

DEPARTMENT OF HOUSING PRESERVATION
AND DEVELOPMENT

- Letter of Preliminary Determination March 4, 2010
- Agency Response April 14, 2010
- Letter of Final Determination May 5, 2010
- Agency Response May 17, 2010



EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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March 4, 2010

Rafael E. Cestero

Commissioner

Department of Housing Preservation and Development

100 Gold Street

New York, NY 10038

Re: Resolution #10/02-806/ Preliminary Determination Pursuant to the Audit of the Department of Housing Preservation and Development (HPD) and its Compliance with the City's Equal Employment Opportunity Policy from January 1, 2006 through December 31, 2007.

Dear Commissioner Cestero:

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 women and minority 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.

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).)

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 Housing Preservation and Development (HPD) during the twenty-four month period commencing January 1, 2006 and ending December 31, 2007. Requests for corrective actions and/or recommendations are included where the EEPC has determined that the HPD has failed to comply in whole or in part with the City's EEO Policy.

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 HPD's responses to an EEPC Document and Information Request Form, Agency Specific Plans and quarterly EEO reports. Typically the EEPC staff would analyze City-wide Equal Employment Database System (CEEDS) data prepared by the Department of Citywide Administrative Services which determines underutilizations and concentrations of targeted groups within the agency's 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. CEEDS data is critical in identifying underutilization in the city's workforce. Where underutilization is revealed within an agency's workforce, auditors determine whether an agency has undertaken reasonable measures for addressing underutilization.

At present, the CEEDS data requires updating in order for the underutilization analysis to provide an accurate measure of the employment practices of city agencies. The DCAS is currently updating this data. Upon completion, the EEPC will review the data and make supplemental recommendations pursuant to this audit, if necessary.

The EEPC auditors also conducted in-depth, on-site interviews with the HPD's EEO Officer, one EEO professional, and career counselor.

A survey was distributed to 1,000 people employed by the DCAS during the audit period. (This number excludes 25 surveys that were returned as undeliverable.) One hundred sixty-one people (16.5%) responded. The survey data are attached. (Appendix 1)

Description of the Agency

The Department of Housing Preservation and Development is empowered to plan, initiate, conduct, supervise, coordinate, review and evaluate City programs relating to urban renewal, publicly-aided housing, neighborhood conservation, the enforcement of all laws relating to the rehabilitation or maintenance of housing, and the management of property acquired by the City, for or devoted to housing or urban renewal purposes.

Personnel Activity During the Audit Period

During the audit period, 540 people were hired: 168 Caucasians, 194 African-Americans, 100 Hispanics, 75 Asians, and 3 "Unknown." Of the individuals hired, 262 were female. Five hundred sixty-seven individuals were promoted during the audit period: 156 Caucasians, 253

African-Americans, 98 Hispanics, 58 Asians, and 2 Native-Americans. Of the employees promoted, 308 were female. (Appendix 4)

The HPD reports that 492 full-time employees were involuntarily separated during the audit period: 138 Caucasians, 222 African-Americans, 77 Hispanics, 54 Asians, and 1 Native American. Two hundred and forty-five of those individuals were female.

Between January 1, 2006 and December 31, 2007, the total number of the HPD employees decreased by .5%, from 2,681 to 2,656. There were small percentage increases for Hispanics (17% to 18%) and Caucasians (25% to 26%). There were small percentage decreases for African-Americans (49% to 48%) and females (49% to 48%). (Appendices 2 and 3)

Discrimination Complaint Activity During the Audit Period

During the period in review, 23 internal discrimination complaints were filed: 5 were based on sexual harassment, 2 were based on retaliation, 1 was based on disability, 1 was based on age, 1 was based on religion, 1 was based on military status, and 1 was based on gender. The other 11 internal discrimination complaints were based on multiple categories. The EEO Officer completed and issued reports for 13 of these complaints, which received 2 probable cause determinations and 11 no probable cause determination. Four complaints were pending at the end of the audit period. Fourteen external complaints were filed: 1 was based on national origin, 1 was based on disability, 1 was based on religion, and 1 was based on age. The other 11 internal discrimination complaints were based on multiple categories. Three of the complaints were closed and 2 dismissed; the 9 remaining complaints, filed with multiple agencies (Equal Employment Opportunity Commission and/or State Division on Human Rights), were pending at the end of the audit period.

PRELIMINARY DETERMINATION

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

Plan Dissemination – Internally

The HPD is in compliance with the following requirements:

1. The EEO materials are distributed annually. The policies are also distributed at specific orientation sessions, EEO training sessions, as well as at presentations and discussions. They are also included in the “new-hire” package. The HPD last distributed (in hardcopy and electronically) the Citywide EEO Policy to legal, human resources, and EEO representatives, as well as managers and supervisors on May 1, 2008. The HPD’s agency head distributed a general EEO Policy memorandum and the City’s EEO Policy Handbook (*About EEO: What You May Not Know*, with addendum) to staff on May 1, 2008. Included in the general EEO Policy memorandum are directions on how to access the Intranet to obtain a copy of the Citywide EEO and EEO Handbook.

2. The HPD's EEO Policy memorandum is posted on the Intranet and on agency bulletin boards near the elevator banks. The EEO office continually checks and maintains the boards to ensure the EEO information is clearly posted and current.

Plan Dissemination – Externally

The HPD is in compliance with the following requirement:

The five internal job vacancy notices submitted by the HPD to the EEPC (Associate Staff Analyst, Principal Administrative Associate L1, City Planner 4, Community Liaison Worker, City Planner 1) and the five newspaper advertisements (Quality Assurance Specialist L1 (2X), Administrative Staff Analyst M2, Associate Staff Analyst, Agency Attorney L1, and Director of Multifamily Programs) include the tag line "the HPD and the City of New York are Equal Opportunity Employers."

