

DEPARTMENT FOR THE AGING

- Letter of Preliminary Determination July 31, 2008
- Agency Response August 28, 2008
- Letter of Final Determination September 8, 2008



EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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Executive Director

Eric Matusewitch, PHR, CAAP

Deputy Director

July 31, 2008

Edwin Mendez-Santiago, LCSW

Commissioner

Department for The Aging

2 Lafayette Street

New York, NY 10007

Re: Resolution #08/23-125/Preliminary Determination Pursuant to the Audit of the Department for the Aging (DFTA) and its Compliance with the City's Equal Employment Opportunity Policy from July 1, 2005 through June 30, 2007.

Dear Commissioner Mendez-Santiago:

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, and women. (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 for the Aging (DFTA) during the twenty-four month period commencing July 1, 2005 and ending June 30, 2007. Requests for corrective actions and/or recommendations are included where the EEPC has determined that the DFTA 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 in their agency. Therefore, the Department for the Aging 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 the DFTA's Agency Specific Plans, quarterly EEO reports, and responses to an EEPC Document and Information Request Form. EEPC staff also analyzed City-wide Equal Employment Database System (CEEDS) data by which DFTA 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 DFTA workforce, the auditors determined whether the agency had undertaken reasonable measures to correct those underutilizations. (Appendix 4) EEPC auditors also conducted in-depth, on-site interviews with DFTA's EEO officers, career counselor and two EEO counselors.

A survey of 1,496 people employed by the DFTA during the audit period was distributed. Due to the low response rate (only 22 surveys returned, which is less than 5%), survey results would not be useful and were therefore not tabulated.

Description of the Agency

The Department for the Aging is responsible for the empowerment, independence, dignity and quality of life of New York City's diverse older adults and for the support of their families through advocacy, education and the coordination and delivery of services.

Personnel Activity During the Audit Period

According to data provided by the DFTA, during the audit period, 47 people were hired: 16 Caucasians, 15 African-Americans, 7 Hispanics, and 9 Asians. Of the individuals hired, 33

were female. Fifty-five individuals were promoted: 17 Caucasians, 17 African Americans, 9 Hispanic, and 12 Asians. Of the employees promoted, 41 were female. (Appendix 3) The DFTA reports that 1 full-time employee (an Asian female) was involuntarily separated during the audit period.

Between July 2005 and June 2007, the total number of employees decreased by 10.9%, going from 1,496 to 1,333. There was a one percent increase for African-Americans (44% to 45%), a one percent decrease for Hispanics (20% to 19%), a two percent decrease for females (78% to 76%), and no change in the percentage of Asian employees (14%). (Appendices 1 and 2)

Discrimination Complaint Activity During the Audit Period

During the period in review, 4 internal discrimination complaints were filed: two were based on sexual harassment, 1 was based on harassment, and 1 was based on hostile work environment. Two external complaints (based on multiple categories) were filed during the audit period. Both were “pending” as of June 30, 2007.

PRELIMINARY DETERMINATION

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

Plan Dissemination – Internally

The DFTA is in compliance with the following requirements:

1. The DFTA distributes the Citywide EEO Policy once annually to all employees; that document is accompanied by the Mayor’s policy statement and the commissioner’s policy statement. The policies are also distributed at new employee orientation and EEO training sessions.
2. According to the agency’s EEO officer, the DFTA’s EEO Policies are posted on agency bulletin boards. The EEO Counselors continually check and maintain the boards to ensure the EEO information is clearly posted and current.
3. According to the DFTA’s EEO officer, the EEO Policy Handbook (*About EEO: What You May Not Know*) is distributed annually to current and new employees.

Plan Dissemination – Externally

The DFTA is in compliance with the following requirement:

1. The DFTA submitted copies of seven job advertisements that were advertised with *Monster.com*, *City Limits*, and *The New York Times*. The positions were executive assistant to the deputy commissioner of external affairs, director of policy analysis, senior social worker, deputy general counsel, and 3 registered nurse positions. All job ads indicate that the DFTA is an equal opportunity employer.

2. Five internal vacancy notices were posted during the period in review. The positions were senior community liaison worker, college aide I, associate staff analyst, clerical associate II, and deputy assistant commissioner. All notices indicated that the DFTA is an equal opportunity employer.

