

## DEPARTMENT OF CITY PLANNING

- Letter of Preliminary Determination July 31, 2008
- Agency Response August 27, 2008
- Letter of Final Determination September 10, 2008



## EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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July 31, 2008

Amanda M. Burden

Director

Department of City Planning

22 Reade Street

New York, NY 10007

Re: Resolution #08-24/030/Preliminary Determination Pursuant to the Audit of the Department of City Planning (DCP) and its Compliance with the City's Equal Employment Opportunity Policy from January 1, 2005 through December 31, 2006.

Dear Ms. Burden:

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 of City Planning (DCP) during the twenty-four month period commencing January 1, 2005 through December 31, 2006. Requests for corrective actions and/or recommendations are included where the EEPC has determined that the DCP 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 of City Planning 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 DCP'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 DCP 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 DCP 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 DCP's co-EEO officers, career counselor and two EEO counselors.

A survey of 149 people employed by DCP during the audit period was distributed. (This number excludes 64 surveys that were returned as undeliverable.) Forty-nine people (34%) responded. Significant survey findings are attached and discussed in the proceeding pages. (Appendix 5)

### **Description of the Agency**

The Department of City Planning is responsible for the city's physical and socioeconomic planning, including land use and environmental review; preparation of plans and policies; and provision of technical assistance and planning information to government agencies, public officials, and community boards. The responsibilities of the Director of City Planning, who also serves as Chair of the City Planning Commission, include advising and assisting the Mayor, the Borough Presidents, and the City Council in regard to all matters related to the development and

improvement of the city, as well as assisting the Mayor in the preparation of strategic plans that have long-term implications for the city.

### **Personnel Activity During the Audit Period**

According to data provided by the DCP, during the audit period, 108 people were hired: 59 Caucasians, 15 African-Americans, 9 Hispanics, and 25 Asians. Of the individuals hired, 59 were female. Twenty-six individuals were promoted: 18 Caucasians, 4 African Americans, 1 Hispanic, and 3 Asians. Of the employees promoted, 14 were female. (Appendix 2)

The DCP reports that 1 full-time employee (an Asian female) was involuntarily separated during the audit period.

### **Discrimination Complaint Activity During the Audit Period**

During the period in review, no internal discrimination complaints were filed. One external complaint (based on gender discrimination and retaliation) was filed against the agency during the audit period. The complaint, filed with the City Commission on Human Rights, was discontinued due to lack of findings.

## **PRELIMINARY DETERMINATION**

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

### **Plan Dissemination – Internally**

The DCP is in compliance with the following requirements:

1. The DCP distributes the Citywide EEO Policy once annually to all employees; that document is accompanied by the Mayor's policy statement and the Director's policy statement. In addition, the policies are distributed at new employee orientation and EEO training sessions, and posted on DCP's bulletin boards. In addition, 80% of the employees surveyed by the EEPC indicated they had received the EEO policy.
2. According to the agency's EEO Counselors and 79% of the employees surveyed, the DCP'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.

### **Plan Dissemination – Externally**

The DCP is in compliance with the following requirement:

The thirteen job advertisements and five internal vacancy notices that were posted during the period in review all indicated that the DCP is an equal opportunity employer.

## **EEO and Reasonable Accommodation for Persons with Disabilities**

The DCP is in compliance with the following requirements:

1. The DCP EEO training session includes a section on the 55-A Program. The agency also includes a paragraph on the 55-A program in its EEO Policy handbook. Currently, two employees participate in the program. The DCP Co-EEO officers are aware that the citywide EEOP is available in alternate formats for persons with disabilities.
2. The DCP EEO Counselor Luming Frumkin also serves as the agency disability rights coordinator, and an email was sent to DCP employees informing them of his appointment. There were no requests for reasonable accommodations during the audit period.
3. The DCP response to the EEPC's accessibility for persons with disabilities checklist indicates that all DCP facilities throughout the five boroughs are accessible to, and usable by persons with disabilities.

## **EEO Complaint and Investigation System**

The DCP is in compliance with the following requirements:

1. The Co-EEO officers maintain a monthly log of discrimination complaints filed against the agency.
2. The DCP's Co-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 DCP has ensured that both a male (EEO counselor) and female (co-EEO officer) are available for complaint intake and investigation.

## **EEO Training**

The DCP is in compliance with the following requirement:

The DCP provides EEO training on an ongoing basis. The DCP'S training curriculum is based on DCAS's standards. EEO training for DCP for executive staff was conducted by Assistant Commissioner Jyll Townes of DCEEO, and DCP managers were trained by Jyll Hampton, who was an independent EEO consultant who was recommended by the DCEEO.