Reasonable Accommodations and EEO for Persons with Disabilities

The HPD is in compliance with the following requirements:

1. In accordance with the reasonable accommodations procedure of the City's EEO Policy, the HPD has provided accommodations for employees with disabilities upon request. The agency provided a list of such accommodations granted.
2. The HPD participates in the Section 55-A Program. Information about the Program is included in the general EEO Policy memorandum and the training booklet, which is distributed during EEO training. The HPD's personnel office informs the EEO Officer on a quarterly basis of the number of 55-A Program participants; currently, 7 employees participate in the program.
3. The HPD's EEO Officer is also the agency's disability rights coordinator.
4. The HPD's EEO policies are available in alternate formats (e.g. audio cassette and large print) for use by applicants and employees with disabilities.

The HPD is in partial compliance with the following requirement:

The HPD has completed its own survey of its facilities and submitted an accessibility checklist for all ten locations. Three of the facilities are owned and managed by the DCAS, four of the facilities are owned and managed by the HPD, and one of the facilities is leased. Two of the 10 facilities (100 Gold Street and 120-55 Queens Blvd.) have a street accessible entrance and/or ramp access, wheelchair accessible elevators, bells and Braille in the elevators, wide restroom stalls, grab bars in the restrooms, and low sink or bathroom fixtures. However, the elevators in the remaining eight facilities (151 East Tremont Avenue, 1932 Arthur Avenue, 27 Hooper Street, 516 Bergen Street, 210 Joralemon Street, 701 Euclid Avenue, 3280 Broadway, 10 Richmond Terrace Avenue) are non compliant.

Recommendation: Since the EEO Policy holds agencies responsible for ensuring compliance with all federal, state, and local laws, as well as City and agency policies, pertaining to persons with disabilities, the agency should request that the DCAS take appropriate action to ensure its facilities are accessible to and useable by, persons with disabilities in accordance with the Americans with Disabilities Accessibility Guidelines for Buildings and Facilities (ADAAG) and Local Law 58. (Sect. VB, EEOP)

Recommendation: For the facilities that are owned and leased by the HPD, it should adhere to its plan as identified in its letter dated April 3, 2009, *Efforts to remedy areas of office facilities that are in non-compliance with ADA regulation*, submitted to the EEPC. (Sect. VB, EEOP)

Discrimination Complaint and Investigation Procedures

The HPD is in compliance with the following requirements:

1. The EEO Officer receives and investigates discrimination complaints in conformance with Section III of the EEOP and the discrimination complaint procedures and implementation guidelines issued by the DCAS.
2. The EEO Officer maintains a monthly log of discrimination complaints filed against the agency. A copy of a completed monthly log was provided.
3. The agency head conducts a quarterly review of the EEO complaints. As a result of the agency heads review the substantiated cases are referred to the disciplinary review unit. The agency head also reviews the annual EEO reports. There is an average of 8-12 internal complaints filed each year.
4. The general counsel informs the EEO Officer when external EEO complaints or litigation have been brought against the agency. The general counsel takes responsibility for the investigation of, and response to, external EEO complaints. The EEO Officer works very closely with the general counsel. There is an average of 10-12 external complaints filed each year.
5. The EEO Officer and EEO professional have both completed the basic training course for EEO professionals at the Department of Citywide Administrative Services/ Office of Citywide Equal Employment Opportunity (DCAS/OCEEO).
6. The agency identifies its EEO staff by posting their names, locations and numbers in the EEO Policy memorandum and training handbook.
7. The HPD has a male and female available for complaint intake and investigation.

The HPD is not in compliance with the following requirements:

The HPD submitted 10 internal discrimination complaint files to the EEPC for review.

1. The EEO Officer's confidential written reports were not prepared in accordance with the DCPIG: i.e., divided into three sections entitled "Findings of Facts," "Discussion and Conclusion," and "Recommendation." However, at the February 18, 2010 Audit Exit meeting the HPD provided a booklet entitled "EEO Investigations." This booklet is distributed to all EEO Officers at the DCAS' EEO Training sessions. It contains a more extensive format for confidential written reports, which the HPD follows.
2. None of the reports were labeled "confidential." Corrective action is required.

Recommendation: All confidential written reports should be labeled "Confidential" in large bold print. (DCPIG, Sect. 12b)

EEO Training

The HPD is in compliance with the following requirement:

The EEO Officer conducts EEO training for staff. His qualifications include: courses in training and trainer at the City Commission on Human Rights.

The HPD has developed a plan to train all new and existing employees on EEO. The training curriculum, which the HPD submitted, is approved by DCAS/DCEEO. New employees as well as existing employees receive comprehensive EEO training. Within two weeks of hire, all new employees will attend an orientation session that provides information on the City's EEO Policy including the employees' rights and responsibilities under the current EEO Policy, the discrimination complaint and investigation procedures and reasonable accommodation procedures. In addition, to the topics listed above, the training includes information on the EEO laws, sexual harassment prevention, 55-a Program, and cultural diversity.

Managers and supervisors are trained separately from line staff and receive two additional components: structured interviewing techniques and a review of supervisor's responsibilities under the City's EEO Policy. The agency will continue to provide EEO training for Work Experience Program (WEP) participants who are assigned to HPD. The agency will also continue to provide special EEO training for individuals, units or departments that have been the subject of discrimination complaints, as needed.

The HPD's annual/fourth quarter reports indicated that the agency trained a total of 702 (26%) employees in FY 2006, and a total of 492 (19%) employees in FY 2007.