EEO and Reasonable Accommodation for Persons with Disabilities

The DFTA is in compliance with the following requirements:

1. The DFTA EEO training session includes a section on the 55-A Program. The DFTA also distributes the Section 55-A program brochure annually with paychecks. In addition, the agency includes a paragraph on the 55-A program in its EEO Policy handbook. Currently, there are no employees participating in the program.
2. The DFTA's EEO officer is aware that the citywide EEOP is available in alternate formats for persons with disabilities.
3. The DFTA EEO officer also serves as the agency disability rights coordinator, and an email was sent to DFTA employees informing them of her appointment. The DFTA has provided reasonable accommodations to employees with disabilities, such as an ergonomic workstation and air purifiers.
4. The DFTA response to the EEPC's accessibility for persons with disabilities checklist indicates that all DFTA facilities throughout the five boroughs are accessible to- and usable by persons with disabilities.
5. According to the DFTA's EEO officer the DFTA's EEO policy statement is available in an alternate format (large print) for persons with disabilities.

EEO Complaint and Investigation System

The DFTA is in compliance with the following requirements:

1. The EEO officer maintains and updates a monthly log of discrimination complaints filed against the agency.
2. The DFTA's EEO officers and EEO counselors have all attended the basic training course for EEO professionals at the Department of Citywide Administrative Services (DCAS).
3. The agency has identified its EEO staff by posting their names and numbers in the EEO Policy handbook, on bulletin boards, and on the agency's HR portal under the EEO web page.
4. The DFTA has ensured that both a male (EEO counselor) and female (EEO officer) are available for complaint intake and investigation.

5. The DFTA's EEO officer stated that she meets with her EEO counselor regularly to review his work and keep him abreast of internal and external EEO developments, and she provided documentation of their meetings.

EEO Training

The DFTA is in compliance with the following requirement:

The DFTA provides EEO training on an ongoing basis. During the audit period 1,170 DFTA employees (more than 70% of the entire workforce) received EEO training. The DFTA'S training curriculum is based on DCAS's standards. EEO training for DFTA managers and supervisors is conducted by the DFTA's director of training, who attended DCAS's EEO training.

Underutilization

The DFTA CEEDS data indicated persistent underutilization of one "protected" class in one job group. (See Appendix 5 for underutilization at the beginning and end of the audit period.)

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

EEO Job Groups/Hires and Promotions:

Clerical Supervisors (012): Hispanics were underutilized in this job group throughout the audit period. One Hispanic male was hired into this job group. Seven individuals were promoted into this job group: 6 African-American females, and 1 Hispanic male.

Addressing Underutilization

The DFTA is not in compliance with the following requirement:

The DFTA does not advertise in minority-based periodicals. Corrective action is required

Recommendation: Since DFTA's workforce continues to show underutilization of a protected class in one job category, it should further expand its recruitment efforts to address underutilization by acquiring and using "Making the Most of New York City's Recruitment Resources," 2004, http://extranet.dcas.nycnet/eeo/pdf/apomasterclass_recruitment.pdf, a list of recruitment sources compiled by DCAS. This publication provides agencies with additional recruitment resources to address the underutilization of protected groups. (Sect. IV, EEOP)

Selection

The DFTA is in compliance with the following requirement:

According to DFTA's EEO officer, the agency's hiring personnel have attended DCAS's structured interview training.

The DFTA is not in compliance with the following requirement:

According to DFTA's EEO officer, although she attended the DCAS's adverse impact study training session in 2004, she did not conduct an adverse impact study during the audit period. Corrective action is 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, DFTA should conduct adverse impact studies. (Section IV, EEOP).

Promotional Opportunities

The DFTA is in compliance with the following requirements:

1. The DFTA has appointed an individual familiar with civil service and provisional jobs (the employment manager) to serve as career counselor. The DFTA employees were informed of the appointment by memorandum.
2. The DFTA uses the citywide managerial performance evaluation form, which contains a rating for EEO.

EEO Officer Reporting Arrangement

DFTA is in compliance with the following requirements:

The EEO officer reports to the agency head, meets with him monthly, and keeps an agenda and notes of those meetings.

DFTA is not in compliance with the following requirements:

The DFTA's EEO officer is not involved in the agency's recruitment process. Corrective action is required

3. Recommendation: The agency head should direct the HR director to include the EEO officer in the development of recruitment strategies and selection of recruitment media. (Sect. IV, EEOP)

SUMMARY OF RECOMMENDED CORRECTIVE ACTIONS

1. Since the DFTA's workforce continues to show underutilization of one protected class in a job category, 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 additional recruitment resources to address the underutilization of protected groups. (Sect. IV, EEOP)
2. 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, the DFTA should conduct adverse impact studies. (Sect. IV, EEOP)
3. The agency head should direct the HR director to include the EEO officer in the development of recruitment strategies and selection of recruitment media. (Sect. IV, EEOP)

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 DFTA'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. As you informed us during the exit meeting of July 10, 2008, you have already implemented some of our recommended corrective actions. Please specify those corrective actions in your response. Because agency heads are responsible for the implementation of their agencies' EEO Programs, your response must be a formal letter signed by you. 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.

