

## DEPARTMENT OF SMALL BUSINESS SERVICES

- Letter of Preliminary Determination August 6, 2010
  - Agency Response September 20, 2010
  - Letter of Final Determination September 30, 2010
  - Agency Response November 15, 2010
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# EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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August 6, 2010

Robert Walsh  
Commissioner  
Department of Small Business Services  
110 Williams Street, 7th Floor  
New York, NY 10038

Re: Preliminary Determination Pursuant to the Audit of the Department of Small Business Services (SBS) and its Compliance with the City's Equal Employment Opportunity Policy from January 1, 2006 through December 31, 2008

Dear Commissioner Walsh:

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, Section 831(d)(5) 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.

Section 831(d)(2) authorizes this Commission to recommend all necessary and appropriate measures, standards and programs to be utilized by city agencies to ensure a fair and effective affirmative employment program of equal employment opportunity for minority group members and women employed by or seeking employment with 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 Department of Small Business Services (SBS), which may herein be referred to as “the agency,” during the thirty-six month period commencing January 1, 2006 and ending December 31, 2008. Requests for corrective actions and/or recommendations are included where the EEPC has determined that the agency 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 SBS should incorporate these recommendations in its agency-specific EEO Plan. The relevant sections of the City’s EEO Policy (EEOP) are cited in parenthesis at the end of each recommendation.

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.

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## **Scope and Methodology**

Audit methodology included an analysis of the Agency Specific Plans, Quarterly Reports, and SBS’s responses to an EEPC Document and Information Request Form. EEPC auditors also reviewed questionnaires completed by the agency’s EEO Officer, Disability Rights Coordinator, EEO Counselor, Career Counselor, and EEO Trainer. In addition, employees were asked to participate in the *EEPC’s Employee Survey* and supervisors/managers were asked to complete the *EEPC’s Supervisor/Manager Interview Survey*. The survey of 257 SBS employees yielded 113 responses, a response rate of 44%. The separate survey of 37 SBS managers yielded 26 results, a response rate of 70%. These surveys are attached as Appendices 1 and 2 respectively.

The Citywide Equal Employment Database System (CEEDS) data prepared by the Department of Citywide Administrative Services (DCAS) 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.

Typically, auditors would analyze underutilization data for a complete measure of the employment practices of an agency. At present, the CEEDS data for the entire audit period is unavailable. The EEPC anticipates updated data for this period from the DCAS. Upon its availability, the EEPC will review the data and make supplemental recommendations pursuant to this audit.

## **Description of the Agency**

The New York City Department of Small Business Services (SBS) makes it easier for businesses in New York City to form, do business, and grow by providing direct assistance to business owners, fostering neighborhood development in commercial districts, and linking employers to a skilled and qualified workforce.

To this end, SBS sponsors 64 Business Improvement Districts (BIDs) in all five boroughs to help promote and maintain clean, safe, and business-friendly neighborhoods and works with over 100 Local Development Corporations (LDCs) to promote grassroots economic development, resulting in improvements to storefronts and streetscapes and the attraction of new businesses to important commercial corridors. In addition to BIDs and LDCs, SBS works with New York City's eleven Empire Zones, the Mayor's office of Industrial and Manufacturing Businesses, and other community groups to identify places where direct public or private investment can positively impact the business climate by improving lighting, signage, street furniture, and other amenities.

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

According to data provided by the agency, during the audit period, 52 people were hired: 11 African-Americans, 5 Asians, 5 Hispanics, 21 Caucasians, and 10 "Unknowns". Of the individuals hired, 36 were female. Ninety-two individuals were promoted during the audit period: 20 African Americans, 12 Asians, 19 Hispanics, and 41 Caucasians. Of the employees promoted, 56 were female.

The SBS reports that six full-time employees were involuntarily separated during the audit period: 2 African Americans, and 4 Caucasians. Of the employees separated, 2 were female. Between January 2006 and December 2008, the total number of employees increased from 158 to 257. As a result, the number of female employees increased from 89 to 149.

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

During the period in review, 3 internal discrimination complaints were filed; two of these complaints were also filed with external agencies at some point during the investigation process. The nature of these internal complaints is as follows: one Race/Disability discrimination; one Age/Color/Race/Gender discrimination; and one Age discrimination. All three of these complaints were found to have no probable cause.