Selection and Recruitment

The HPD is in compliance with the following requirements:

1. The HPD placed several advertisements during the audit period. It submitted a list of recruitment sources that included minority-oriented and female-oriented agencies or organizations.

2. The HPD utilizes discretionary applicant forms that include the name, gender, and ethnicity of the applicant, the reason for selection/rejection, and the source of recruitment.
3. The HPD has provided structured interview training for employees who conduct job interviews.
4. The EEO Officer is involved in developing recruitment strategies and selecting recruitment media.

The HPD is not compliance with the following requirement:

The HPD did not 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. 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 adverse impact upon any particular racial, ethnic, disability, or gender group, the HPD should conduct an adverse impact study for [job groups with underrepresentation/underutilization]. The HPD can use, and may modify, the Disparate Impact Analysis Program (an on-line Internet based application) recommended by DCAS/DCEEO by accessing: <http://www.hr-software.net/EmploymentStatistics/DisparateImpact.htm> for this purpose. To the extent that adverse impact is discovered, the agency should determine whether the criteria being utilized are job-related. If the criteria are not job related, the agency should discontinue using those criteria. (Sect. IV, EEOP)

Promotional Opportunities

The HPD is in compliance with the following requirements:

1. The HPD utilizes the citywide managerial performance evaluation form, which includes a rating for EEO.
2. The HPD has designated an individual familiar with civil service and provisional jobs to serve as career counselor. She provides career counseling to approximately 7-10 employees a day and devotes about 2 to 3 hours a week on career counseling matters. Employees are aware of her identity through the Commissioners' memo which is disseminated to employees once a year. They are also informed at EEO training.

Supervisory Responsibility in EEO Plan Implementation

The HPD is in compliance with the following requirement:

The EEO Officer has directed managers and supervisors to at least twice a year, during normal staff meetings, reaffirm their commitment to the Citywide EEOP and discuss the right of employees to file discrimination complaints with the EEO office. The managers and supervisors notify the EEO office when meetings are conducted. Supporting documentation was submitted.

EEO Officer Reporting Arrangement

The HPD is in compliance with the following requirement:

The organization chart submitted to EEPC shows a reporting relationship between the EEO Officer and the agency head.

The HPD is in partial compliance with the following requirement:

The EEO Officer reports directly to the agency head on EEO matters and meets with him as needed; however, he does not prepare an agenda and keeps notes of those meetings. Corrective action is required.

Recommendation: Because the EEOP requires the EEO Officer report directly to the agency head (or if approved by DCAS, to a direct report to the agency head), it is the Commission's position that appropriate documentation of meetings and other communications between the EEO Officer and the agency head regarding the decisions that impact the administration of the agency's EEO program be maintained. (Sect. VB, EEOP)

EEO Officer Responsibilities

The HPD is in compliance with the following requirement:

The HPD's EEO Officer spends 100% of his time on EEO matters.

Reporting Standards

The HPD is in compliance with the following requirement:

The agency submitted three quarterly reports and one annual report to the EEPC for FY 2006 and FY 2007.

SUMMARY OF RECOMMENDED CORRECTIVE ACTIONS

1. Since the EEO Policy holds agencies responsible for ensuring compliance with all federal, state, and local laws, as well as City and agency policies, pertaining to persons with disabilities, the agency should request that the DCAS take appropriate action to ensure its facilities are accessible to and useable by, persons with disabilities in accordance with the Americans with Disabilities Accessibility Guidelines for Buildings and Facilities (ADAAG) and Local Law 58. (Sect. VB, EEOP)
2. For the facilities that are owned and leased by the HPD, it should adhere to its plan as identified in its letter dated April 3, 2009, *Efforts to remedy areas of office facilities that are in non-compliance with ADA regulation*, submitted to the EEPC. (Sect. VB, EEOP)

3. All confidential written reports should be labeled "Confidential" in large bold print. (DCPIG, Sect. 12b)
4. Since the EEOP requires that city agencies assess the manner in which candidates are selected for employment to determine whether there is adverse impact upon any particular racial, ethnic, disability, or gender group, the HPD should conduct an adverse impact study for [job groups with underrepresentation/underutilization]. The HPD can use, and may modify, the Disparate Impact Analysis Program (an on-line Internet based application) recommended by DCAS/DCEEO by accessing: <http://www.hr-software.net/EmploymentStatistics/DisparateImpact.htm> for this purpose. To the extent that adverse impact is discovered, the agency should determine whether the criteria being utilized are job-related. If the criteria are not job related, the agency should discontinue using those criteria. (Sect. IV, EEOP)
5. Because the EEOP requires the EEO Officer report directly to the agency head (or if approved by DCAS, to a direct report to the agency head), it is the Commission's position that appropriate documentation of meetings and other communications between the EEO Officer and the agency head regarding the decisions that impact the administration of the agency's EEO program be maintained. (Sect. VB, EEOP)

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

Conclusion

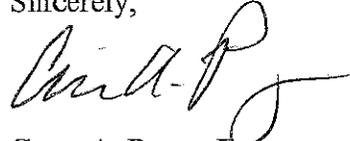
Pursuant to Chapter 36 of the New York City Charter and the previously cited preliminary determinations relating to EEPC's audit of HPD's compliance with its Equal Employment Opportunity Policy and EEO standards expressed in the Citywide EEO Policy, we respectfully request your response to the aforementioned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

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

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Cesar A. Perez". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Cesar A. Perez, Esq.
Chair