## **Underutilization**

The DCP CEEDS data indicated persistent underutilization of at least one “protected” class in seven job groups. (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:

Administrators (001): African Americans and Hispanics were underutilized in this job group throughout the audit period. Two individuals were hired into this job group: 1 White female and 1 Hispanic female.

Managers (002): African Americans and Hispanics were underutilized in this job group throughout the audit period. Two individuals were hired into this job group: 1 White female and 1 Asian female. Five individuals were promoted in this job group: 4 White and 1 Asian. There were two females.

Management Specialists (003): African Americans were underutilized in this job group throughout the audit period. Three individuals were hired into this job group: 2 White and 1 African American. There was one female.

Science Professionals (004): African Americans were underutilized in this job group throughout the audit period. One Asian male was hired within this job group. One Asian female was promoted within this job group.

Social Scientists (006): African Americans and females were underutilized in this job group throughout the audit period. Forty-two individuals were hired into this job group: 26 White, 7 African American, 2 Hispanic, and 7 Asian. There were 21 females. Thirteen individuals were promoted within this job group: 10 White, 2 African American, and 1 Asian. There were 7 females.

Technicians (010): African Americans and females were underutilized in this job group throughout the audit period. Eleven individuals were hired into this job group: 6 White, 1 African American, 1 Hispanic, and 3 Asian. There were 3 females. Four individuals were promoted within this job group: 3 White, and 1 Hispanic. There was one female.

Para Professionals (031): African Americans and Hispanics were underutilized in this job group throughout the audit period. Forty-one individuals were hired into this job group: 21 White, 4 African American, 3 Hispanic, and 13 Asian. There were 27 females.

## **Addressing Underutilization**

The DCP is in partial compliance with the following requirement:

One of the DCP's Co-EEO officers stated that if the information contained in the DCP's CEEDS data is disaggregated then, reaggreated by title, the percentages of minorities in the planning titles in the agency are in line with Planning School demographics which indicate that participation by African-Americans and Latinos is low. Therefore the pool of qualified applicants is less diverse than desired. In addition, the Co-EEO officers noted that the majority of the DCP interns prior to the audit period were coming from ivy league schools, which prompted DCP to expand its' intern search to local public and private schools. This ultimately aided in increasing the diversity of the DCP's workforce. They noted that the many DCP hires come from their intern pool. Corrective action is required

Recommendation: Since DCP's workforce continues to show underutilization in certain protected groups, 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/eo/pdf/apomasterclass\\_recruitment.pdf](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)

## **Selection**

The DCP is in compliance with the following requirement:

According to DCP's Co- EEO Officer, the agency's hiring personnel has received DCAS's structured interview training guide.

The DCP is not in compliance with the following requirement:

According to DCP's Co-EEO Officers, the agency 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, DCP should conduct an adverse impact study. (Section IV, EEOP).

## **Promotional Opportunities**

The DCP is in compliance with the following requirement:

The DCP has appointed an individual familiar with civil service and provisional jobs (the HR director) to serve as career counselor. The DCP employees were informed of the appointment by memorandum.

The DCP is not in compliance with the following requirement:

The DCP does not use the citywide employee managerial form. Corrective action is required

Recommendation: The DCP should use the citywide managerial employee evaluation form. (Sect. IV, EEOP)

### **EEO Officer Reporting Arrangement**

DCP is in compliance with the following requirements:

The Co-EEO officers report to the agency head, and meet with her monthly.

DCP is not in compliance with the following requirements:

The DCP's Co-EEO officers are not involved in the agency's recruitment process. Corrective action is required

Recommendation: The agency head should direct the HR Director to include the Co-EEO officers in the development of recruitment strategies and selection of recruitment media. (Sect. IV, EEOP)

### **Special Contingencies:**

1. Seventy-five percent of the respondents to the EEPC's employee survey (who have been employed for over a year), indicated that they have not received evaluations on an annual basis. Corrective action is required.

Recommendation: All staff, managerial and non-managerial, should receive an annual performance evaluation. ("Personnel Rules and Regulations of NYC", p. 59; "Managerial Performance Evaluation, Guidelines for Evaluating Managerial Performance in NYC Agencies", p. 1; and Sect. VI (B)(7), EEOP). DCP should therefore develop a plan to evaluate all employees annually.

2. Although the DCP has appointed an individual familiar with civil service and provisional jobs to serve as career counselor, 63% of respondents to an EEPC survey indicated that they did not know who is responsible for career counseling. Corrective action is required.