A total of 4 complaints were filed with external agencies: 3 were filed with the New York State Division on Human Rights, and 1 with the Equal Employment Opportunity Commission. The nature of the complaints are as follows: One Age/Race/Disability; one Race/Age/Color; one Age; and one Disability/Race/National Origin. Three of these were found to have no probable cause; one was mediated.

## PRELIMINARY DETERMINATION

Following are our preliminary determinations with required corrective actions and recommendations:

### Plan Dissemination – Internally

The SBS is in compliance with the following requirements:

1. The EEO Policy, the EEO Policy Handbook: About EEO: What You Need to Know, and the EEO Policy statement (and addendums) were distributed to managerial staff electronically and updated on an ongoing basis. According to the agency's 2007 fourth quarter report EEO issues are "occasionally" placed on the agenda of the monthly directors meeting in regards to discussing upcoming events and recruitment practices. In addition, 22 of 26 respondents to the EEPC's *Supervisor/Manager Interview Survey* indicated that they had received a copy of the agency's EEO Policy statement and the majority of those respondents indicated that the policy could be found in the EEO Office, HR/Personnel Office and Intranet. 19 of 26 respondents to the EEPC's *Supervisor/Manager Interview Questionnaire* indicated that the policy was most accessible via the agency's Intranet.
2. A copy of the City's EEO Policy Handbook was available to all employees via the agency's Intranet and on bulletin boards at each site where the agency conducts business. The bulletin boards are checked and maintained to ensure that EEO information is clearly posted and current. The policies are also distributed at new employee orientation sessions and in the new hire packet. In addition, 84% of respondents to the EEPC's *Employee Survey* indicated the policies were located in accessible areas, 78% indicated they had received the EEO policy handbook.

### Plan Dissemination – Externally

The SBS is in partial compliance with the following requirement:

Of the five city-wide job vacancy notices submitted to the EEPC, all five contained a tagline that described SBS as an "Equal Opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities." None of the advertisements, or an additional (sixth) Citywide Job Vacancy Notice submitted at the exit meeting, indicated that the City of New York is an Equal Opportunity Employer. Corrective action is required.

Recommendation: All agency recruitment literature should indicate that the agency and the City of New York is an equal opportunity employer. (Sect. IV, EEOP)

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

The SBS is in compliance with the following requirements:

1. The agency participates in the Section 55-A Program. The EEO Investigator/Disability Rights Coordinator, serves as the Section 55-A Coordinator. This individual makes employees aware of the program, provides resources/help for employees that are interested in becoming participants and directs potential participants to a Section 55-A contact at the Department of Citywide Administrative Services (DCAS). There were no program participants during the audit period.
2. The EEO Officer is aware that the EEO policy statement is available in alternate formats upon request from DCAS. The agency has provided the EEO policy statement in alternate formats (i.e. large print) for persons with disabilities.
3. The agency's response to the EEPC's Accessibility for Persons with Disabilities checklist indicates that its facilities at 110 Williams Street in Manhattan are accessible to, and useable by, persons with disabilities. (i.e., street accessible entrances, wheelchair accessible elevators, Braille/bell in elevators, and wide restroom stalls/grab bars and low sink fixtures in bathrooms where applicable).
4. In 2003 the agency appointed its EEO Investigator as the Disabilities Rights Coordinator (DRC), whose responsibility is to handle reasonable accommodation requests and ensure compliance with all federal, state, and local laws, as well as City and agency policies, pertaining to persons with disabilities. The DRC maintains files on all requests for accommodation. During the period in review, 9 requests for accommodation were granted (eight for special office equipment, and one for a modified work schedule).

The SBS is in partial compliance with the following requirement:

Although the agency appointed its EEO Investigator as the Disabilities Rights Coordinator, 72% of respondents to the EEPC's *Employee Survey* indicated they did not know who the Disability Rights Coordinator is. Corrective action is required.

Recommendation: To ensure that all employees are aware of the Disability Rights Coordinator the agency should re-distribute to all employees in writing the name, location, and telephone number of this person. (Sect. VB and VC, EEOP)

## **Discrimination Complaint and Investigation Procedures**

The SBS is in compliance with the following requirements:

1. The EEO Officer kept a monthly log for maintaining and updating the status of discrimination complaints filed against the agency.