APPENDIX - 1

HOUSING PRESERVATION AND DEVELOPMENT
EMPLOYEE SURVEY RESULTS

A. GENERAL OVERVIEW

1. Do you know who your agency's EEO Officer is?
Yes (117) No (40)
2. Is your agency's EEO Policy Statement posted on your agency's bulletin boards?
Yes (122) No (31)
3. Were you given the EEO Policy Statement?
Yes (139) No (5) Do not remember (16)
4. Were you given a copy of the EEO Policy Handbook – *About EEO: What You Need to Know*?
Yes (141) No (17)
5. Do you agree with the principles of equal employment opportunity?
Yes (150) No (8)
6. Do you believe your agency practices equal employment opportunity?
Yes (97) No (51)
7. Do you know what the City's Equal Employment Opportunity Policy (EEOP) is?
Yes (128) No (25)
8. Has your supervisor emphasized his/her commitment to the agency's EEO policies at any staff meeting during the past 8 months?
Yes (81) No (50) Do not remember (15)
9. When you started working at your agency, did you attend an orientation session?
If No, please skip to question #11.
Yes (129) No (14) Do not remember (5)
10. If hired within the past 12 months, did your orientation session include information on your rights and responsibilities under the EEO Policy?
Yes (38) No (5) Do not remember (4)

B. EEO COMPLAINTS

11. Do you know how to file an EEO complaint?
Yes (127) No (29)
12. If you had an EEO complaint, would you bring it to your agency's EEO Office?
Yes (101) No (26) Undecided (28)

HPD SURVEY RESULTS CONTINUED

13. Would you prefer to file an EEO complaint with an office outside your agency?
Yes (63) No (51) Undecided (41)

14. Did you ever file an EEO complaint with your agency's EEO Office?
If No, please skip to question #18.
Yes (19) No (138)

15. What was the basis of the complaint?

| | |
|------------------------------------|--|
| Age (4) | Partnership Status (0) |
| Alienage or Citizen Status (1) | Predisposing genetic characteristic (0) |
| Arrest or Conviction Record (0) | Race (8) |
| Color (3) | Sexual Harassment (0) |
| Creed (1) | Sexual Orientation (2) |
| Disability (2) | Veteran's Status (0) |
| Gender (incl. gender identity) (3) | Victim of Domestic Violence, Stalking, and Sex Offenses (0) |
| Marital Status (0) | Other (8) |
| Military Status (0) | |
| National Origin (0) | |

16. Were you satisfied with the manner in which your complaint was managed?
Yes (9) No (12)

17. Was your manager or supervisor supportive of your right to file a complaint?
Yes (6) No (13) Not Applicable (8)

C. EEO TRAINING

18. Did you receive EEO training? If No, please skip to question #20.
Yes (133) No (22)

19. Did you find this training helpful?
Very (39) Somewhat (73)
Not really (0) Waste of time (0)

D. JOB PERFORMANCE/ADVANCEMENT

20. Did you see your agency's job postings on agency bulletin boards for vacant positions prior to the application deadline?
Yes (88) No (48) Do not remember (8)

21. If you were employed at your agency for over one year, did you receive annual evaluations?
If No, skip to question #24.
Yes (77) No (65) Not employed for >1 year (0)

22. Did your evaluation contain recommendations for improving your job performance?
Yes (60) No (38)

HPD SURVEY RESULTS CONTINUED

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

Yes (26) No (71)

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

Yes (30) No (122)

E. AFFIRMATIVE ACTION FOR PERSONS WITH DISABILITIES

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

Yes (103) No (4) Don't Know (28)

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

If No, skip to question #28.

Yes (18) No (112)

27. Did the agency accommodate you?

Yes (18) No (9)

OPTIONAL

28. What is your race/ethnicity?

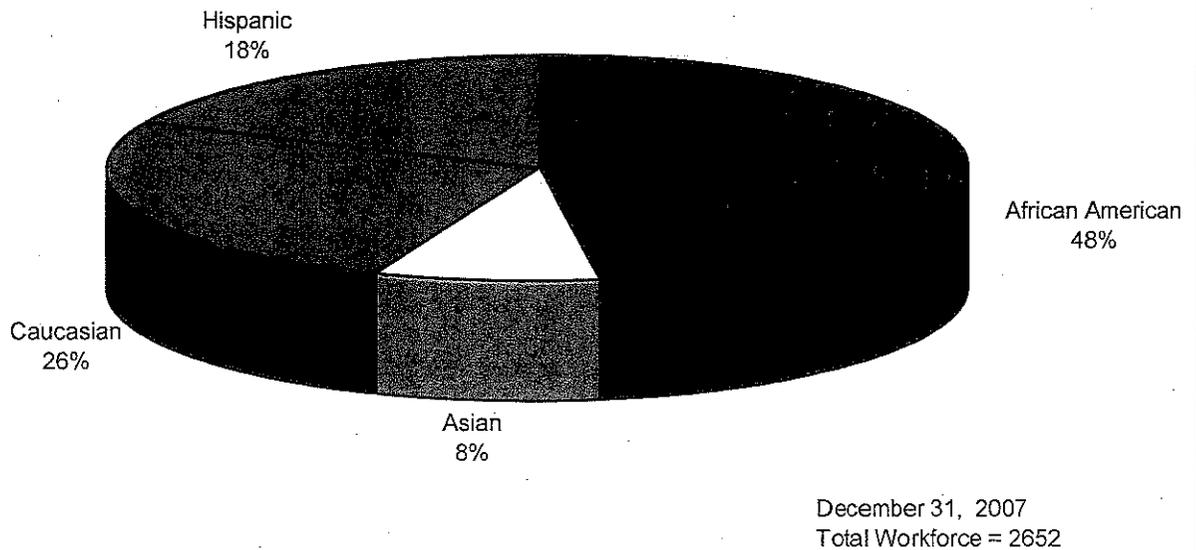
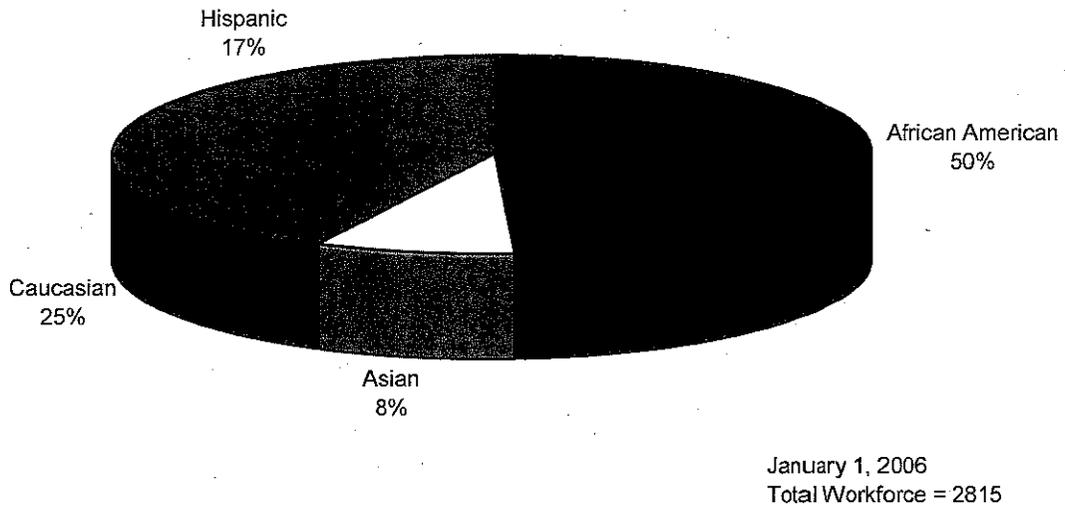
| | |
|---------------|---------------------|
| Asian (18) | Native American (1) |
| Black (46) | White (39) |
| Hispanic (23) | Other (7) |