Recommendation: The HR director should re-distribute information about the identity, location and telephone number of the career counselor to all agency employees. (Sect. IV, EEOP)

3. Forty-one percent of survey respondents indicated they had not received EEO training. Corrective action is required

Recommendation: The DCP should develop a plan, which includes a timetable and meets minimum standards set by the DCAS, to provide EEO training to all new and current employees who have not received that training. (Sect. IV, EEOP)

## **SUMMARY OF RECOMMENDED CORRECTIVE ACTIONS**

1. Since the DCP's workforce continues to show 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/eeo/pdf/apomasterclass\\_recruitment.pdf](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.
2. The DCP should conduct adverse impact studies.
3. The DCP should use the citywide managerial employee evaluation form.
4. The agency head should direct the HR Director to include the Co-EEO officers in the development of recruitment strategies and selection of recruitment media.
5. All staff, managerial and non-managerial, should receive an annual performance evaluation. ("Personnel Rules and Regulations of NYC", p. 59; "Managerial Performance Evaluation, Guidelines for Evaluating Managerial Performance in NYC Agencies", p. 1; and Sect. VI (B)(7), EEOP). DCP should therefore develop a plan to evaluate all employees annually.
6. The DCP should re-distribute information about the identity, location and telephone number of the career counselor to all agency employees.
7. The DCP should develop a plan, which includes a timetable and meets minimum standards set by the DCAS, to provide EEO training to all new and current employees who have not received that training

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 DCP'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 your staff informed us during the exit meeting of July 15, 2008, the DCP has 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. Hart', written over a faint circular stamp or watermark.

Ernest F. Hart, Esq.  
Chair

**Department of City Planning  
EMPLOYEE SURVEY RESULTS**

**A. GENERAL OVERVIEW**

1. Do you know who your agency's EEO Officer is?  
Yes (29)            No (20)
2. Is your agency's EEO Policy Statement posted on your agency's bulletin boards?  
Yes (39)            No (10)
3. Were you given the EEO Policy Statement?  
Yes (37)            No (1)            Do not remember (11)
4. Were you given a copy of the EEO Policy Handbook – *About EEO: What You Need to Know*?  
Yes (41)            No (8)
5. Do you agree with the principles of equal employment opportunity?  
Yes (49)            No (0)
6. Do you believe your agency practices equal employment opportunity?  
Yes (34)            No (15)
7. Do you know what the City's Equal Employment Opportunity Policy (EEOP) is?  
Yes (35)            No (14)
8. Has your supervisor emphasized his/her commitment to the agency's EEO policies at any staff meeting during the past 8 months?  
Yes (9)            No (28)            Do not remember (12)
9. When you started working at your agency, did you attend an orientation session?  
If No, please skip to question #11.  
Yes (10)            No (31)            Do not remember (8)
10. If hired within the past 12 months, did your orientation session include information on your rights and responsibilities under the EEO Policy?  
Yes (2)            No (2)            Do not remember (0)

**B. EEO COMPLAINTS**

11. Do you know how to file an EEO complaint?  
Yes (29)            No (20)
12. If you had an EEO complaint, would you bring it to your agency's EEO Office?  
Yes (33)            No (9)            Undecided (7)



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

Yes (3)                      No (0)

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

Yes (17)                      No (31)

**E. AFFIRMATIVE ACTION FOR PERSONS WITH DISABILITIES**

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

Yes (26)                      No (17)                      Don't Know (15)

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

If No, skip to question #28.

Yes (3)                      No (46)

27. Did the agency accommodate you?

Yes (1)                      No (2)

