

LANDMARKS PRESERVATION COMMISSION

- Letter of Preliminary Determination June 19, 2008
- Agency Response July 15, 2008
- Letter of Final Determination August 6, 2008



EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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June 19, 2008

Robert B. Tierney

Chair/Commissioner

Landmarks Preservation Commission

1 Centre Street, 9th Floor

New York, NY 10007

Re: Resolution #08/13-136 /Preliminary Determination Pursuant to the Audit of the Landmarks Preservation Commission (LPC) and its Compliance with the City's Equal Employment Opportunity Policy from July 1, 2005 to June 30, 2007

Dear Chair/Commissioner Tierney:

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 36(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 the EEPC pursuant to its audit of compliance by the Landmarks Preservation Commission (LPC) 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 LPC 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 Landmarks Preservation Commission 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 City's EEO Policy, 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 LPC's agency-specific plans, quarterly EEO reports, and responses to a Commission Document and Information Request Form. The EEPC staff also analyzed Citywide Equal Employment Database System (CEEDS) reports, by which the LPC determines underutilizations of targeted groups with 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 reports revealed underutilizations within the LPC workforce, the auditors determined whether the agency had undertaken reasonable measures to correct those deficiencies. (Appendix 5) The EEPC auditors also conducted in-depth, on-site interviews with the LPC's former and current EEO officers, an EEO counselor, and the career counselor. A survey of 48 people employed by the LPC during the audit period was distributed. Twelve people responded (25%). The results of these surveys are discussed in the proceeding pages and also attached. (Appendix 1) The survey methodology was established by the EEPC with the assistance of an academic expert from the City University of New York.

Description of the Agency

Established in 1965 to protect the City's architectural and historic resources, the LPC identifies, designates, and regulates buildings, districts, sites, and interiors considered significant for their architectural, cultural, or aesthetic qualities. The LPC consists of eleven members appointed by the Mayor, ten unsalaried. The membership must include at least three architects, a historian qualified in the field, a city planner or landscape architect, a realtor, and at least one resident of each of the five boroughs. The Chair and Vice Chair are designated by the Mayor.

Personnel Activity During the Audit Period

During the audit period, 24 people were hired: Eighteen Caucasians, 1 African-American, 2 Hispanics, 1 Asian, and 2 “unknowns.” Twenty of those individuals were females. Between July 1, 2005 and June 30, 2007, 8 employees were promoted (two of those employees were promoted twice): 2 Caucasians and 6 “unknowns.” (Appendix 2) The LPC reports that no employees were involuntarily separated during the audit period.

Between December 31, 2005 and December 31, 2006, the total number of LPC employees increased by 10.7%, going from 56 to 62. There were percentage decreases for African-Americans (12.5% to 9.7%) and Hispanics (7.1% to 6.5%), while the percentage of Asians and females showed virtually no change. (Appendices 4 and 5)

Discrimination Activity During the Audit Period

One internal discrimination complaint—based on age--was filed during the audit period and received a no probable cause determination. No external discrimination complaints were filed during the period in review.

PRELIMINARY DETERMINATION

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

Plan Dissemination – Internally

The LPC is in compliance with the following requirements:

1. Beginning in 2005, the agency periodically distributed the new Citywide EEO Policy to all staff. Most recently, the EEO officer sent a June 22, 2007 email to all employees, providing an electronic link to the Citywide EEO Policy.
2. The EEO Policy Handbook (*About EEO: What You Need to Know*) was given to new employees in the new hire package, posted on the mailroom bulletin board, and distributed at EEO training sessions. In addition, 83.3% of survey respondents indicated they were given a copy of the Handbook.

The LPC is not in compliance with the following requirements:

1. During the audit period, the agency mistakenly included the previous Citywide EEO Policy in the new hire package. The former EEO officer told the EEPC auditors that he neglected to instruct the director of administration to substitute the new Policy (issued in 2005) for the previous Policy (issued in 1997). Soon after the EEPC initiated its audit in June 2007, though, the current Citywide EEO Policy was included in the new hire package.

2. During the audit period, the agency head did not send a general EEO policy statement or memo to all employees. On September 19, 2007 (after the audit period), the agency head did send an email to all employees reminding them of the Citywide EEO Policy, listing the names of the agency's EEO professionals, and providing an electronic link to the Citywide EEO Policy. This email, however, does not meet the requirements of the Citywide EEO Policy since it is not a policy statement or memo, is not based on the Mayor's January 31, 2005 policy statement and the model agency head statement that is posted on the DCAS "about eeo" website, and is not posted on the LPC bulletin board. Corrective action is required.

Recommendation: The agency head should issue and distribute a general EEO policy statement or memo to all employees. This document, to be sent as a payroll distribution, should be based on the Mayor's January 31, 2005 policy statement and the model agency head statement that is posted on the DCAS "about eeo" website. (March 2, 2005 memo from the DCAS Assistant Commissioner Jyll Townes to mayoral agency EEO officers, and Sect. VB of the EEOP)

Recommendation: The general EEO policy statement or memo should be posted on the agency bulletin boards. (March 2, 2005 memo from the DCAS Assistant Commissioner Jyll Townes to mayoral agency EEO officers, and Sect. VB of the EEOP)

Plan Dissemination – Externally

The LPC is in compliance with the following requirement:

The LPC submitted copies of job vacancy notices for landmarks preservationist (3 notices), administrative accountant, and community associate. All the notices indicate that the LPC is an equal opportunity employer.

EEO and Reasonable Accommodation for Persons with Disabilities

The LPC is in compliance with the following requirements:

1. The director of administration/career counselor was appointed the disabilities rights coordinator during the audit period. Staff was notified of her appointment by email from the former EEO officer.
2. One LPC employee requested and received a reasonable accommodation during the audit period: an individual with sleep apnea was granted a flexible start time.
3. According to the former EEO officer, the Section 55-A Program brochures were distributed to staff prior to the audit period (and will be redistributed soon), and is posted in the LPC mailroom. One LPC employee participates in that program.
4. According to the former EEO officer, the LPC offices, located on the 9th floor of the Manhattan Municipal Building (a DCAS-owned and operated building), is ADA-

compliant. In addition, the completed *Accessibility for Persons with Disabilities Checklist* (issued by the EEPC) indicates that the building is accessible to and usable by persons with disabilities: there is a street accessible entrance, there are wheelchair accessible elevators, Braille in the elevators, wide restroom stalls, and grab bars in the restrooms.

5. The past and current EEO officers are aware the DCAS has made the City's EEO policies available in alternate formats for persons with disabilities. There have been no requests by applicants or employees for such alternate documents.

