a year during normal staff meetings, managers and supervisors should emphasize their commitment to the agency's EEO policies and affirm the right of each employee to file a discrimination complaint with the EEO office. These meetings should be documented.
13. Appropriate documentation of meetings between the EEO officer and the agency head discussing EEO operational decisions should be maintained. (Sect. VII, EEOP)
14. The DORIS should appoint an EEO Officer who is not involved in setting or implementing human resources policies.

In addition to the above recommendations, during the compliance process, the Commission requires that the agency head distribute a memorandum to all staff informing them of the changes that are being implemented in the agency's EEO program pursuant to the audit. This memorandum should re-emphasize the agency head's commitment to the agency's Equal Employment Opportunity Program.

Conclusion

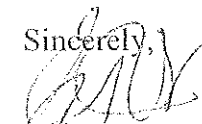
Pursuant to Chapter 36 of the New York City Charter and the previously cited preliminary determinations relating to EEPC's audit of the DORIS's compliance with its Equal Employment Opportunity Policy, and EEO standards expressed in the Citywide EEO Policy, we respectfully request your response to the aforementioned preliminary determinations.

Your response should indicate what corrective actions your office will take to bring the agency in compliance with the aforementioned policies and which recommendations it intends to follow. Please forward your response within thirty days of receipt of this letter.

Pursuant to Section 832 of the New York City Charter, as amended in 1999, if you do not implement all of these recommendations for corrective actions during a compliance period not to exceed six months, this Commission may publish a report and recommend to the Mayor the appropriate corrective actions that you should implement in your agency's EEO Plan.

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

Sincerely,



Ernest F. Hart, Esq.
Chair

Department of Records and Information Services
EMPLOYEE SURVEY RESULTS

A. GENERAL OVERVIEW

1. Do you know who your agency's EEO Officer is?
Yes (20) No (4)
2. Is your agency's EEO Policy Statement posted on your agency's bulletin boards?
Yes (15) No (9)
3. Were you given the EEO Policy Statement?
Yes (19) No (1) Do not remember (4)
4. Were you given a copy of the EEO Policy Handbook – *About EEO: What You Need to Know*?
Yes (22) No (0)
5. Do you agree with the principles of equal employment opportunity?
Yes (21) No (0)
6. Do you believe your agency practices equal employment opportunity?
Yes (21) No (3)
7. Do you know what the City's Equal Employment Opportunity Policy (EEOP) is?
Yes (24) No (0)
8. Has your supervisor emphasized his/her commitment to the agency's EEO policies at any staff meeting during the past 8 months?
Yes (18) No (0) Do not remember (6)
9. When you started working at your agency, did you attend an orientation session?
If No, please skip to question #11.
Yes (20) No (3) Do not remember (1)
10. If hired within the past 12 months, did your orientation session include information on your rights and responsibilities under the EEO Policy?
Yes (6) No (3) Do not remember (3)

B. EEO COMPLAINTS

11. Do you know how to file an EEO complaint?
Yes (20) No (4)
12. If you had an EEO complaint, would you bring it to your agency's EEO Office?
Yes (22) No (1) Undecided (1)

13. Would you prefer to file an EEO complaint with an office outside your agency?
Yes (1) No (18) Undecided (0)

14. Did you ever file an EEO complaint with your agency's EEO Office?
If No, please skip to question #18.
Yes (3) No (21)

15. What was the basis of the complaint?

Age (0)	Partnership Status (0)
Alienage or Citizen Status (0)	Predisposing genetic characteristic (0)
Arrest or Conviction Record (0)	Race (0)
Color (0)	Sexual Harassment (0)
Creed (0)	Sexual Orientation (1)
Disability (1)	Veteran's Status (0)
Gender (incl. gender identity) (0)	Victim of Domestic Violence, Stalking, and Sex Offenses (0)
Marital Status (0)	Other (1)
Military Status (0)	
National Origin (0)	

16. Were you satisfied with the manner in which your complaint was managed?
Yes (0) No (2)

17. Was your manager or supervisor supportive of your right to file a complaint?
Yes (1) No (2) Not Applicable (0)

C. EEO TRAINING

18. Did you receive EEO training? If No, please skip to question #20.
Yes (13) No (11)

19. Did you find this training helpful?
Very (5) Somewhat (8)
Not really (0) Waste of time (0)

D. JOB PERFORMANCE/ADVANCEMENT

20. Did you see your agency's job postings on agency bulletin boards for vacant positions prior to the application deadline?
Yes (15) No (6) Do not remember (3)