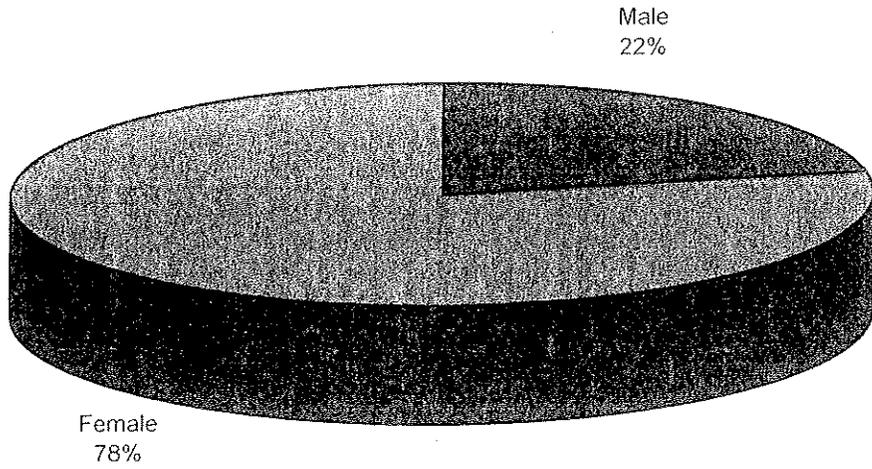
Sincerely,

A handwritten signature in black ink, appearing to read 'E. F. Hart', written in a cursive style.