EEO Complaint and Investigation System

The LPC is in compliance with the following requirement:

At various times during the audit period, there were two EEO officers (one male and one female) and three EEO counselors (two females and one male). All of those individuals completed the DCAS training for EEO professionals.

The LPC is in partial compliance with the following requirement:

Although the agency had—and still has—EEO professionals of different genders (currently a female EEO officer and a male EEO counselor), only the EEO officer is authorized to investigate discrimination complaints. Corrective action is required.

Recommendation: The male EEO counselor should be authorized to investigate internal discrimination complaints. (Sect. VB, EEOP)

The LPC is not in compliance with the following requirements:

1. An EEO counselor, selected prior to the audit period, continued serving in that capacity for at least six months after she was appointed executive director. It is a clear conflict for the chief staff person to also serve as an EEO counselor. The executive director, though, was replaced as an EEO counselor by another employee in 2007.
2. The former EEO officer told the EEPC auditors that he met “infrequently” with the EEO counselors to review their work and keep them abreast of EEO developments. Corrective action is required.

Recommendation: The current EEO officer should meet with the EEO counselor at least at quarterly intervals to ensure that he is carrying out his EEO functions satisfactorily and is kept abreast of internal and external EEO developments. (Sect. VC, EEOP)

In its response to the Commission's Document and Information Request Form (DIRF), the LPC indicated that one internal discrimination complaint was filed during the audit period: an employee wrote to the LPC chairperson, complaining of age discrimination in salary administration. In an asterisked response to item number three of the DIRF, though, the LPC wrote that “no formal complaint was filed. A letter was sent to the LPC chair which complained

of salary inequities.” Conversely, in a memo summarizing a February 23, 2006 EEO meeting with the chairperson, the former EEO officer stated that he (EEO officer) “need[s] to treat [the complainant’s] letter as an age discrimination complaint.” Since the EEPC—and apparently the LPC’s former EEO officer—considers that letter to constitute a formal discrimination complaint, it (EEPC) reviewed the complaint file and found the following program deficiencies:

3. Although the former EEO officer was aware and had a copy of that complaint letter, he did not have the complainant complete the city’s Discrimination Complaint Intake Form. Corrective action is required.

Recommendation: All internal discrimination complaint files should include a Discrimination Complaint Intake Form completed by the complainant or the EEO investigator. (DCAS, Discrimination Complaint Procedures Implementation Guidelines (DCPIG), sect. 12a)

4. The former EEO officer’s written report (containing his findings) was prepared 18 months after the discrimination complaint letter was sent to the chairperson. Corrective action is required.

Recommendation: The confidential written report should be issued within 90 days of the date the discrimination complaint was filed. In rare circumstances where the confidential written report cannot be issued within 90 days, the agency should send the complainant and respondent(s) a Delay Notification Letter. (DCAS, DCPIG, April 2, 1996 amendment)

5. The former EEO officer’s written report consists of a memo to the file and is not in the format required by the DCPIG. Specifically, the report is not divided into three sections (“Findings of Facts,” “Discussion and Conclusion,” and “Recommendation”). Corrective action is required.

Recommendation: All confidential written reports should be prepared in the format required by the DCPIG, sect. 12b.

6. The former EEO officer’s confidential written report is not signed by the agency head. Corrective action is required.

Recommendation: The agency head must sign each confidential written report to indicate that it has been reviewed and whether the recommendation, if any, is approved and adopted. (DCPIG, sect. 12b)

7. There is no indication in the complaint file that the complainant was informed in writing of the outcome of the investigation. Corrective action is required.

Recommendation: After review of the confidential written report by the agency head, the EEO officer shall inform all parties in writing of the outcome of the investigation. (DCPIG, sect. 12b)

EEO Training

The LPC is in partial compliance with the following requirement:

The LPC conducted EEO training for its entire staff in January 2005—six months prior to the audit period. The training was conducted by the director of Cornell University’s School of Industrial and Labor Relations EEO Studies Program (an attorney). The training curriculum—submitted to the EEPC—included an extensive review of EEO concepts, as well as major EEO statutes and court decisions. Fifty-eight percent of survey respondents, though, indicated that they had not received EEO training. The former EEO officer told the EEPC auditors that his agency will use the DCAS on-line EEO training program to retrain its employees. (That program has yet to be released.) Corrective action is required:

Recommendation: The LPC should follow-up on its pledge and use the DCAS on-line EEO training program or, if that program is not issued in the near future, develop a manual program that includes a timetable to provide EEO training for those employees who have not received it. (Sect. IV, EEOP)

Underutilization

The LPC’s CEEDS reports indicated persistent underutilization of one “protected class” (African-Americans) and sporadic underutilization of another protected class (Hispanics) in the social scientists job group (006). The CEEDS reports reveal that almost all employees in that job group hold the landmarks preservationist title. (See Appendix 5 for underutilizations at the beginning and end of the audit period.)

Following is an analysis of personnel activity in that job group.

EEO Job Group/Hires and Promotions:

Social Scientists (006): Fifteen individuals (all landmarks preservations) were hired into this job group: 11 Caucasians, one African-American, one Hispanic, one Asian, and one “Unknown.” Eleven of those individuals were female. Four employees were promoted to or within this job group: two Caucasians and two “Unknowns.” Two of those individuals were female.

Addressing Underutilization

The LPC is not in compliance with the following requirement:

The former EEO officer told the EEPC auditors that he reviewed the CEEDS reports and was consequently aware that minorities were underutilized in the landmarks preservationist title. The agency, though did not undertake any targeted recruitment efforts as a result of that review; the LPC limits its outreach to all schools offering preservationist programs in the U.S. Corrective action is required.

Recommendation: Since the LPC's workforce continues to show persistent underutilization of African-Americans and intermittent underutilization of Hispanics in the landmarks preservationist title, the agency head should direct the director of administration to acquire and use *Making the Most of New York City's Recruitment Resources* (2004), compiled by DCAS and posted on its webpage. This publication provides lists of schools with substantial minority populations offering programs in architecture and art history—both disciplines relevant to the requirements of the landmarks preservationist title. In addition, the DCAS publication lists other relevant recruitment sources, such as the national Organization of Minority Architects.

Selection

The LPC is not in compliance with the following requirements:

1. Structured interview training was provided to the LPC staff *prior* to the audit period. In a January 10, 2008 written response to EEPC audit questions, though, the former EEO officer wrote "it is unclear which supervisors attended the training. The LPC will be arranging to have structured interviewing training provided to the appropriate staff this year." Corrective action is required.