21. If you were employed at your agency for over one year, did you receive annual evaluations?
If No, skip to question #24.
Yes (6) No (5) Not employed for >1 year (5)

22. Did your evaluation contain recommendations for improving your job performance?
Yes (0) No (6)

23. Did your evaluation contain recommendations for career advancement with your agency?

Yes (2) No (4)

24. Do you know the name of the person in your agency who is responsible for providing career counseling?

Yes (16) No (5)

E. AFFIRMATIVE ACTION FOR PERSONS WITH DISABILITIES

25. Are your agency's facilities accessible for persons with disabilities?

Yes (19) No (1) Don't Know (3)

26. Did you ever ask for an accommodation for a physical or mental disability?

If No, skip to question #28.

Yes (1) No (23)

27. Did the agency accommodate you?

Yes (0) No (0)

OPTIONAL

28. What is your race/ethnicity?

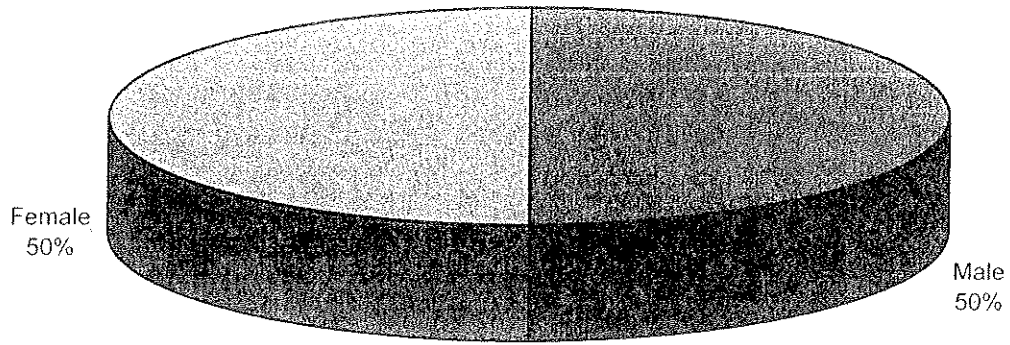
Asian (6)	Native American (0)
Black (5)	White (5)
Hispanic (5)	Other (0)

29. What is your gender?

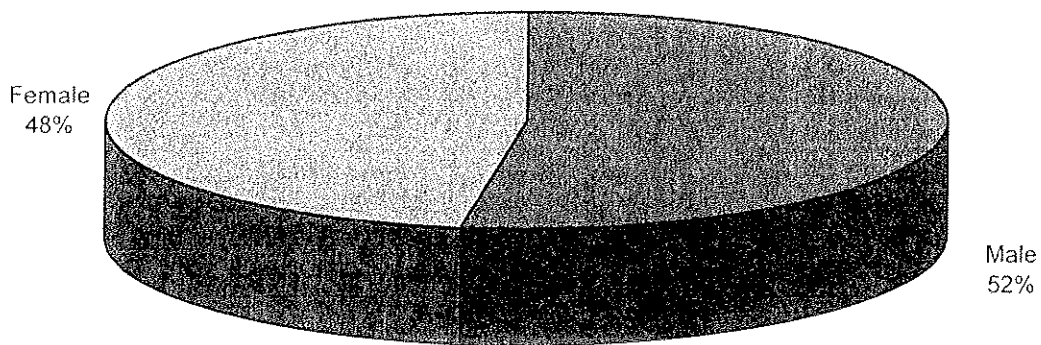
Male (10) Female (13)