2. The agency appointed at least 2 EEO representatives who are not of the same gender (a female EEO Officer and a male EEO Counselor) to receive discrimination complaints and conduct investigations.

3. The agency's EEO Staff (EEO Officer, EEO Investigator/Disability Rights Coordinator, EEO Counselor, Career Counselor, and EEO Trainer) completed the basic training course for EEO professionals administered by the Department of Citywide Administrative Services (DCAS).

The SBS is not in compliance with the following requirement:

Of the three internal complaint files, only two contained an *Agency Complaint of Discrimination Based on Anonymous/Oral Complaint Form* completed by the complainant or an EEO representative, or a complaint that captures the information required on this form (DCPIG Sect. 10/12 and Appendix D). Corrective action is required.

Recommendation: All internal discrimination complaint files should include an *Agency Complaint of Discrimination Based on Anonymous/Oral Complaint Form* completed by the complainant or an EEO representative, or a complaint that captures the information required on this form (DCPIG Sect. 10/12 and Appendix D).

## **EEO Training**

The SBS is in compliance with the following requirement:

During the period in review, SBS held a total of four EEO training sessions (all in the fall of 2008). A total of 76 employees were trained. EEO training is also a component of new employee orientation. The EEO training curriculum, which was approved by DCAS, covers the City's EEO policy, and employee's rights and responsibilities under the policy. In addition, 64% of respondents to the EEPC's *Employee Survey* indicated when hired, they were advised of the City's EEO Policies and their rights under such policies and 51% indicated they had received EEO training within the past 2 years. Forty seven percent of respondents found the agency's EEO training informative. The agency provided sign-in sheets for EEO-related training (of staff, managers, counsel, assistant commissioners, etc.)

## **Selection and Recruitment**

The SBS is in compliance with the following requirement:

The agency provided structured interview training and/or distributed information on the topic, to employees who are involved in employment interviewing. Of 17 managers and supervisors who responded to the EEPC survey question regarding interviewing of job applicants, 15 indicated that they had received some sort of interview training.

The SBS is not in compliance with the following requirement:

1. The EEPC was informed that the agency did not assess its criteria for selecting persons for mid-level to high-level discretionary positions 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 each agency assess its criteria for selecting persons for mid-level to high-level discretionary positions to determine whether there is adverse impact upon any particular racial, ethnic, disability, or gender group, the SBS should conduct an assessment of its selection criteria for discretionary titles. The SBS can use, and may modify, the Disparate Impact Analysis Program (an on-line Internet based application) recommended by DCAS/DCEEEO by accessing: <http://www.hr-software.net/EmploymentStatistics/DisparateImpact.htm>. To the extent that adverse impact is discovered, the agency head 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 SBS is in compliance with the following requirement:

The agency formally appointed a person familiar with civil service and provisional jobs to provide career counseling to employees who request such guidance. An agency-wide memo notifying employees of the name, location, and telephone number of the career counselor and providing a link to the relevant section of the agency's intranet was distributed. The Director of Human Resources, Myrna Mateo, serves as the agency's career counselor.

The SBS is in partial compliance with the following requirements:

1. Although the agency appointed a Career Counselor, 68% of respondents to the EEPC's *Employee Survey* indicated they did not know the name of the person responsible for providing career counseling. Corrective action is required

Recommendation: To ensure that employees know the identity of the agency's Career Counselor, the personnel officer should re-distribute to all employees the identity of, and the type of guidance which is available from, the Career Counselor. This should be done at least once each year. (12/14/ 2006 *Addendum to EEOP Standards and Procedures to Be Utilized By City Agencies (2005)* and Sect. VF, EEOP)

2. Sixty-two percent of respondents to the EEPC's *Employee Survey* indicated that they had received an annual performance evaluation within the past twelve months. However, 65% of respondents to the EEPC's *Supervisor/Manager Interview Questionnaire* indicated that they had not received their managerial performance evaluation within the last 12 months. Upon request, the agency provided documentation that only a fraction of managers (2006:10, 2007:0, 2008:0) received evaluations annually. Subsequently implementation of a new program began for the period of January 1, 2009 to December 31, 2009. Corrective action is required.