Recommendation: The LPC should follow-up on its pledge to ensure that all employees involved in the job interviewing process receive structured interview training, either through internal training or training provided by the DCAS or another appropriate organization. (Sect. IV, EEOP)

2. The former EEO officer told the EEPC auditors that the LPC has not assessed 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. Soon after the previous EEPC audit in 2003, the LPC petitioned the DCAS for assistance in conducting adverse impact studies. 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, the LPC should conduct adverse impact studies. (Sect. IV, EEOP)

Promotional Opportunities

The LPC is in partial compliance with the following requirement:

Although the director of administration (who handles personnel matters) was appointed career counselor in 2005, employees were not notified in writing of her appointment. The director of administration also told the EEPC auditors that she is not sure if employees are aware of her role as career counselor. In addition, 91.7% of survey respondents indicated they do not know the name of the person who is responsible for providing career counseling. Corrective action is required.

Recommendation: Employees should be notified in writing of the name, location, and telephone number/email address of the career counselor. (Sect. VB, EEOP)

The LPC is not in compliance with the following requirement:

The agency did not conduct managerial performance evaluations during the audit period. (In response to a DIRF question, the LPC wrote that “managerial evaluation materials are in the process of being prepared.”) Managerial performance evaluation forms, however, were distributed to relevant LPC staff after the audit period (January 3, 2008). Corrective action is required.

Recommendation: The LPC should follow-up on its pledge and conduct performance evaluations for all managerial employees. (DCAS, *Managerial Performance Evaluation, Guidelines for Evaluating Managerial Performance in NYC Agencies*, p. 1.)

EEO Officer Reporting Arrangement

The LPC is in compliance with the following requirements:

1. The former EEO officer reported to, and the current EEO officer will also report to, the agency head.
2. The former EEO officer met with the agency head on an “as needed basis” and kept notes of those meetings. He also provided the EEPC with samples notes of those sessions. Due to her recent appointment, the current EEO officer has yet to conduct such meetings.

The LPC is not in compliance with the following requirement:

The organization chart provided to the EEPC does not show a reporting relationship between the EEO officer and the agency head. Corrective action is required.

Recommendation: The LPC should revise its organization chart to show the reporting arrangement of the EEO officer. (Sect. VB, EEOP)

EEO Officer Responsibilities

The LPC is in compliance with the following requirement:

Although the former EEO officer (who is also deputy counsel) devoted approximately five percent of his time to EEO matters, and the current EEO officer (who is also director of enforcement) devotes about 10% of her time to EEO matters), both said they had or have adequate support staff to discharge their duties as EEO officer.

The LPC is not in compliance with the following requirement:

The EEPC auditors were told that the former and current EEO officers have not been involved in developing recruitment strategies or selecting recruitment media for the preservationist title (where most vacancies occur); that is the responsibility of the director of preservation and the director of administration. The former EEO officer told the EEPC auditors, though, that since they (former and current EEO officers) work in the enforcement area, they will become involved in recruitment for enforcement vacancies. Corrective action is required.

Recommendation: The agency head should direct the director of administration to include the EEO officer in the development of recruitment strategies and the selection of recruitment media for all vacancies—not just enforcement vacancies. (Sect. IV, EEOP)

Supervisory Responsibility in EEO Plan Implementation

The LPC is not in compliance with the following requirement:

The former EEO officer told the EEPC auditors that supervisors and managers were not directed to discuss the agency's EEO policies with their subordinates; the agency prefers that the EEO officer present that information to its employees. In addition, 50% of survey respondents indicated they do not remember their supervisor emphasizing his or her commitment to the agency's EEO policies at any staff meeting during the past eight months. Corrective action is required.

Recommendation: It is the position of the DCAS ("Model Agency EEO Commitment Memo," http://extranet.dcas.nycnet/eep/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.

Special Problem

The LPC is not in compliance with the following requirement:

The LPC has not prepared non-managerial performance evaluations because there is an ongoing dispute with the union representing preservationists about their tasks and standards. In addition, all 10 of the survey respondents who were employed at the LPC for more than one year indicated they had not received annual evaluations. The LPC general counsel, though, is meeting with the union to resolve this dispute. Corrective action is required.

Recommendation: The LPC should continue to consult with the union representing preservationists regarding the development of tasks and standards and, after resolution of this issue, develop non-managerial performance evaluations as soon as possible. These evaluations are required by the *Personnel Rules and Regulations of the City of New York*, Rule 7.5.4(e).

SUMMARY OF RECOMMENDED CORRECTIVE ACTIONS

1. The agency head should issue and distribute a general EEO policy statement or memo to all employees. This document, to be sent as a payroll distribution, should be based on the Mayor's January 31, 2005 policy statement and the model agency head statement that is posted on the DCAS "about eeo" website. (March 2, 2005 memo from the DCAS Assistant Commissioner Jyll Townes to mayoral agency EEO officers, and Sect VB of the EEOP)
2. The general EEO policy statement or memo should be posted on the agency bulletin boards. (March 2, 2005 memo from the DCAS Assistant Commissioner Jyll Townes to mayoral agency EEO officers, and Sect. VB of the EEOP)
3. The male EEO counselor should be authorized to investigate internal discrimination complaints. (Sect. VB, EEOP)
4. The current EEO officer should meet with the EEO counselor at least at quarterly intervals to ensure that he is carrying out his EEO functions satisfactorily and is kept abreast of internal and external EEO developments. (Sect. VC, EEOP)
5. All internal discrimination complaint files should include a Discrimination Complaint Intake Form completed by the complainant or the EEO investigation. (DCAS, Discrimination Complaint Procedures Implementation Guidelines, (DCPIG), sect. 12a)
6. The confidential written report should be issued within 90 days of the date the discrimination complaint was filed. In rare circumstances where the confidential written report cannot be issued within 90 days, the agency should send the complainant and respondent(s) a Delay Notification Letter. (DCAS, DCPIG, April 2, 1996 amendment)
7. All confidential written reports should be prepared in the format required by the DCPIG, sect. 12b
8. The agency head must sign each confidential written report to indicate that it has been reviewed and whether the recommendation, if any, is approved and adopted. (DCPIG, sect. 12b)
9. After review of the confidential written report by the agency head, the EEO officer shall inform all parties in writing of the outcome of the investigation. (DCPIG, sect. 12b)
10. The LPC should follow-up on its pledge and use the DCAS on-line EEO training program or, if that program is not issued in the near future, develop a manual program that includes a timetable to provide EEO training for those employees who have not receive it. (Sect. IV, EEOOP)
11. Since the LPC's workforce continues to show persistent underutilization of African-Americans and intermittent underutilization of Hispanics in the landmarks preservationist

title, the agency head should direct the director of administration to acquire and use *Making the Most of New York City's Recruitment Resources* (2004), compiled by the DCAS and posted on its webpage.