Appendix - 2

Department of Records and Information Services Workforce by Sex



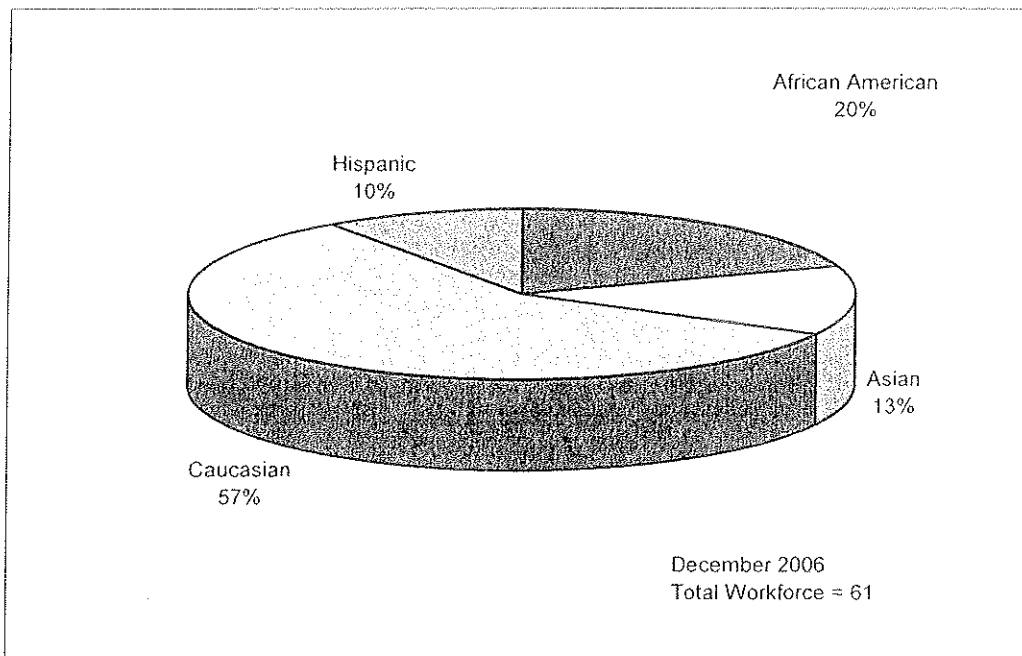
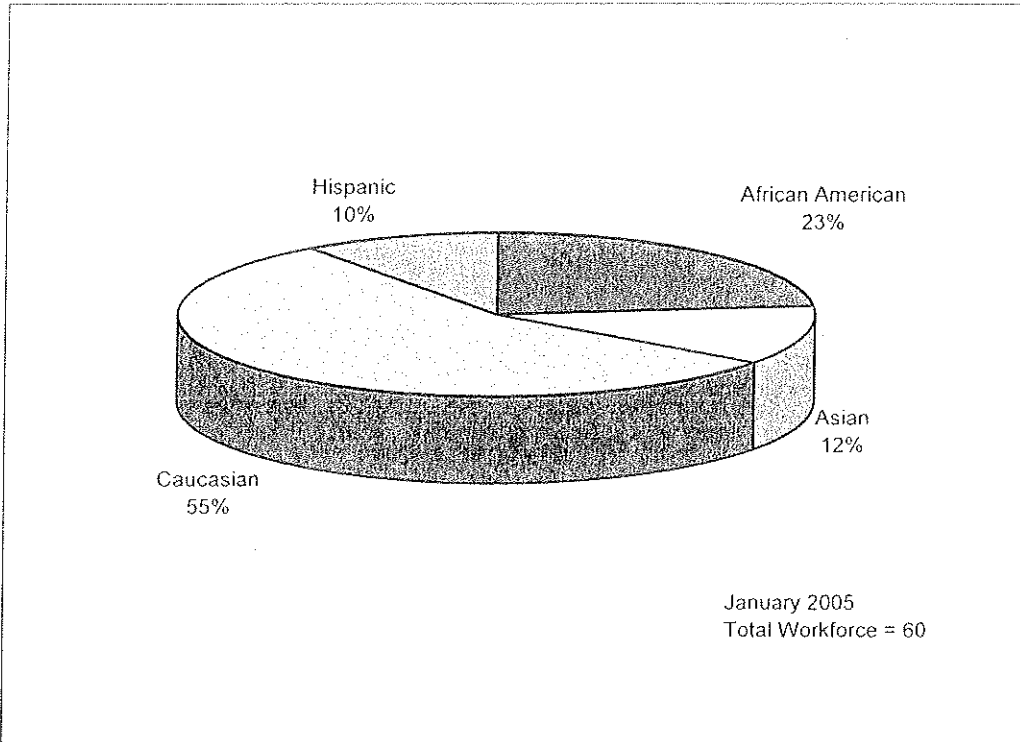
January 2005
Total Workforce = 60