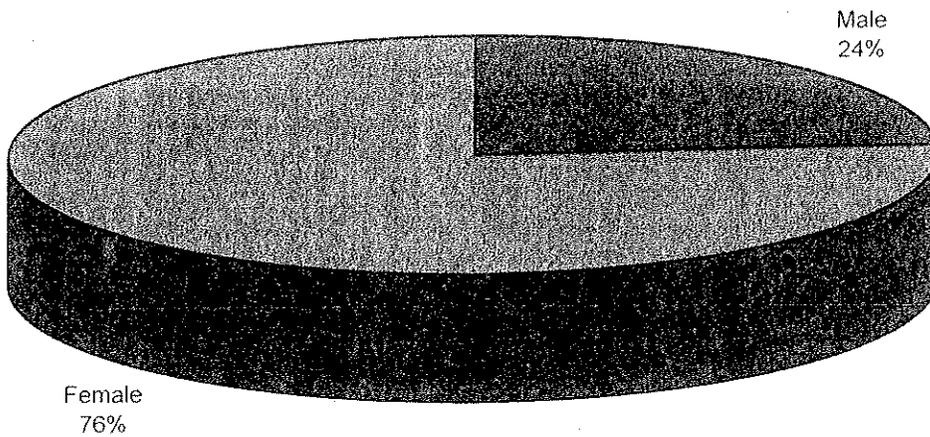
Ernest F. Hart, Esq.
Chair

Appendix - 1

Department for the Aging Workforce by Sex



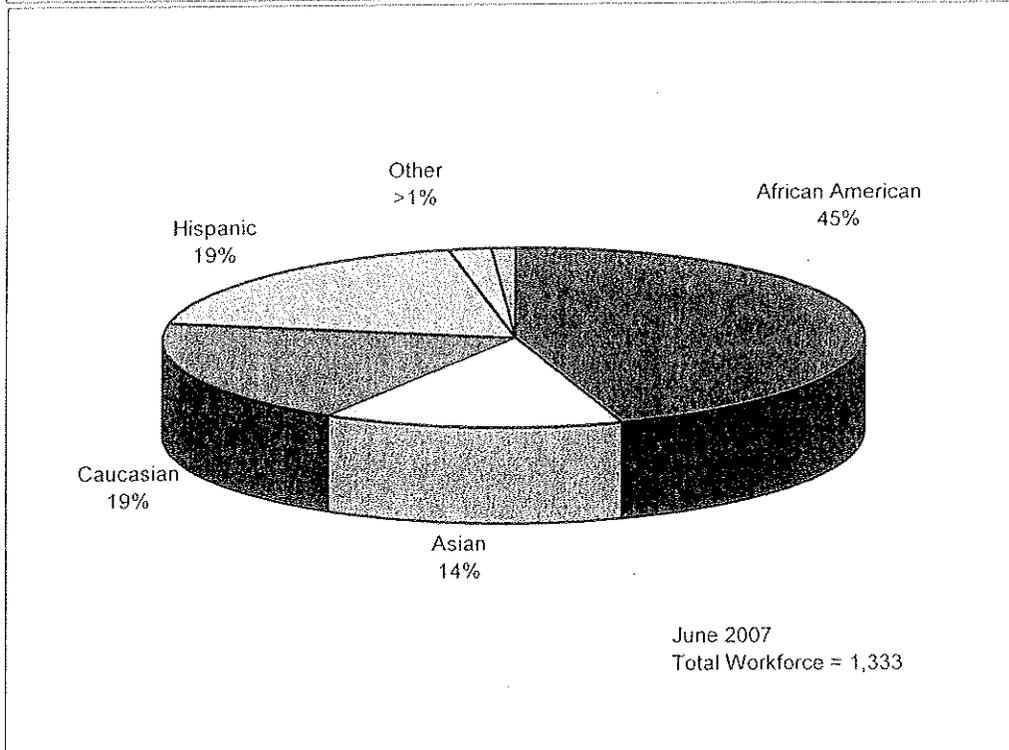
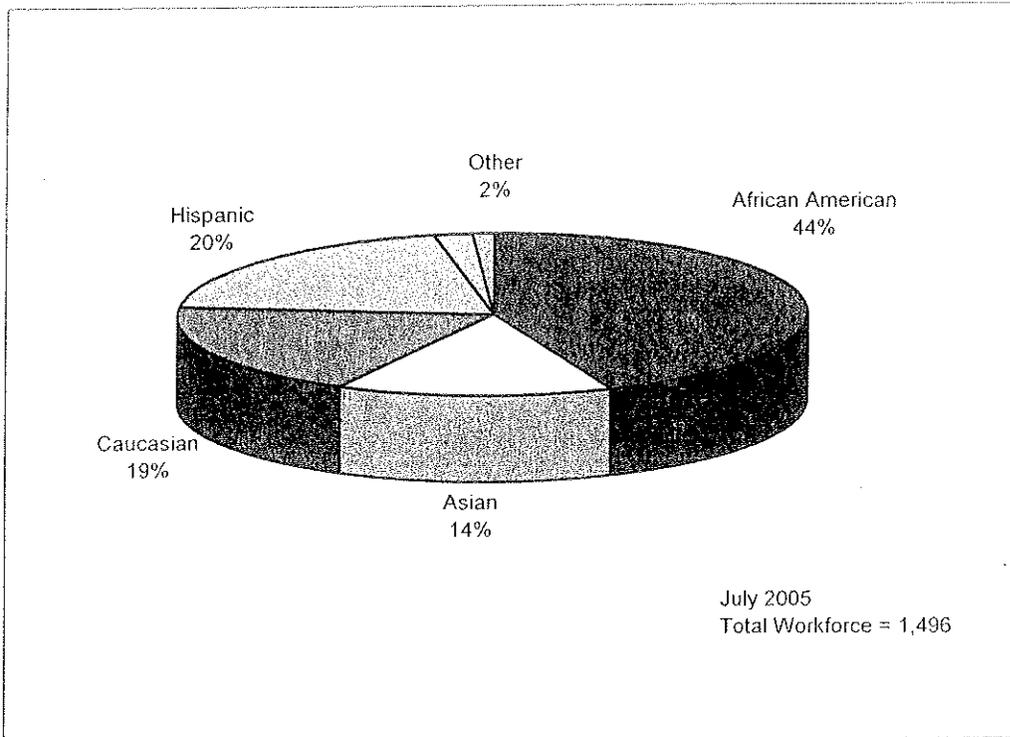
July 2005
Total Workforce = 1,496



June 2007
Total Workforce = 1,333

Appendix - 2

Department for the Aging Workforce by Ethnicity



APPENDIX – 3

The following table indicates personnel activity during the audit period, July 1, 2005 to June 30, 2007

Department for the Aging

Hires by Sex and Ethnicity

Total Hires: 47

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Unknown	Total
14	33	47	16	15	7	9	0	47

Promotions by Sex and Ethnicity

Total Promotions: 55

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Unknown	Total
11	41	55	17	17	9	12	0	55

Separations by Sex and Ethnicity

Total Separations: 3

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Unknown	Total
1	2	3	1	1	1	0	0	3

Source: Audit data supplied by the Department for the Aging

Appendix- 4
Department for the Aging
CEEDS UNDERUTILIZATION CHART
July 1, 2005 - June 30, 2007