12. The LPC should follow-up on its pledge to ensure that all employees involved in the job interviewing process receive structured interview training, either through internal training or training provided by the DCAS or another appropriate organization. (Sect. IV, EEOP)
13. 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 LPC should conduct adverse impact studies. (Sect. IV, EEOP)
14. Employees should be notified in writing of the name, location, and telephone number/email address of the career counselor. (Sect. VB, EEOP)
15. The LPC should follow-up on its pledge and conduct performance evaluations for all managerial employees. (DCAS, *Managerial Performance Evaluation, Guidelines for Evaluating Managerial Performance in NYC Agencies*, p. 1.)
16. The LPC should revise its organization chart to show the reporting arrangement of the EEO officer. (Sect. VB, EEOP)
17. The agency head should direct the director of administration to include the EEO officer in the development of recruitment strategies and the selection of recruitment media for all vacancies—not just enforcement vacancies. (Sect. IV, EEOP)
18. It is the position of the DCAS (“Model Agency EEO Commitment Memo,” http://extranet.dcas.nycnet/eep/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.
19. The LPC should continue to consult with the union representing preservationists regarding the development of tasks and standards and, after resolution of this issue, develop non-managerial performance evaluations as soon as possible. These evaluations are required by the *Personnel Rules and Regulations of the City of New York*, Rule 7.5.4(e).

In addition to the above recommendations, during the compliance process, the Commission requires that the agency head distribute a memo 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

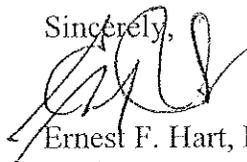
Pursuant to Chapter 36 of the New York City Charter, and the previously cited preliminary determinations relating to the EEPC audit of the LPC's compliance with the City's Equal Employment Opportunity Policy, we respectfully request your response to the aforementioned preliminary determinations.

Your response should indicate what corrective actions your agency will take, and which recommendations it intends to incorporate into its Equal Employment Opportunity Plan, where appropriate, to comply with the City's Equal Employment Opportunity Policy. As you informed us during the exit meeting of May 12, 2008, you have already implemented some of our recommended corrective actions. Because agency heads are responsible for the implementation of their agency's EEO Programs, your response must be a formal letter signed by you. Please specify those corrective actions in your response. 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 the 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 Equal Employment Opportunity Plan.

In closing, we wish to thank you and your staff for the cooperation extended to the Equal Employment Practices Commission 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

**Landmark Preservation Commission
EMPLOYEE SURVEY RESULTS**

A. GENERAL OVERVIEW

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

B. EEO COMPLAINTS

11. Do you know how to file an EEO complaint?
Yes (6) No (6)
12. If you had an EEO complaint, would you bring it to your agency's EEO Office?
Yes (11) No (0) Undecided (1)

LPC SURVEY RESULTS CONTINUED

13. Would you prefer to file an EEO complaint with an office outside your agency?
Yes (1) No (4) Undecided (7)

14. Did you ever file an EEO complaint with your agency's EEO Office?
If No, please skip to question #18.
Yes (1) No (11)

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 (1)
Creed (0) Sexual Orientation (0)
Disability (0) Veteran's Status (0)
Gender (incl. gender identity) (0) Victim of Domestic Violence,
Marital Status (0) Stalking, and Sex Offenses (0)
Military Status (0) Other (0)
National Origin (0)

16. Were you satisfied with the manner in which your complaint was managed?
Yes (1) No (0)

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

C. EEO TRAINING

18. Did you receive EEO training? If No, please skip to question #20.
Yes (5) No (7)

19. Did you find this training helpful?
Very (1) Somewhat (3)
Not really (1) 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 (7) No (3) Do not remember (2)

21. If you were employed at your agency for over one year, did you receive annual evaluations?
If No, skip to question #24.
Yes (0) No (10) Not employed for >1 year (2)

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

LPC SURVEY RESULTS CONTINUED

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

Yes (0) No (0)

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

Yes (1) No (11)

E. AFFIRMATIVE ACTION FOR PERSONS WITH DISABILITIES

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

Yes (10) No (0) Don't Know (2)

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

If No, skip to question #28.

Yes (1) No (11)

27. Did the agency accommodate you?

Yes (1) No (0)

OPTIONAL

28. What is your race/ethnicity?

Asian (0)	Native American (0)
Black (1)	White (9)
Hispanic (5)	Other (1)

29. What is your gender?

Male (1) Female (10)

APPENDIX – 2

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

Landmarks Preservation Commission

Hires by Sex and Ethnicity

Total Hires: 24

Male	Female	Caucasian	African-American	Hispanic	Asian	Unknown	Total
4	20	18	1	2	1	2	24