**OPTIONAL**

28. What is your race/ethnicity?

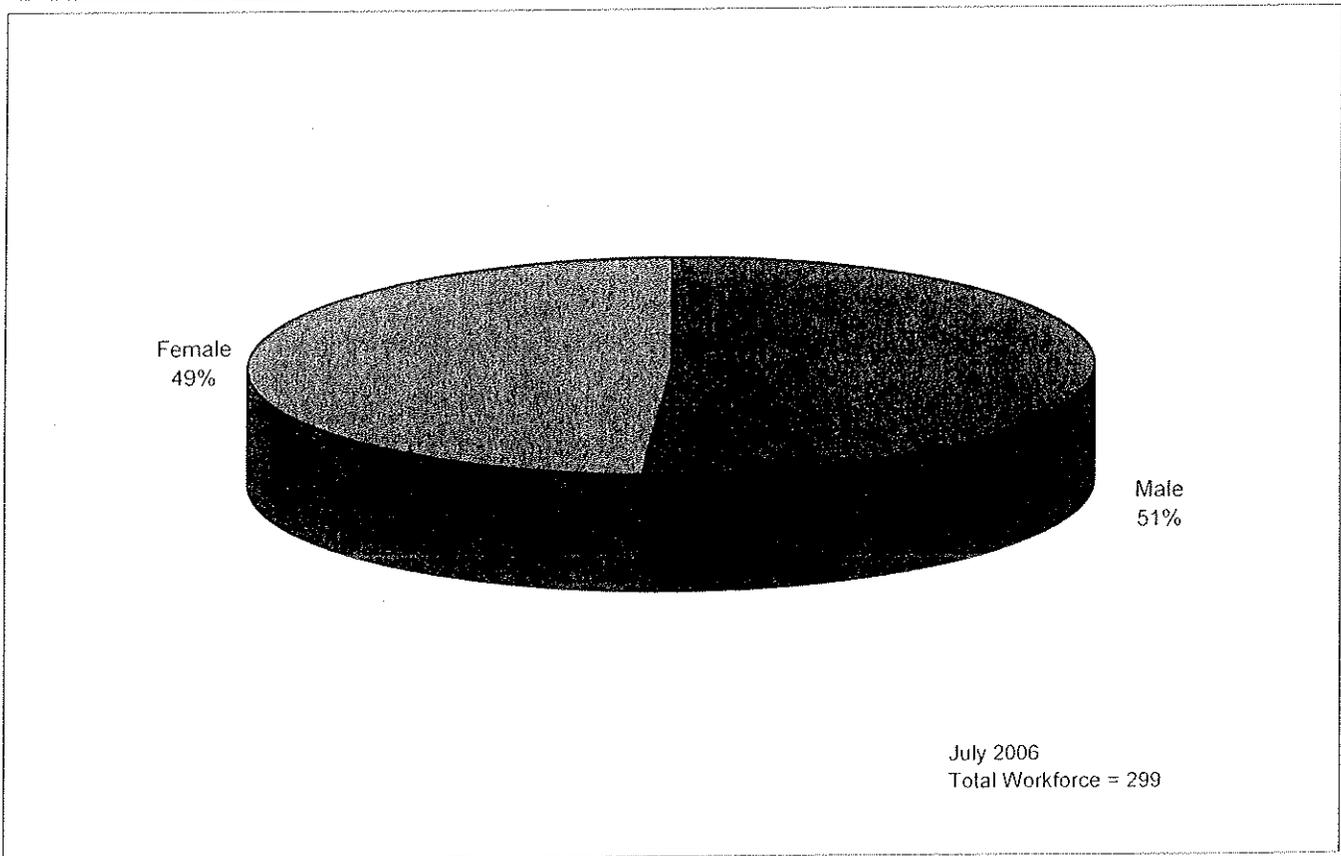
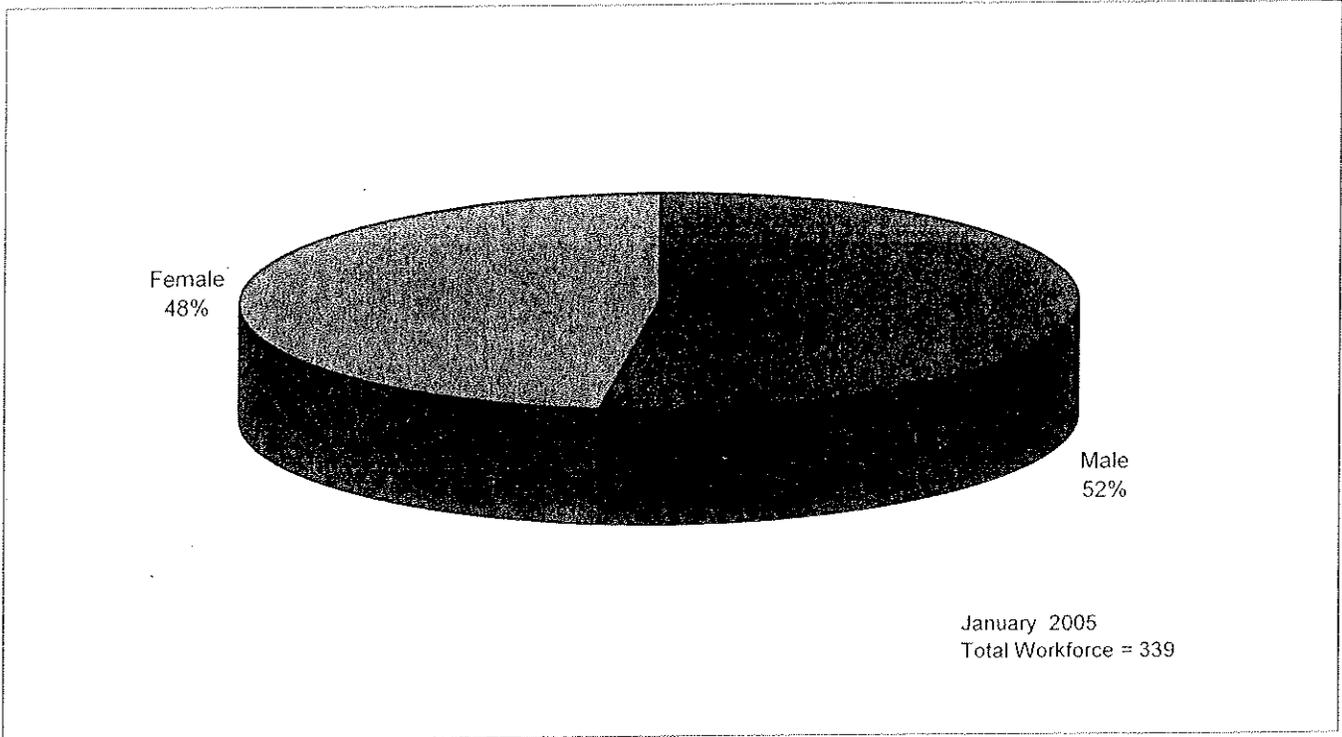
Asian (5)	Native American (0)
Black (11)	White (3)
Hispanic (3)	Other (0)