29. What is your gender?

Male (67) Female (66)

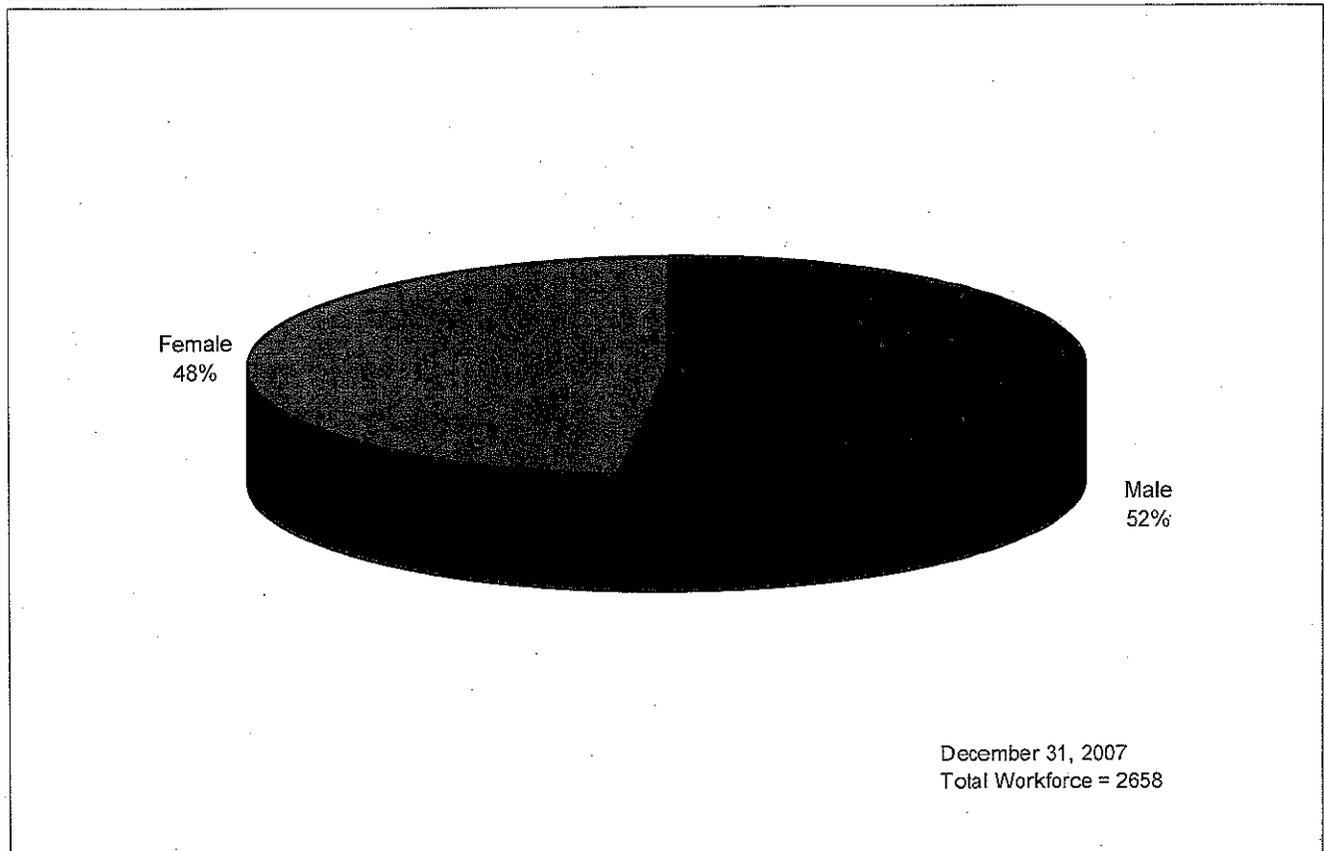
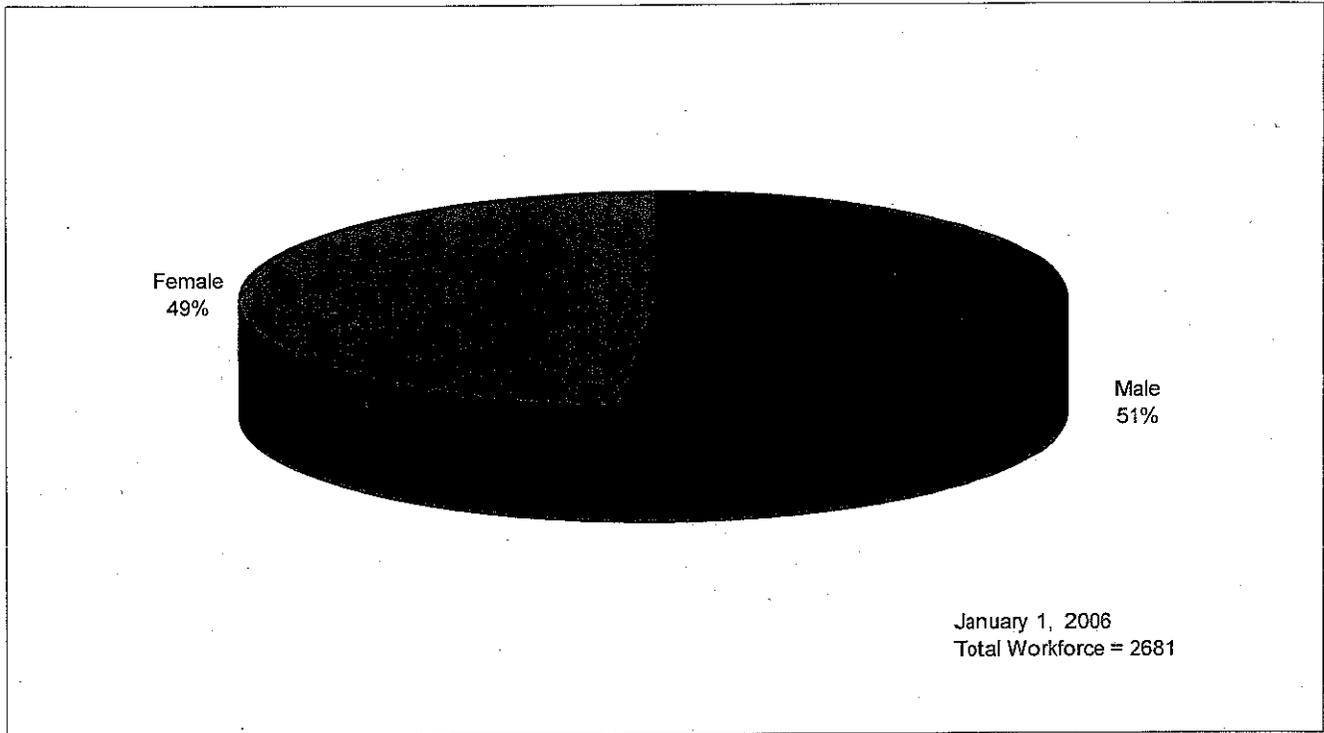
Appendix - 2