Quarter:		3Q/2005	4Q/2005	1Q/2006	2Q/2006	3Q/2006	4Q/2006	1Q/2007	2Q/2007
		(Jan-Mar)	(Apr-Jun)	(Jul-Sep)	(Oct-Dec)	(Jan-Mar)	(Apr-Jun)	(Jul-Sep)	(Oct-Dec)
Job Group	Protected Class								
012 Clerical Supers	Afr. Am.								
	Asian								
	Hisp.		X	X	X	X	X	X	X
	Nat. Am.								
	Female								

X= Underutilization



DEPARTMENT FOR THE AGING

2 LAFAYETTE STREET
New York, New York 10007-1392
(212) 442-1100

Edwin Méndez-Santiago, LCSW
Commissioner

August 28, 2008

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

AFST

Dear Chairman Hart:

Thank you for giving us the opportunity to respond to your letter of July 31, 2008, in which you provided us with a preliminary determination of the Department for the Aging's (DFTA) compliance with the City's Equal Employment Opportunity Policy for the two-year period July 1, 2005 through June 30, 2007. In your letter you indicated that there are three areas in which you recommend the agency take corrective actions as follows:

Underutilization

EEPC finding: DFTA's workforce shows underutilization of Hispanics as clerical supervisors.

EEPC recommendation: DFTA should further expand its recruitment efforts to address underutilization by acquiring and using "Making the Most of New York City's Recruitment Resources."

DFTA response: This publication was downloaded by DFTA's Human Resources Department. DFTA will incorporate the suggestions in this publication in its future efforts to expand the number of Hispanic clerical supervisors.

Selection

EEPC finding: DFTA's EEO Officer attended the DCAS adverse impact study training session but did not conduct an adverse impact study during the audit period.

EEPC recommendation: DFTA should conduct adverse impact studies.

DFTA response: DFTA's EEO Officer, with the assistance of DFTA's Human Resources Director, will analyze new hires, promotions and termination outcomes to determine adverse impact. This analysis will be conducted once a year, during the month of September. DFTA's

Chairman Ernest F. Hart, Esq.
August 28, 2008
Page 2

EEO Officer will reach out for technical assistance as needed. DFTA's EEO Officer will attend future trainings on this topic that are offered by DCAS.

EEO Officer Reporting Arrangement

EEPC finding: DFTA's EEO officer is not involved in the agency's recruitment process.

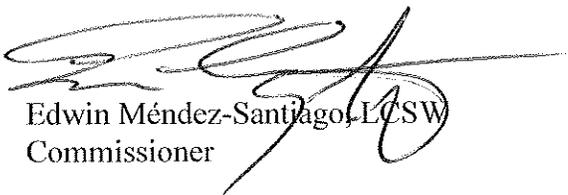
EEPC recommendation: The agency head should direct the HR director to include the EEO officer in the agency's recruitment process.

DFTA response: By memo dated August 28, 2008, I directed the Director of Human Resources to include DFTA's EEO Officer in the development of recruitment strategies and selection of recruitment media.

In addition, per your July 31, 2008 letter, DFTA will distribute a memorandum to all staff in September, informing them of the above changes in the agency's EEO program and reminding them of our ongoing commitment to our EEO program.

In summary, I thank you for giving us this opportunity to respond to your preliminary audit findings. I look forward to our continued joint efforts to ensure that DFTA's employment practices, policies and procedures result in fair and equal opportunities for minority group members and women.

Sincerely,



Edwin Méndez-Santiago, LCSW
Commissioner



EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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September 8, 2008

Edwin Mendez-Santiago, Commissioner
Department for the Aging
2 Lafayette Street
New York, NY 10007-1392

Re: Initiation of Audit Compliance

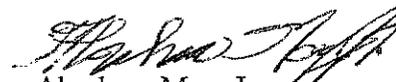
Dear Commissioner Mendez-Santiago:

Thank you for your August 28th Response to our July 31st Letter of Preliminary Determination pursuant to our audit of your agency's Equal Employment Opportunity Program from July 1, 2005 to June 30, 2007.

We have reviewed your response and we are pleased to see that you concur with, and intend to implement, the recommended corrective actions. Consequently, we are prepared to initiate the City Charter-mandated audit compliance process. The Counsel/Compliance Director for this Commission is Judith Garcia Quiñonez, Esq. She, or her designee, will contact your EEO Officer, Ms. Maria Serrano to initiate audit compliance.

We look forward to working with you and your EEO staff to ensure an effective Equal Employment Opportunity Program in the Department for the Aging.

Sincerely,


Abraham May, Jr.
Executive Director

c: Maria Serrano, EEO Officer
Judith Garcia Quiñonez, Esq., Counsel/Compliance Director