29. What is your gender?

Male (25)                      Female (24)

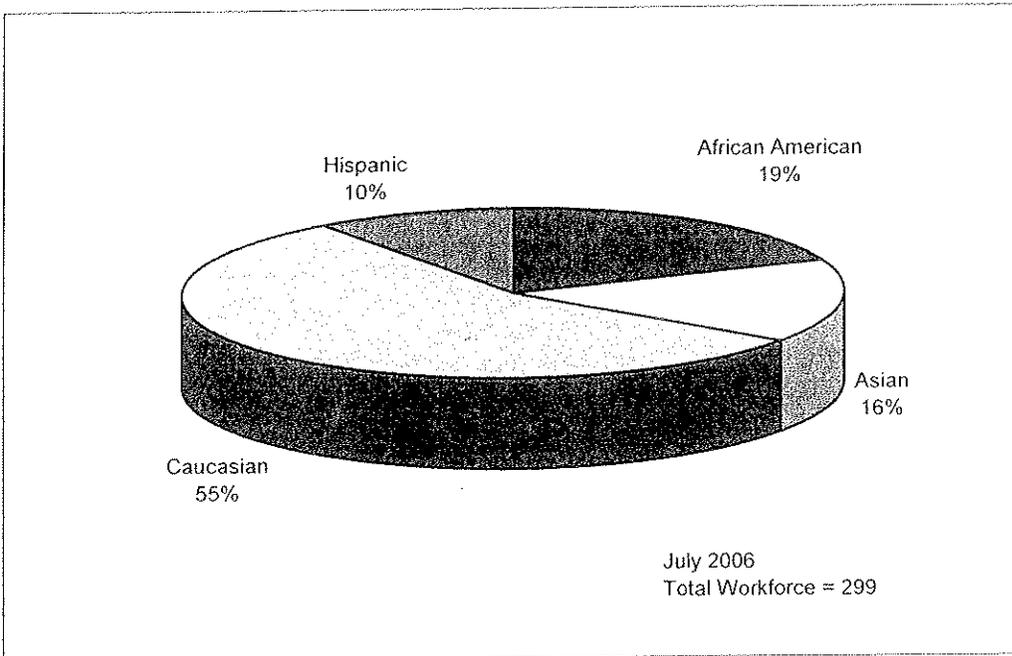
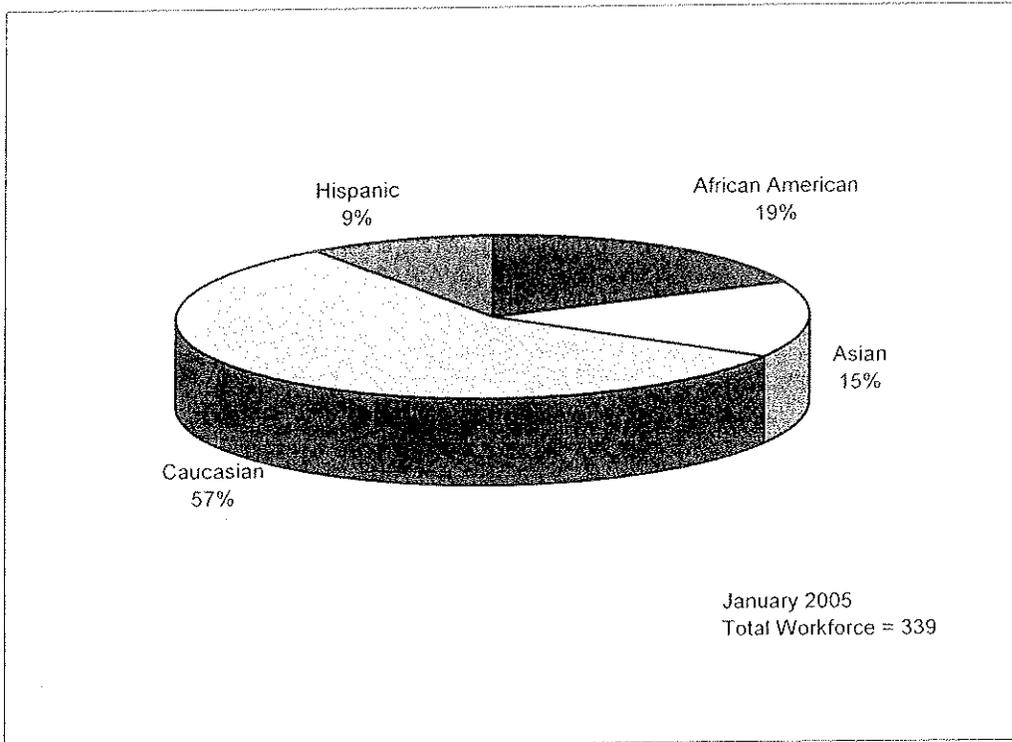
# Appendix - 2