The Department of Housing Preservation and Development Workforce by Ethnicity



Appendix - 3

The Department of Housing Preservation and Development Workforce by Sex



APPENDIX – 4

The following table indicates personnel activity during the audit period, January 1, 2006 through December 31, 2007.

Housing Preservation & Development

Hires by Gender and Ethnicity

Total Hires: 540

| Male | Female | Total | Caucasian | African American | Hispanic | Asian | Unknown | Total |
|------|--------|-------|-----------|------------------|----------|-------|---------|-------|
| 278 | 262 | 540 | 168 | 194 | 100 | 75 | 3 | 540 |

Promotions by Gender and Ethnicity

Total Promotions: 567

| Male | Female | Total | Caucasian | African American | Hispanic | Asian | Native American | Total |
|------|--------|-------|-----------|------------------|----------|-------|-----------------|-------|
| 259 | 308 | 567 | 156 | 253 | 98 | 58 | 2 | 567 |



City of New York
DEPARTMENT OF
HOUSING PRESERVATION AND DEVELOPMENT
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nyc.gov/hpd

10313
RAFAEL E. CESTERO
Commissioner

April 14, 2010

Cesar A. Perez, Esq., Chairman
Equal Employment Practices Commission
City of New York
40 Rector Street, 14th Floor
New York, New York 10006

Re: Resolution #10/02-806/ Preliminary Determination Pursuant to the Audit of the Department of Housing Preservation and Development (HPD) and its Compliance with the City's Equal Employment Opportunity Policy from January 1, 2006 through December 31, 2007.

Dear Mr. Perez:

We have reviewed the Equal Employment Practices Commission's (EEPC) Preliminary Determination of this agency's EEO programs, and are pleased that HPD was found to be in compliance with the vast majority of Citywide EEO Policy procedures. The report identified a few outstanding issues that this agency will address. The following delineates the corrective action HPD will take to bring it fully in compliance with the aforementioned policy.

Issue 1: The agency should request that DCAS take appropriate action to ensure its facilities are accessible to and useable by persons with disabilities, in Accordance with the Americans with Disabilities Accessibility Guidelines for Buildings and Facilities and Local Law 58.

Response: DCAS manages the following buildings in which HPD programs operate: 100 Gold Street, 210 Joralemon Street, 120-55 Queens Blvd, 1932 Arthur Avenue and 10 Richmond Terrace.

Those buildings contain the Braille bell fields in passenger elevators, which we believed were the outstanding issues of compliance.