Recommendation: Since the *Personnel Rules and Regulations of the City of New York and DCAS* and the *Guidelines for Evaluating Managerial Performance in NYC Agencies* require that managerial and non-managerial employees receive annual performance evaluations the agency should develop a plan, which includes a timetable, to evaluate all employees. (DCAS, Rule 7.5.4(e) of the Personnel Rules and Regulations of the *City of New York*, and DCAS Division of Citywide Personnel Services, *Managerial Performance Evaluation, Guidelines for Evaluating Managerial Performance in NYC Agencies, p. 1*)

The SBS is not in compliance with the following requirement:

The agency's managerial performance evaluation form does not contain a rating for EEO. Corrective action is required.

Recommendation: Since the City's Equal Employment Opportunity Policy holds managers and supervisors accountable for effectively implementing EEO-related policies and ensuring non-discrimination within their departments or units, the agency's managerial performance evaluation form should contain a rating for EEO – which covers responsibilities and processes for assuring that people are appropriately employed, effectively and efficiently utilized, and dealt with in a fair and equitable manner. (EEO, Sect. VE)

### **Supervisory Responsibility in EEO Plan Implementation**

The SBS is not in compliance with the following requirement:

Managers and supervisors were instructed to discuss the agency's EEO policies with their subordinates during normal staff meetings. They were informed via memo (6/18/2008) from the agency head to remind all staff of their EEO responsibilities and the consequences of any violation of the city's EEO Policy. Documentation of these meetings is maintained. However, 51% of respondents to the EEPC's *Employee Survey* indicated that their manager or supervisor had not discussed the agency's commitment to the principles of EEO, and 62% said the agency had not discussed employees' right to file a discrimination complaint with the agency's EEO Officer during staff meetings at least twice within the past year.

Additionally 64% (16 of 26) of supervisors claimed that they had not discussed the agency's commitment to EEO during staff meetings at least twice during the past year, and 80% (21 of 26) indicated that they had not discussed with employees their right to file a discrimination complaint with the agency's EEO Officer during staff meetings at least twice within the past year. Corrective action is required.

Recommendation: At least twice a year during normal staff meetings, managers and supervisors must emphasize their commitment to the agency's EEO policies and affirm the right of each employee to file a discrimination complaint with the EEO office. These meetings must be documented. (DCAS, Model Agency EEO Commitment Memo and EEPC Position)

## **EEO Officer Reporting Arrangement**

The SBS is in compliance with the following requirements:

1. According to the agency's organizational chart, the EEO Officer reports directly to the agency head. The EEO Officer also maintains a close working relationship with the First Deputy Commissioner. Documentation of these meetings was maintained.
2. The EEO Officer meets with EEO professionals periodically to review their work and/or keep them abreast of EEO developments. Ad hoc meetings are held when necessary. Documentation of these meetings was maintained.

## **EEO Officer Responsibilities**

The SBS is in compliance with the following requirement:

The agency has consistently submitted its agency-specific plan, three quarterly reports, and an annual fourth quarter final report to the EEPC for each fiscal year. These reports have been submitted no later than thirty days following each reporting period.

## **SUMMARY OF RECOMMENDED CORRECTIVE ACTIONS**

1. All agency recruitment literature should indicate that the agency and the City of New York is an equal opportunity employer.
2. To ensure that all employees are aware of the Disability Rights Coordinator the agency should re-distribute to all employees in writing the name, location, and telephone number of this person. (Sect. VB and VC, EEOP)
3. All internal discrimination files should include an *Agency Complaint of Discrimination Based on Anonymous/Oral Complaint Form* completed by the complainant or an EEO representative, or a complaint that captures the information required on this form. (DCPIG Sect. 10/12 and Appendix D)
4. Since the EEOP requires that each agency assess its criteria for selecting persons for mid-level to high-level discretionary positions to determine whether there is adverse impact upon any particular racial, ethnic, disability, or gender group, the SBS should conduct an assessment of its selection criteria for discretionary titles. The SBS 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>. To the extent that adverse impact is discovered, the agency head 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. To ensure that employees know the identity of the agency's Career Counselor, the personnel officer should re-distribute to all employees the identity and the type of guidance which is available from the Career Counselor. This should be done at least once each year. (12/14/2006 *Addendum to EEOP Standards and Procedures to Be Utilized By City Agencies (2005)* and Sect. VF, EEOP)
6. Since the *Personnel Rules and Regulations of the City of New York and DCAS* and the *Guidelines for Evaluating Managerial Performance in NYC Agencies* require that managerial and non-managerial employees receive annual performance evaluations the agency should develop a plan, which includes a timetable, **to evaluate all employees**. (DCAS, Rule 7.5.4(e) of the *Personnel Rules and Regulations of the City of New York*, and DCAS Division of Citywide Personnel Services, *Managerial Performance Evaluation, Guidelines for Evaluating Managerial Performance in NYC Agencies*, p. 1)
7. Since the City's Equal Employment Opportunity Policy holds managers and supervisors accountable for effectively implementing EEO-related policies and ensuring non-discrimination within their departments or units, the agency's managerial performance evaluation form should contain a rating for EEO – which covers responsibilities and processes for assuring that people are appropriately employed, effectively and efficiently utilized, and dealt with in a fair and equitable manner. (EEOP, Sect. VE)
8. At least twice a year during normal staff meetings, managers and supervisors must emphasize their commitment to the agency's EEO policies and affirm the right of each employee to file a discrimination complaint with the EEO office. These meetings must be documented. (DCAS, Model Agency EEO Commitment Memo and EEPC Position).