## Department of City Planning Workforce by Sex



Appendix - 3

Department of City Planning  
Workforce by Ethnicity



## APPENDIX – 4

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

### Department of City Planning

#### Hires by Sex and Ethnicity

Total Hires: 108

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Unknown	Total
49	59	108	59	15	9	25	0	108

#### Promotions by Sex and Ethnicity

Total Promotions: 26

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Unknown	Total
12	14	26	18	4	1	3	0	26

#### Separations by Sex and Ethnicity

Total Separations: 1

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

Source: Audit data supplied by Dept. of City Planning

Appendix - 5  
 Department of City Planning  
 CEEDS UNDERUTILIZATION CHART  
 April 1, 2005 - December 31, 2006

		Quarter:	2Q/2005	3Q/2005	4Q/2005	1Q/2006	2Q/2006	3Q/2006	4Q/2006
			(Apr-Jun)	(Jul-Sep)	(Oct-Dec)	(Jan-Mar)	(Apr-Jun)	(Jul-Sep)	(Oct-Dec)
Job	Group	Protected Class							
001	Admins	Afr. Am.	X	X	X			X	X
		Asian							
		Hisp.	X						
		Nat. Am.							
		Female							
002	Managers	Afr. Am.	X	X	X			X	X
		Asian							
		Hisp.							
		Nat. Am.							
		Female							
003	Man Specs	Afr. Am.	X	X	X			X	X
		Asian							
		Hisp.							
		Nat. Am.							
		Female							
004	Science Pros	Afr. Am.						X	X
		Asian							
		Hisp.							
		Nat. Am.							
		Female							
006	Social Scientists	Afr. Am.	X	X	X			X	X
		Asian							
		Hisp.							
		Nat. Am.							
		Female	X		X			X	X

Department of City Planning  
 CEEDS UNDERUTILIZATION CHART

April 1, 2005 - December 31, 2006

Quarter:		2Q/2005	3Q/2005	4Q/2005	1Q/2006	2Q/2006	3Q/2006	4Q/2006
		(Apr-Jun)	(Jul-Sep)	(Oct-Dec)	(Jan-Mar)	(Apr-Jun)	(Jul-Sep)	(Oct-Dec)
0010 Techs	Afr. Am.	X	X	X			X	
	Asian							
	Hisp.							
	Nat. Am.							
	Female		X	X			X	
0031 Para Pros	Afr. Am.	X	X	X			X	X
	Asian							
	Hisp.		X				X	
	Nat. Am.							
	Female							



DEPARTMENT OF CITY PLANNING  
CITY OF NEW YORK  
OFFICE OF THE DIRECTOR

ass

August 27, 2008

Chairman Ernest F. Hart, Esq.  
Equal Employment Practices Commission  
40 Rector Street  
14<sup>th</sup> Floor  
New York, NY 10006

Re: Resolution #08-24/030/Preliminary Determination Pursuant to the Audit of the Department of City Planning and its Compliance with the City's Equal Employment Opportunity Policy, January 1, 2005 - December 31, 2006

Dear Chairman Hart:

Thank you for sharing the preliminary determinations of the Equal Employment Practices Commission (EEOC) staff pursuant to its audit of the Department of City Planning's compliance with the City's EEO Policy.

I would like to assure you that the Department of City Planning (DCP) is, as always, committed to ensuring that the City's EEO Policy is fully implemented in our agency. I have reviewed the EEOC's Preliminary Determination, dated July 31, 2008, including the summary of the seven corrective actions (p. 8).