Issue 2: For the facilities that are owned and leased by HPD, it should adhere to its plan as identified in its letter dated April 3, 2009, "Efforts to remedy areas of office facilities that are in non-compliance with ADA regulations."

Response: The agency owns or manages the following buildings with respect to its program operations: 27 Hooper Street, 151 E. Tremont Avenue, 516 Bergen Street and 701 Euclid Avenue. While there are compliance issues regarding 27 Hooper Street and 151 E. Tremont Avenue, those buildings will be closed and program operations will cease by the end of the fiscal year. Staff will be absorbed into existing ADA compliant sites.

516 Bergen Street contains two levels without a passenger elevator. The feasibility assessment suggests that the time and cost of elevator construction is impractical. Reasonable accommodation efforts are implemented when presented with an employee who has a limitation impacted by the construction of the building. Finally, 701 Euclid Avenue is compliant. That building contains the Braille/bell fields in its passenger elevators which were the outstanding issues of compliance

Issue 3: All confidential written EEO reports should be labeled "Confidential" in large bold print.

Response: Effective immediately all confidential written EEO reports will be labeled "Confidential" in large bold print.

Issue 4: HPD should conduct an adverse impact study for job groups with underrepresentation/underutilization. To the extent that adverse impact is discovered, the agency should determine whether the criteria being utilized are job-related. If the criteria are not job related, the agency should discontinue using those criteria.

Response: The persistence of the low representation of female employees in several construction related job titles employed by the agency necessitate a review to determine whether there is an adverse impact with their selection. The most significant titles are the Construction Project Manager and the Housing Inspector titles. Female employees hold only 12 of the 231 Construction Project Manager titles, and female employees hold only 26 of the 329 Housing Inspector titles. The prevailing view is that female applicants with requisite skills have not presented themselves for hire, despite outreach to attract qualified female applicants when provisional hiring opportunities exist. The study in part will test that hypothesis.

Pursuant to recommendations from your staff, the study will be restricted to provisional appointments, and we intend to examine all provisional appointments made on the above stated titles within one year. We recognize that the promulgation of certified lists for the above stated job titles and reduced hiring opportunities may not enable sufficient data collection to complete the study.



Specifically, we anticipate that hiring opportunities will be extremely limited for the remainder of the calendar year with a slight uptick for the beginning of the following calendar year. Moreover, based on current knowledge about the Department of Citywide Administrative Services' promulgation of certified lists, there is a passing applicant list for Housing Inspector and that list is near certification. The Construction Project Manager title does not have a certified list, but DCAS administered an exam for that title in March 2009, and we anticipate certification of the list later this year.

Despite those possible issues, we will implement the following data collection process for provisional hires made within one year on each of the above stated lines commencing on the approval of this plan. Please note that outreach for provisional applicants will be primarily limited to persons who have registered to take the relevant exam or have passed the exam awaiting certification of the list, otherwise the new hirer is completely precluded from the possibility of permanent employment once the list is established.

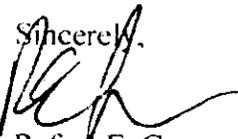
At the close of data collection period, we will determine whether sufficient information has been collected to conduct the analysis. If we are able to proceed with the analysis and the results indicate that adverse impact is an issue, the agency will determine whether the criteria being utilized are job-related. If the criteria are not job related, the agency will discontinue their use.

Issue 5: Appropriate documentation of meetings and other communications between the EEO Officer and the agency head regarding the decisions that impact the administration of the agency's EEO program should be maintained.

Response: Henceforth, we will maintain appropriate documentation of meetings and other communication between the EEO Officer and the agency head regarding the decisions that impact on the administration of the agency's EEO Program.

In addition to the above stated corrective actions, I will 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. The memorandum will re-emphasize my dedication to the agency's Equal Employment Opportunity Program.

Please be confident that the agency is committed to ensuring its EEO program complies with the letter and spirit of the City's Equal Opportunity Policy, and I look forward to your response to our plan for corrective action.

Sincerely,

 Rafael E. Cestero

c: Abraham May Jr. Executive Director, EEPC
 Stanley Whing, EEO Officer, HPD
 Bernard Schwarz, Deputy Commissioner, HPD





EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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

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Judith Garcia Quiñonez

Counsel

May 5, 2010

Rafael E. Cestero
Commissioner
Department of Housing Preservation and Development
100 Gold Street
New York, NY 10038

Re: Final Determination Pursuant to the Audit of the Department of Housing Preservation and Development (HPD) and its Compliance with the City's Equal Employment Opportunity Policy from January 1, 2006 through December 31, 2007.

Dear Commissioner Cestero:

Thank you for your April 14, 2010 response to our March 4, 2010 Letter of Preliminary Determination pursuant to the Referenced audit. 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 #1

Since the EEO Policy holds agencies responsible for ensuring compliance with all federal, state, and local laws, as well as City and agency policies, pertaining to persons with disabilities, the agency should request that the DCAS take appropriate action to ensure its facilities are accessible to and useable by, persons with disabilities in accordance with the Americans with Disabilities Accessibility Guidelines for Buildings and Facilities (ADAAG) and Local Law 58. (Sect. VB, EEOP)

Recommendation #2

For the facilities that are owned and leased by the HPD, it should adhere to its plan as identified in its letter dated April 3, 2009, *Efforts to remedy areas of office facilities that are in non-compliance with ADA regulation*, submitted to the EEPC. (Sect. VB, EEOP)

Recommendation #3

All confidential written reports should be labeled "Confidential" in large bold print. (DCPIG, Sect. 12b)