December 2006
Total Workforce = 61

Appendix - 3

Department of Records and Information Services
Workforce by Ethnicity



APPENDIX – 4

The following table indicates personnel activity during the audit period, January 1, 2005 to December 31, 2006

Department of Records and Information Services

Hires by Sex and Ethnicity

Total Hires: 14

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Unknown	Total
7	7	14	5	3	4	2	0	14

Promotions by Sex and Ethnicity

Total Promotions: 9

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Unknown	Total
2	7	9	5	2	0	2	0	9



**CITY OF NEW YORK
DEPARTMENT OF RECORDS & INFORMATION SERVICES
OFFICE OF THE COMMISSIONER**

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BRIAN G. ANDERSSON, *Commissioner*

February 18, 2009

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10/6/6

Mr. Ernest F. Hart, Esq.
Chair
Equal Employment Practices Commission
City of New York
40 Rector Street, 14th Floor
New York, NY 10006

Re: Response to Preliminary Determination Pursuant to the Audit of the Department of Records and Information Services and its compliance with the City's Equal Employment Opportunity Policy from January 1, 2005 through December 31, 2006.

Dear Mr. Hart,

I would first like to assure you that I am fully aware of the provisions regarding accountability and my obligation for ensuring compliance with all applicable EEO-related Charter provisions and the City's EEO policies and standards. As Commissioner, I take these responsibilities very seriously and will take any and all necessary actions to address your concerns.

The Department of Records and Information Services is initiating the following in order to comply with the 'Summary of Recommended Corrective Actions' on pages 9-10 of the preliminary determination.

1. I have re-distributed my EEO policy statement to all employees as of December 16, 2008.
2. Naomi Pacheco, Director of Personnel, has been appointed as the disability rights coordinator.
3. We have printed the EEO Policy statement in large print for those who are vision impaired and are currently re-doing our audio tapes.
4. The new EEO officer has established a secure location with clearly marked files that will continue to be maintained properly.
5. We have had no new complaints since the time of this audit but, in future, we will be sure to include a complaint intake form with any new complaints. Based on your recommendations, basic procedures will be in place to properly process all future complaints.

6. Written Notice of Discrimination Complaints has been sent to respondents and we will continue to follow this practice.
7. The agency EEO will be notified of their responsibility to file a confidential written report in accordance with the Discrimination complaint Procedure Implementation Guidelines. These reports will be required and included in the file.
8. I will sign all confidential reports and will indicate whether the recommendation, if any, is approved and adopted.
9. Word processed notes of the investigation interviews will be included with our new procedures.
10. We have acquired "Making the Most of New York City's Recruitment Resources."
11. We were not able to locate any prior impact studies for the agency. The Department will conduct an adverse impact study as part of its new EEO plan.
12. The Department has provided the identity, location, and telephone number of the person appointed as the career counselor to all employees.
13. Going forward, at least twice a year during normal staff meetings, supervisors and managers will emphasize their commitment to the EEO policies. Documenting this will become part of our new procedures.
14. I will establish a mutual meeting arrangement between myself and the EEO officer to discuss EEO operational decisions. These meeting will be documented.
15. The Department of Records currently submits and will continue to submit copies of its agency-specific EEO plans and quarterly reports to the EEPC.
16. We have identified a new EEO Officer who is not involved in setting or implementing human resource policies.

It is my objective to go forth to insure that the Department of Records and Information Services upholds Equal Employment Practices for the benefit of all staff members.

Sincerely,



Brian G. Andersson
Commissioner

C: A. May, Executive Director - EEPC
N. Pacheco, Director of Administration—Department of Records



EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

40 Rector Street, 14th Floor New York, NY 10006

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May 05, 2009

Brian G. Andersson

Commissioner

Department of Records & Information Services

31 Chambers Street, Suite 305

New York, NY 10007

Re: Final Determination Pursuant to the Audit of the Department of Records & Information Services (DORIS) and its Compliance with the City's Equal Employment Opportunity Program from January 1, 2005 through December 31, 2006.