Promotions by Sex and Ethnicity

Total Promotions: 8

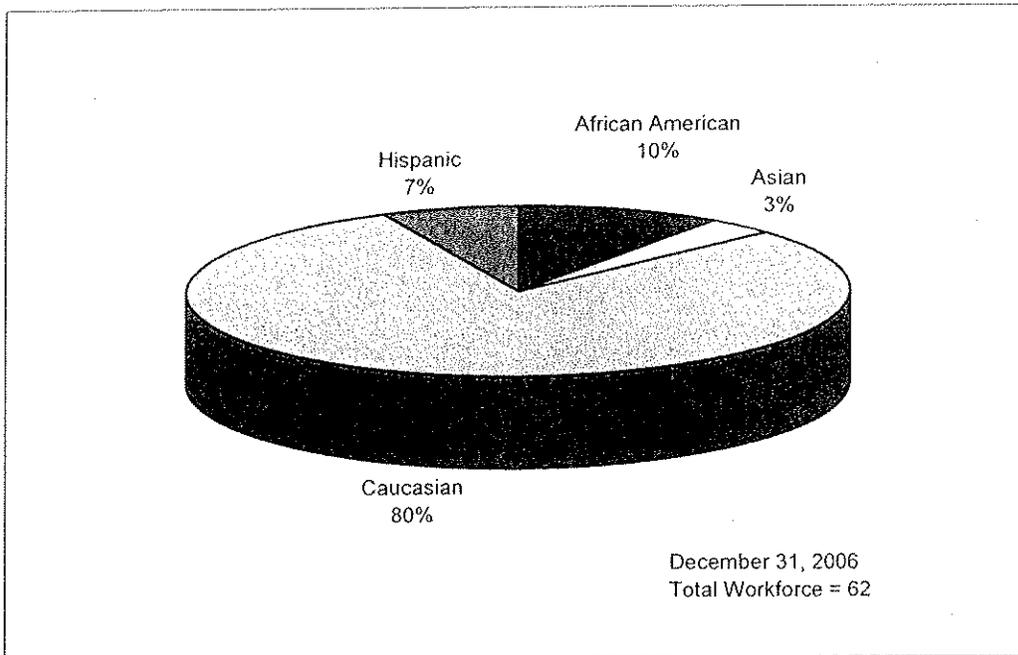
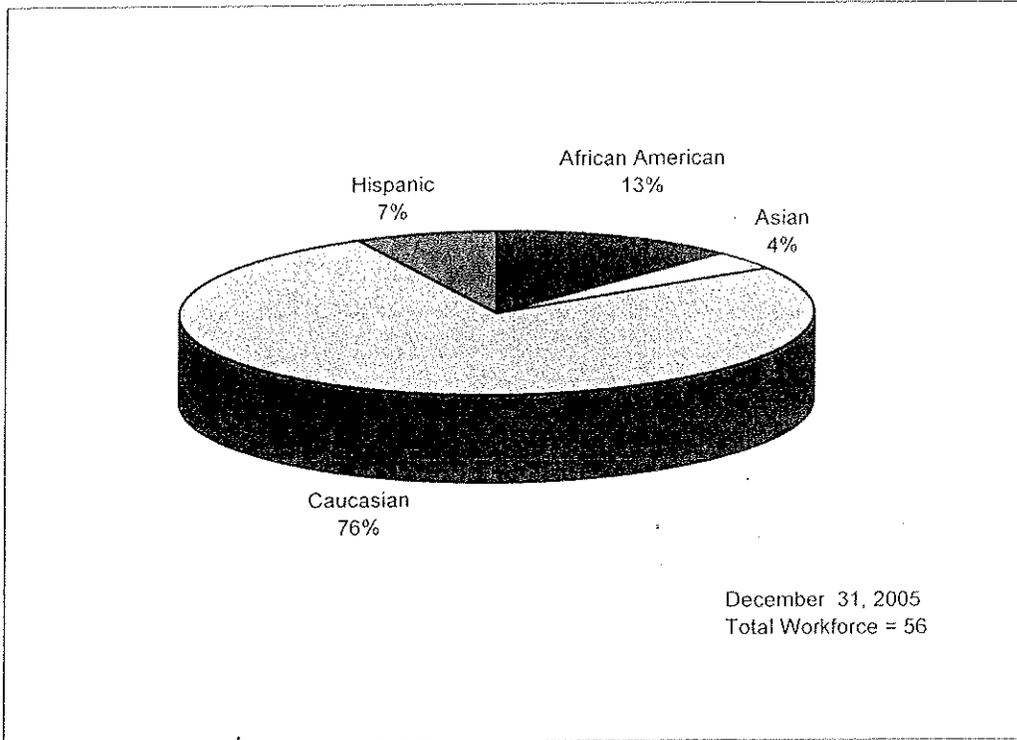
Male	Female	Caucasian	African-American	Hispanic	Asian	Unknown	Total
2	6	2	0	0	0	6*	8

*Two employees (ethnicity unknown) were promoted twice during the audit period.