Recommendation #5

Because the EEOP requires the EEO Officer report directly to the agency head (or if approved by DCAS, to a direct report to the agency head), it is the Commission's position that appropriate documentation of meetings and other communications between the EEO Officer and the agency head regarding the decisions that impact the administration of the agency's EEO program be maintained. (Sect. VB, EEOP)

Clarification

Recommendation #4

Since the EEOP requires that city agencies assess the manner in which candidates are selected for employment to determine whether there is adverse impact upon any particular racial, ethnic, disability, or gender group, the HPD should conduct an adverse impact study for [job groups with under-representation/underutilization]. The HPD can use, and may modify, the Disparate Impact Analysis Program (an on-line Internet based application) recommended by DCAS/DCEEO by accessing: <http://www.hr-software.net/EmploymentStatistics/DisparateImpact.htm> for this purpose. To the extent that adverse impact is discovered, the agency should determine whether the criteria being utilized are job-related. If the criteria are not job related, the agency should discontinue using those criteria. (Sect. IV, EEOP)

Your Response

The persistence of the low representation of female employees in several construction related job titles employed by the agency necessitate a review to determine whether there is an adverse impact with their selection. The most significant titles are the Construction Project Manager and the Housing Inspector titles. Female employees hold only 12 of the 231 Construction Project Manager titles and female employees hold only 26 of the 329 Housing Inspector titles. The prevailing view is that female applicants with requisite skills have not presented themselves for hire, despite outreach to attract qualified female applicants when provisional hiring opportunities exist. The study in part will test that hypothesis.

Pursuant to recommendations from your staff, the study will be restricted to provisional appointments, and we intend to examine all provisional appointments made on the above stated titles within one year. We recognize that the promulgation of certified lists for the above stated job titles and reduced hiring opportunities may not enable sufficient collection data to complete the study.

Specifically, we anticipate that hiring opportunities will be extremely limited for the remainder of the calendar year with a slight up tick for the beginning of the following calendar year. Moreover, based on the current knowledge about the Department of Citywide Administrative

Services' promulgation of certified lists, there is a passing applicant list for Housing Inspector and that list is near certification. The Construction Project Manager title does not have a certified list, but DCAS administered an exam for that title in March 2009, and we anticipate certification of the list later this year.

Despite those possible issues, we will implement the following data collection process for provisional hires made within one year on each of the above stated lines commencing on the approval of this plan. Please note that outreach for provisional applicants will be primarily limited to persons who have registered to take the relevant exam or have passed the exam awaiting certification of the list, otherwise the new hirer is completely precluded from the possibility of permanent employment once the list is established.

At the close of data collection period, we will determine whether sufficient information has been collected to conduct the analysis. If we are able to proceed with the analysis and the results indicate that adverse impact is an issue, the agency will determine whether the criteria being utilized are job-related. If the criteria are not job related, the agency will discontinue their use.

EEPC Rationale

Because the above-referenced recommendation was issued prior to the updating of the CEEDS data by the Department of Citywide Administrative Services (DCAS), we wish to make the following clarification:

Since updated CEEDS data is, or soon will be, available, the agency should review the updated CEEDS data and identify job groups that were under-represented/underutilized during the audit period, if any, and conduct its adverse impact study for discretion hires in those groups.

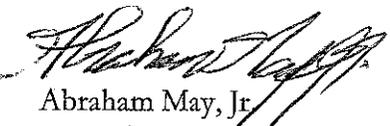
Conclusion

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

Sincerely,


Abraham May, Jr.
Executive Director

C: Stanley Whing, EEO Officer

10351



City of New York
DEPARTMENT OF
HOUSING PRESERVATION AND DEVELOPMENT
100 GOLD STREET, NEW YORK, NY 10038
nyc.gov/hpd

RAFAEL E. CESTERO
Commissioner

May 17, 2010

Abraham May Jr. Executive Director
Equal Employment Practices Commission
City of New York
40 Rector Street, 14th Floor
New York, New York 10006

Re: Resolution #10/02-806/ Preliminary Determination Pursuant to the Audit of the Department of Housing Preservation and Development (HPD) and its Compliance with the City's Equal Employment Opportunity Policy from January 1, 2006 through December 31, 2007.

Dear Mr. May:

Thank you for your May 5, 2010 response to our April 14, 2010 plan for corrective action. We appreciate the prompt answer and approval of the majority of strategies outlined in the plan. You have asked for clarification on our strategy for recommendation #4, which required HPD to conduct an adverse impact study for job groups with underrepresentation / underutilization. We identified the low representation of female employees in Construction Project Manager and Housing Inspector job titles as issues worthy of the study. You have requested that the agency review the updated CEEDS data and identify groups that were under-represented/underutilized during the audit period, if any and conduct its adverse impact study for discretionary hires on those groups.

We have complied with your request. During the audit period, the participation rates for female employees in the job titles cited above were low, and as noted in the Third Quarter 2010 CEEDS report that reflects the 2000 census data, their representation in those titles remain similarly low. For example, female employees hold only 11 of the 225 Construction Project Manager positions, and female employees hold only 26 of the 329 Housing Inspector positions. The current CEEDS Report confirm that the disparity profiles created by the low representation of female employees on our Construction Project Manager and Housing Inspector positions are a significant and persistent issue, and we are reassured that those job titles are appropriate focal points for the study.

We are reminded that current economic realities, which are expected to severely limit hiring opportunities now and for the near future, will impact on the viability of the study. Nevertheless, we are committed to conducting the study as outlined in our April 14, 2010, plan, if possible. Once again we look forward to your expedited response.

Sincerely,



Rafael Cestero

c: Stanley Whing, EEO Officer, HPD
Bernard Schwarz, Deputy Commissioner, HPD
Cesar A. Perez, Esq., Chairman