Dear Commissioner Andersson:

Thank you for your response to our December 18, 2008 Letter of Preliminary Determination pursuant to the audit of the Department of Records & Information Services' Equal Employment Opportunity Program. Your affirmation of your accountability for ensuring compliance with the City Charter-mandated EEO requirements is commendable. Responses #5 and #15 do not address any of the recommended corrective actions listed in our Preliminary Determination Letter and will not be addressed.

Following is our Final Determination:

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 #2

The agency head should formally appoint a disability rights coordinator. (Sect. VB, EEOP)

Recommendation #3

The agency's EEO Policy statement should be available in alternate formats to accommodate persons with disabilities. (Sect. VIII, EEOP)

Recommendation #4

The EEO officer should maintain EEO-related files in a clearly marked and secure area so that files can be located and reviewed by the EEO officer's successor(s).

Recommendation #5 (your response #6)

A written notice of discrimination complaint should be sent notifying the respondent of the complaint filed. (DCPIG, Sect. 12(b))

Recommendation #6 (your response #7)

At the conclusion of a discrimination complaint investigation, the EEO professional should prepare a confidential written report in accordance with the Discrimination Complaint Procedure Implementation Guidelines (DCPIG, Sect. 12b)

Recommendation #7 (your response #8)

The agency head should sign each confidential report to indicate that it has been reviewed and whether the recommendation, if any, is approved and adopted. Such sign-off may be in written or electronic form. (Sect. VB, EEOP and DCPIG, Sect. 12b)

Recommendation #8 (your response # 9)

All relevant complaint files should include word-processed notes of the discrimination investigation interviews.

Recommendation #9 (your response # 10)

Since the DORIS's workforce shows underutilization in certain protected groups, it should further expand its recruitment efforts to address underutilization by acquiring "Making the Most of New York City's Recruitment Resources," 2004, http://extranet.dcas.nycnet/eo/pdf/apomasterclass_recruitment.pdf, a list of recruitment sources compiled by DCAS. This publication provides agencies with recruitment resources to address the underutilization of protected groups. (Sect. IV, EEOP)

Recommendation #10 (your response #11)

Since the EEOP requires that city agencies to assess the manner in which candidates are selected for employment to determine whether there is any adverse impact upon any particular racial, ethnic, disability, or gender group, DORIS should conduct an adverse impact study. (Section IV, EEOP).

Recommendation #11 (your response #12)

The DORIS should re-distribute information to all employees about the identity, location, and telephone number of the person appointed as the career counselor. (Sect. VI, EEOP)

Recommendation #12 (your response #13)

It is the position of the DCAS ("Model Agency EEO Commitment Memo," http://extranet.dcas.nycnet/eo/pdf/model_memo.pdf) and the EEPC that at least twice a year during normal staff meetings, managers and supervisors should emphasize their commitment to the agency's EEO policies and affirm the right of each employee to file a discrimination complaint with the EEO office. These meetings should be documented.

Recommendation #13 (your response #14)

Appropriate documentation of meetings between the EEO officer and the agency head discussing EEO operational decisions should be maintained. (Sect. VII, EEOP)

Recommendation #14 (your response # 16)

The DORIS should appoint an EEO Officer who is not involved in setting or implementing human resources policies.

Requires Clarification

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

Recommendation #1

The DORIS should re-distribute the agency head's EEO policy statement to all employees reiterating his commitment to EEO; advising employees of the names, locations and phone numbers of the EEO professionals.

Your Response:

I have re-distributed my EEO policy statement to all employees as of December 16, 2008.

EEPC Rationale

It is unclear whether the EEO policy statement you distributed advises employees of the names, locations and phone numbers of the EEO professionals.


Conclusion

Pursuant to section 832 of the New York City Charter, this Commission will initiate an audit compliance procedure not to exceed six months. However, you may respond to the aforementioned determinations prior to the initiation of audit compliance. If you choose to issue a written response, please do so within thirty days.

If you choose not to issue a written response, we will initiate audit compliance shortly thereafter. EEPC Counsel/Compliance Director Judith Garcia Quiñonez will contact your EEO Officer in seven days to ascertain your intentions.

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

Sincerely,


Cesar A. Perez, Esq.

Chair

c: Naomi Pacheco, Director of Administration, DORIS

Judith Garcia Quiñonez, Agency Counsel/Compliance Director, EEPC