Source: Audit data supplied by the Landmarks Preservation Commission

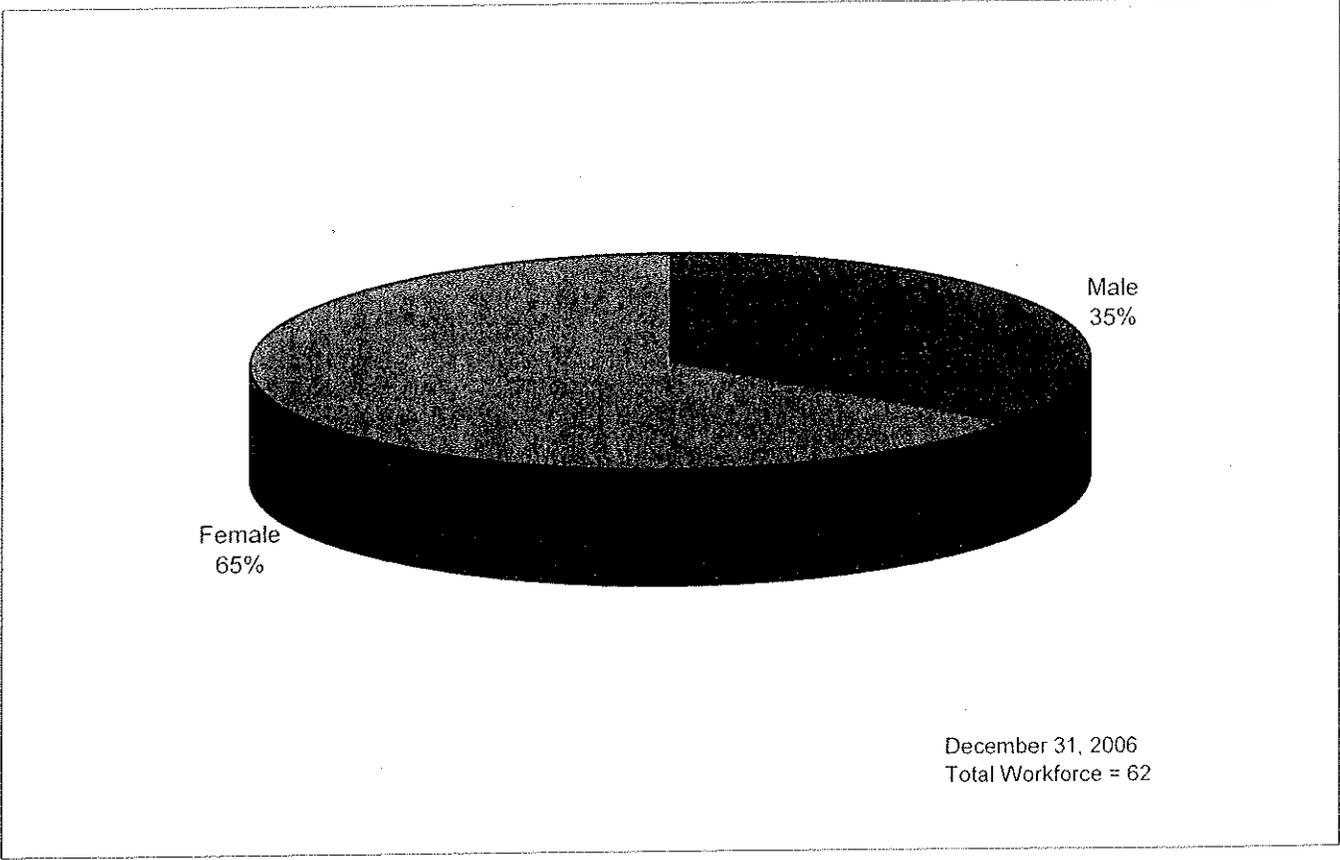
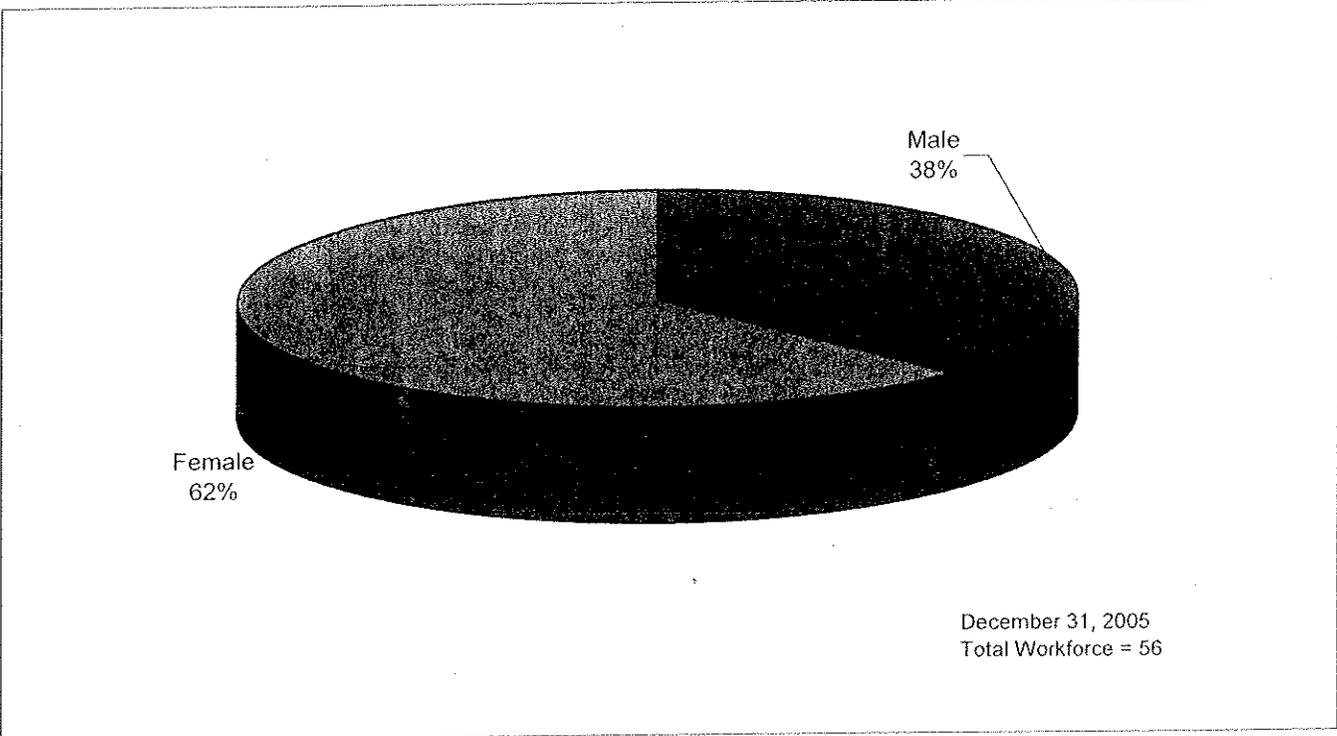
Appendix - 3

Landmarks Preservation Commission Workforce by Ethnicity



Appendix - 4

Landmarks Preservation Commission
Workforce by Sex



Source: CEEDS

Appendix - 5
 Landmarks Preservation Commission
 CEEDS UNDERUTILIZATION CHART
 July 1, 2005 - June 30, 2007

Quarter:		4Q/2005	1Q/2006	2Q/2006	3Q/2006	4Q/2006	1Q/2007	2Q/2007	3Q/2007
		(Jan-Mar)	(Apr-Jun)	(Jul-Sep)	(Oct-Dec)	(Jan-Mar)	(Apr-Jun)	(Jul-Sep)	(Oct-Dec)
Job Group	Protected Class								
002 Managers	Afr. Am.							X	X
	Asian								
	Hisp.							X	X
	Nat. Am.								
	Female								
006 Social Sciences	Afr. Am.	X	X	X	X	X	X	X	X
	Asian								
	Hisp.	X	X				X	X	X
	Nat. Am.								
	Female								
031 Para Pros	Afr. Am.							X	
	Asian								
	Hisp.								
	Nat. Am.								
	Female								

X= Underutilization

**SIGN
HERE**

Last saved 1/12/07



The New York City Landmarks Preservation Commission

1 Centre Street, 9th Floor North New York NY 10007 TEL: 212-669-7888 FAX: 212-669-7955
www.nyc.gov/landmarks



Robert B. Tierney
Chair

9820

July 15, 2008

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

LPC Response to the EEPC Preliminary Audit Determination

Dear Mr. Hart:

I am writing in response to the Equal Employment Practices Commission's preliminary determination regarding the audit of the Landmarks Preservation Commission for the period of July 1, 2005 to June 30, 2007. All of the issues raised by the audit have either already been addressed or are in the process of being addressed.

EEPC Preliminary Determination One: A general EEO policy statement or memorandum should be distributed to all staff as a payroll distribution.

Response: Previously information on the agency's commitment to EEO policies and practices, along with its EEO policy, was distributed to the staff via e-mail in order to insure all staff received the material and to save resources. Going forward, an EEO policy statement based on the model EEO statement prepared by DCAS will be distributed via hard copy during distribution of the staff's paychecks. The first such distribution occurred on May 16, 2008.

EEPC Preliminary Determination Two: The general EEO policy statement should be posted on agency bulletin boards.

Response: Information on EEO matters including posters, the booklet entitled *About EEO: What You May Not Know*, are posted on the agency bulletin board. The general EEO policy statement has also been posted on the bulletin board with these other EEO items.

EEPC Preliminary Determination Three: The male EEO counselor should be authorized to investigate discrimination complaints.

Response: The LPC's former EEO Officer has been appointed a male counselor and will be authorized to investigate EEO complaints.

EEPC Preliminary Determination Four: The EEO Officer should meet with the EEO counselor at least quarterly so he is kept abreast of internal and external EEO developments.