Please note that my staff and I have already implemented some of the corrective actions, and documentation for the implementation of these corrective actions is attached to this letter. I would like to request that the EEOC's Final Determination reflect that these corrective actions have been fulfilled as of the date of this communication.

I would ask that your staff work with Edwin Marshall and Sarah Whitham, our Co-EEO Officers on the remaining corrective actions.

Amanda M. Burden, AICP, Director  
22 Reade Street, New York, NY 10007-1216  
(212) 720-3200 FAX (212) 720-3219  
nyc.gov/planning



Sincerely yours,



Amanda M. Burden

encs

c:	Richard Barth	David Zagor	Julie Lubin
	Edwin Marshall	Sarah Whitham	Wesley O'Brien
	Sean Hennessy	Abraham May, Jr. (EEPC)	Eric Matusewitch (EEPC)

**Department of City Planning Responses to  
Resolution #08-24/030/Preliminary Determination Pursuant to the Audit of the  
Department of City Planning and its Compliance with the City's Equal  
Employment Opportunity Policy, January 1, 2005 - December 31, 2006**

**Recommended Corrective Action #1:**

*Since the DCP's workforce continues to show 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](http://extranet.dcas.nycnet/eoo/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.*

**Corrective Action has been taken:**

- DCP is already familiar with the publication "Making the Most of New York City's Recruitment Resources, 2004"; our Co-EEO Officers provided some of the recruitment resources listed in this publication (see attached email and resource list).
- The Department's Human Resources division formed a Recruitment Coordination Committee last year, well in advance of this Preliminary Determination. The Department will continue to do recruitment outreach activities (see attached summary of activities undertaken in 2007/2008).
- One of the Job Groups listed in the Underutilization section of the Preliminary Determination (p. 5) is Administrators (001). The Department notes that this Job Group, which has 15 employees, is primarily composed of the 13 members of the City Planning Commission. The Department does not have any control over the appointment of these individuals; the appointments are made by the Mayor, the Public Advocate, and the Borough Presidents. We also note that the Commission, as it is currently constituted, is reasonably diverse, and is composed of seven women and six men, of whom seven are White, four are Black, one is Hispanic, and one is Asian.
- The Department is well aware that some of the Job Groups listed in the Underutilization section (p. 5) show an underutilization of minorities relative to the City's demographics, particularly in the planner-related titles. However, DCP's Co-EEO Officers have monitored the agency's demographic data, as reported in the city's CEEDS system, and compared it to demographic data reported by graduate planning programs in the northeast and found that our minority representation is on a par with planning school data (see attached CEEDs Analysis Summary and Planning School data).

**Recommended Corrective Action #2:**

*The DCP should conduct adverse impact studies.*

**Action to be taken:**

The Department will conduct an adverse impact study within the six-month compliance period.

**Recommended Corrective Action #3:**

*The DCP should use the citywide managerial employee evaluation.*

**Action to be taken:**

The Department will use the citywide managerial employee evaluation. However, the Department notes that it will not be able to implement this use within the standard six-month compliance period and will require an extended time-frame. The Department requests that the EEPD approve a plan for implementing the use of the citywide managerial evaluation form by the end of Fiscal Year 2009 (June 30, 2009), in conjunction with Recommended Corrective Action #5.

**Recommended Corrective Action #4:**

*The agency head should direct the HR Director to include the Co-EEO Officers in the development of recruitment strategies and selection of recruitment media.*

**Corrective Action has been taken:**

A copy of Amanda M. Burden's August 25, 2008 memorandum to Sean Hennessy, DCP's HR Director, is attached.

**Recommended Corrective Action #5:**

*All staff, managerial and non-managerial, should receive an annual performance evaluation. ("Personnel Rules and Regulations of NYC, p. 59; "Managerial Performance Evaluation, Guidelines for Evaluating Managerial Performance", p. 1; and Sect. VI (B)(7), EEOC). DCP should therefore develop a plan to evaluate all employees annually.*

**Action to be taken:**

The Department will implement annual performance evaluations for all employees. However, the Department notes that it will not be able to implement this within the

standard six-month compliance period and will require an extended time-frame. The Department requests that the EEPC approve a plan for implementing performance evaluations for all employees by the end of Fiscal Year 2009 (June 30, 2009), in conjunction with Recommended Corrective Action #3.

**Recommended Corrective Action #6:**

*The DCP should re-distribute information about the identity, location and telephone number of the career counselor to all agency employees.*

**Corrective Action has been taken:**

A copy of DCP Career Counselor Sean Hennessy's July 14, 2008 email to all DCP employees is attached.