Response: The EEO officer has begun meeting with the EEO counselor on a quarterly basis.

EEPC Preliminary Determination Five: Internal discrimination complaint files should include a Discrimination Complaint Intake Form.

Response: Future complaint files will include a Discrimination Complaint Intake Form.

EEPC Preliminary Determination Six: A confidential report should be issued within 90 days of filing of the discrimination complaint and if it can't be issued within 90 days, a delay notification letter should be sent to complainant.

Response: The one investigation which occurred during the three year audit period required the generation of extensive salary information which took a long time to prepare resulting in the report not being issued within 90 days. In the future, we will strive to meet the 90 day deadline and if necessary, issue a delay notification letter.

EEPC Preliminary Determination Seven: Confidential written reports should be written in the format required by the Discrimination Complaint Procedure Implementation Guidelines.

Response: Future confidential written reports will be written in the format required by the Discrimination Complaint Procedure Implementation Guidelines.

EEPC Preliminary Determination Eight: The agency head must sign each confidential report to indicate that it has been reviewed and any recommendations adopted.

Response: Future confidential reports will be signed by the agency head.

EEPC Preliminary Determination Nine: The EEO Officer should inform all parties in writing of the outcome of the investigation.

Response: Going forward, the EEO Officer shall inform all parties in writing of the outcome of the investigation.

EEPC Preliminary Determination Ten: EEO training should be provided to the LPC staff.

Response: A consultant provided EEO training for the LPC staff on June 18th, 2008.

EEPC Preliminary Determination Eleven: Since the LPC's staff shows persistent under utilization of African Americans and intermittent under utilization of Hispanics in the landmark preservationist title, the agency should use the DCAS document entitled *Making the Most of New York City's Recruitment Resources*.

Response: The LPC sends out job opening information for preservation positions to every school in the country that has a historic preservation program and a national preservation website, among other outreach efforts. Nonetheless, the LPC has obtained a copy of *Making the Most of New York City's Recruitment Resources* and has begun using it in our posting of preservation openings to the extent possible. Additionally, the LPC will post openings on the websites for Historically Black Colleges and Universities and the Organization for Hispanic Professionals to determine these websites effectiveness in generating minority applicants to the LPC.

EEPC Preliminary Determination Twelve: LPC staff who interview candidates for positions with the LPC should receive structured interview training.

Response: Appropriate staff received structured interview training some time ago and refresher training is being arranged.

EEPC Preliminary Determination Thirteen: The LPC should conduct adverse impact studies to assess how new staff is selected.

Response: The LPC has previously requested that DCAS EEO staff conduct an adverse impact study and we have renewed our request.

EEPC Preliminary Determination Fourteen: Staff should be notified in writing of the name, location, telephone number and e-mail address of the career counselor.

Periodically e-mails have been sent to staff providing information on the career counselor. When the general EEO policy statement was distributed with paystubs on May 16th, relevant information regarding the LPC career counsel was included. Going forward, the LPC will periodically remind staff of the name of the LPC career counselor and how to contact her.

EEPC Preliminary Determination Fifteen: The LPC should revise its organizational chart to show the reporting arrangement of the EEO Officer.

Response: The LPC organizational chart has been revised.

EEPC Preliminary Determination Sixteen: The Director of Administration should include the EEO Officer in the development of recruitment strategies for all vacancies, not just enforcement vacancies.

Response: The EEO Officer will work with the Director of Administration in developing recruitment strategies and selection of recruitment media.

EEPC Preliminary Determination Seventeen: Twice a year LPC managers and supervisors need to emphasize their commitment to the agency's EEO Policies and affirm the right of each employee to file discrimination complaints with the EEO Office.

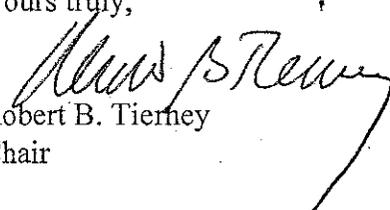
Response: Managers and supervisors have previously emphasized their commitment to the agency's EEO Policies and affirm the right of each employee to file a discrimination complaint with the EEO Office and have been instructed to do so twice a year.

EEPC Preliminary Determination Eighteen: The LPC should continue to consult with the union representing preservationists to develop tasks and standards so non-managerial performance evaluations can be undertaken.

Response: Performance evaluations are underway.

The LPC strives to maintain a professional workplace and I am dedicated to having an office that is free from discrimination, harassment and other illegal and immoral conduct. If you have any questions, please contact me.

Yours truly,


Robert B. Tierney
Chair

cc: Kate Daly
Lily Fan



EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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

Telephone: (212) 788-8646 Fax: (212) 788-8652

Ernest F. Hart, Esq.
Chair

Manuel A. Méndez
Vice-Chair

Angela Cabrera
Veronica Villanueva, Esq.
Commissioners

Abraham May, Jr.
Executive Director

Eric Matusewitch, PHR, CAAP
Deputy Director

August 6, 2008

Robert B. Tierney, Chair
Landmarks Preservation Commission
1 Centre Street, 9th Floor North
New York, NY 10007

Re: Final Determination Pursuant to the Audit of Compliance by the Landmarks Preservation Commission (LPC) with the City's Equal Employment Opportunity Policy from July 1, 2005 to June 30, 2007.

Dear Chairperson Tierney:

Thank you for your July 15, 2008 response to our June 19, 2008 Letter of Preliminary Determination pursuant to the audit of compliance by the Landmarks Preservation Commission with the City's Equal Employment Opportunity Policy from July 1, 2005 to June 30, 2007. (Your responses to EEPC recommendations numbers 16-19 are misnumbered because you did not reply to recommendation #15).

After reviewing your response, our Final Determination is as follows:

Agree

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

Recommendation #1

The agency head should issue and distribute a general EEO policy statement or memo to all employees. This document, to be sent as a payroll distribution, should be based on the Mayor's January 31, 2005 policy statement and the model agency head statement that is posted on the DCAS "about eeo" website. (March 2, 2005 memo from the DCAS Assistant Commissioner Jyll Townes to mayoral agency EEO officers, and Sect. VB of the EEOP)

Recommendation #2

The general EEO policy statement or memo should be posted on the agency bulletin boards. (March 2, 2005 memo from the DCAS Assistant Commission Jyll Tones to mayoral agency EEO officers, and Sect. VB of the EEOP)

Recommendation #3

The male EEO counselor should be authorized to investigate internal discrimination complaints. (Sect. VB, EEOP)

Recommendation #4

The current EEO officer should meet with the EEO counselor at least at quarterly intervals to ensure that he is carrying out his EEO functions satisfactorily and is kept abreast of internal and external EEO developments. (Sect. VC, EEOP)

Recommendation #5

All internal discrimination complaint files should include a Discrimination Complaint Intake Form completed by the complainant or the EEO investigation. (DCAS, Discrimination Complaint Procedures Implementation Guidelines, (DCPIG), sect. 12a)

Recommendation #6

The confidential written report should be issued within 90 days of the date the discrimination complaint was filed. In rare circumstances where the confidential written report cannot be issued within 90 days, the agency should send the complainant and respondent(s) a Delay Notification Letter. (DCAS, DCPIG, April 2, 1996 amendment)

Recommendation #7

All confidential written reports should be prepared in the format required by the DCPIG, sect. 12b.