**Recommended Corrective Action #7:**

*The DCP should develop a plan, which includes a timetable and meets minimum standards set by the DCAS, to provide EEO training to all new and current employees who have not received that training.*

**Action to be taken:**

The Department's Co-EEO Officers will arrange that all new and current employees who have not received EEO training will be trained within the six-month compliance period.



## EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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September 10, 2008

Amanda M. Burden, AICP  
Director  
Department of City Planning  
22 Reade Street  
New York, NY 10007-1216

Re: Final Determination Pursuant to the Audit of Compliance by the Department of City Planning (DCP) with the City's Equal Employment Opportunity Policy from January 1, 2005 to December 31, 2006.

Dear Ms. Burden:

Thank you for your August 27, 2008 response to our July 31, 2008 Letter of Preliminary Determination pursuant to the audit of compliance by the Department of City Planning with the City's Equal Employment Opportunity Policy from January 1, 2005 to December 31, 2006. After reviewing your response, our Final Determination is as follows:

### Agree

We agree with your responses to the following EEPD recommendations, pending documentation that can be attached to your reply or provided during the compliance period:

#### Recommendation #2

The DCP should conduct adverse impact studies.

#### Recommendation #3

The DCP should use the citywide managerial employee evaluation form.

**Note:** The Commission will request a copy of your agency's plan, which includes a timetable, for implementing this recommendation during the compliance period.

#### Recommendation #4

The agency head should direct the HR director to include the Co-EEO officers in the development of recruitment strategies and selection of recruitment media.

#### Recommendation #5

All staff, managerial and non-managerial, should receive an annual performance evaluation. (“Personnel Rules and Regulations of NYC,” p. 59; “Managerial Performance Evaluation Guidelines for Evaluating Managerial Performance in NYC Agencies,” p. 1; and Sect. VI(B)(7), EEOP.) DCP should therefore develop a plan to evaluate all employees annually.

**Note:** The Commission will request a copy of your agency’s plan, which includes a timetable, for implementing this recommendation during the compliance period.

#### Recommendation #6

The DCP should re-distribute information about the identity, location and telephone number of the career counselor to all agency employees.

#### Recommendation #7

The DCP should develop a plan, which includes a timetable and meets minimum standards set by the DCAS, to provide EEO training to all new and current employees who have not received that training.

#### Requires Clarification

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

#### Recommendation #1

Since the DCP’s workforce continues to show 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](http://extranet.dcas.nycnet/eoo/pdf/apomasterclass_recruitment.pdf), a list of recruitment sources compiled by the DCAS. This publication provides agencies with additional recruitment resources to address the underutilization of protected groups.

#### Your Response

DCP is already familiar with the publication “Making the Most of New York City’s Recruitment Resources”; our Co-EEO Officers provided some of the recruitment resources listed in this publication (see attached email and resource list).

The Department’s Human Resources division formed a Recruitment Coordination Committee last year, well in advance of this Preliminary Determination. The Department will continue to do recruitment outreach activities (see attached summary of activities undertaken in 2007/2008).

One of the Job Groups listed in the Underutilization section of the Preliminary Determination (p. 5) is Administrators (001). The Department notes that this Job Group, which has 15 employees, is primarily composed of the 13 members of the City Planning Commission. The Department does not have any control over the appointment of these individuals; the appointments

are made by the Mayor, the Public Advocate, and the Borough Presidents. We also note that the Commission, as it is currently constituted, is reasonably diverse and is composed of seven women and six men, of whom seven are White, four are Black, one is Hispanic, and one is Asian.

The Department is well aware the some of the Job Groups listed in the Underutilization section (p. 5) show an underutilization of minorities relative to the City's demographics, particularly in the planner-related titles. However, DCP's Co-EEO Officers have monitored the agency's demographic data, as reported in the city's CEEDS system, and compared it to the demographic data reported by graduate planning programs in the northeast and found that our minority representation is on a par with planning school data (see attached CEEDS Analysis Summary and Planning School data).

EEPC Rationale

It is unclear from paragraph numbers one and two of your response whether the DCP intends to follow the EEPC recommendation and use the DCAS recruitment publication. It is also unclear whether the DCP believes that targeted recruitment efforts are unnecessary because of demographic data and analysis cited in paragraph four of your response.

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 determination 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 Judith Garcia Quiñonez or her designee will contact your EEO officer in seven days to ascertain your intentions.

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

Sincerely,



Ernest F. Hart, Esq.  
Chair

- c: Richard Barth, Executive Director, DCP
- Sarah Whitman, Co-EEO Officer, DCP
- Edwin Marshall, Co-EEO Officer, DCP
- Judith Garcia Quiñonez, Counsel, EEPC