Recommendation #8

The agency head must sign each confidential written report to indicate that it has been reviewed and whether the recommendation, if any, is approved and adopted. (DCPIG, sect. 12b)

Recommendation #9

After review of the confidential written report by the agency head, the EEO officer shall inform all parties in writing of the outcome of the investigation. (DCPIG, sect. 12b)

Recommendation #10

The LPC should follow-up on its pledge and use the DCAS on-line EEO training program or, if that program is not issued in the near future, develop a manual program that includes a timetable to provide EEO training for those employees who have not received it. (Sect. IV, EEOP)

Recommendation #11

Since the LPC's workforce continues to show persistent underutilization of African-Americans and intermittent underutilization of Hispanics in the landmarks preservationist title, the agency head should direct the director of administration to acquire and use *Making the Most*

of New York City's Recruitment Resources (2004), compiled by the DCAS and posted on its webpage.

Recommendation #14

Employees should be notified in writing of the name, location, and telephone number/email address of the career counselor. (Sect. VB, EEOP)

Recommendation #16

The LPC should revise its organization chart to show the reporting arrangement of the EEO officer. (Sect. VB, EEOP)

Recommendation #19

The LPC should continue to consult with the union representing preservationists regarding the development of tasks and standards and, after resolution of this issue, develop non-managerial performance evaluations as soon as possible. These evaluations are required by the *Personnel Rules and Regulations of the City of New York*, Rule 7.5.4(e).

Requires Clarification

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

Recommendation #12

The LPC should follow-up on its pledge to ensure that all employees involved in the job interviewing process receive structured interview training, either through internal training or training provided by the DCAS or another appropriate organization. (Sect. IV, EEOP)

Your Response

Appropriate staff received structured interview training some time ago and refresher training is being arranged.

EEPC Rationale

Your former EEO officer informed the EEPC auditors in a January 10, 2008 letter that "Structured interviewing training was provided to LPC staff prior to the audit period. It is unclear which supervisors attended the training." Accordingly, please provide additional information and/or documentation regarding structured interview training provided to supervisors/managers prior to the audit period.

Recommendation #17

The agency head should direct the director of administration to include the EEO officer in the development of recruitment strategies and the selection of recruitment media for all vacancies—not just enforcement vacancies. (Sect. IV, EEOP)

Your Response

The EEO Officer will work with the Director of Administration in developing recruitment strategies and selection of recruitment media.

of *New York City's Recruitment Resources* (2004), compiled by the DCAS and posted on its webpage.

Recommendation #14

Employees should be notified in writing of the name, location, and telephone number/email address of the career counselor. (Sect. VB, EEOP)

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The LPC should revise its organization chart to show the reporting arrangement of the EEO officer. (Sect. VB, EEOP)

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Recommendation #12

The LPC should follow-up on its pledge to ensure that all employees involved in the job interviewing process receive structured interview training, either through internal training or training provided by the DCAS or another appropriate organization. (Sect. IV, EeOP)

Your Response

Appropriate staff received structured interview training some time ago and refresher training is being arranged.

EEPC Rationale

Your former EEO officer informed the EEPC auditors in a January 10, 2008 letter that "Structured interviewing training was provided to LPC staff prior to the audit period. It is unclear which supervisors attended the training." Accordingly, please provide additional information and/or documentation regarding structured interview training provided to supervisors/managers prior to the audit period.

Recommendation #17

The agency head should direct the director of administration to include the EEO officer in the development of recruitment strategies and the selection of recruitment media for all vacancies—not just enforcement vacancies. (Sect. IV, EEOP)

Your Response

The EEO Officer will work with the Director of Administration in developing recruitment strategies and selection of recruitment media.

EEPC Rationale

It is unclear from your response whether the EEO officer will be involved in developing recruitment strategies and selection of recruitment media for all vacancies—not just enforcement vacancies.

Recommendation #18

It is the position of the DCAS (“Model Agency EEO Commitment Memo,” http://extranet.dcas.nycnet/eep/pdf/mode_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.

Your Response

Managers and supervisors have previously emphasized their commitment to the agency’s EEO Policies and affirm the right of each employee to file a discrimination complaint with the EEO Office and have been instructed to do so twice a year.

EEPC Rationale

At a December 17, 2007 audit meeting, your former EEO officer told the EEPC auditors that supervisors and managers were *not* directed to discuss the agency’s EEO policies with their subordinates; the LPC prefers that the EEO officer present that information to its employees. Furthermore, 50% of survey respondents indicate they do not remember their supervisor emphasizing his or her commitment to the agency’s EEO policies at any staff meeting during the past eight months. Accordingly, please provide additional information and/or documentation regarding meetings between supervisors/managers and their subordinates to emphasize their (supervisors/managers) commitment to the agency’s EEO policies.

Disagree

For the following reason, herein identified as EEPC Rationale, we disagree with your response to the following recommendation.

Recommendation #13

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 LPC should conduct adverse impact studies. (Sect. IV, EEOP)

Your Response

The LPC has previously requested that DCAS EEO staff conduct an adverse impact study and we have renewed our request.

EEPC Rationale

The staff of the Division of Citywide Equal Employment Opportunity (DCEEO) does not conduct adverse impact studies for City agencies. It is the DCEEO’s (DCAS) position that City agency EEO professionals have either received sufficient training through the DCAS, or can obtain similar training through another appropriate school or organization, to conduct adverse impact studies.

Omitted Response

You have not responded to Recommendation #15, which states that [t]he LPC should follow-up on its pledge and conduct performance evaluations for all managerial employees. (DCAS, *Managerial Performance Evaluation, Guidelines for Evaluating Managerial Performance in NYC Agencies*, p. 1.)

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 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: Lily Fan, EEO Officer, LPC
Judith Garcia Quiñonez, Counsel, EEPC