## Conclusion

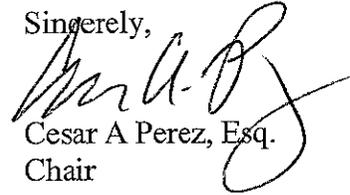
Pursuant to Chapter 36 of the New York City Charter and the previously cited preliminary determinations relating to the EEPC's audit of the SBS's compliance with its Equal Employment Opportunity Policy, and EEO standards expressed in the Citywide EEO Policy, we respectfully request your response to the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

Your response should indicate what corrective actions your office will take to bring the agency into 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', written over the typed name.

Cesar A Perez, Esq.  
Chair

cc: EEO Officer, Nancy Gannie

APPENDIX - 1

Department of Small Business Services

EMPLOYEE SURVEY RESULTS

Employees = 257

Survey Respondents = 113 44%

**A. GENERAL OVERVIEW**

1. Equal Employment Opportunity (EEO) guarantees the right of all persons to be accorded full and equal consideration on the basis of merit, regardless of protected group status. Do you agree with this principle?  
Yes (103) No (7)
2. Do you know who your agency's EEO Officer is?  
Yes (92) No (20)
3. Is the City's EEO Policy posted on your agency's bulletin boards or kept in an area otherwise accessible to employees?  
Yes (95) No (16)
4. Were you given a copy of the EEO Policy Handbook - About EEO: What You Need to Know?  
Yes (89) No (22)
5. Do you believe your agency practices equal opportunity (i.e. ensures fairness in all aspects of employment including hiring, selection, promotions, etc.)?  
Yes (55) No (55)

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6. Has your manager or supervisor discussed the agency's commitment to the principle of Equal Employment Opportunity during staff meetings at least twice within the past year?  
Yes (27) No (57) Do not remember (27)
7. Has your manager or supervisor discussed employees' right to file a discrimination complaint with the agency's EEO Officer during staff meetings at least twice within the past year?  
Yes (18) No (71) Do not remember (20)
8. When hired, were you advised of the City's EEO policies, and of your rights and responsibilities under such policies?  
Yes (72) No (15) Do not remember (24)

**B. EEO COMPLAINTS**

9. Do you know how to file an EEO complaint?  
Yes (73) No (39)
10. If you had an EEO complaint, would you bring it to your agency's EEO Office?  
Yes (57) No (28) Undecided (27)
11. Would you prefer to file an EEO complaint with an office outside your agency rather than your agency's EEO Office?  
Yes (64) No (28) Undecided (20)
12. During the past 3 years, did you file a complaint with your agency's EEO Office?  
Yes (7) No (105)

13. Was your manager or supervisor supportive of your right to file a complaint?  
Yes (5) No (5) Not Applicable (101)

**C. EEO TRAINING**

14. During the past 2 years, did you receive EEO training?  
Yes (58) No (54)
15. How informative was this training?  
Very informative (31) Somewhat informative (22)  
Not really informative (4) Not Applicable (53)

**SURVEY RESULTS CONTINUED**

**D. JOB PERFORMANCE/ADVANCEMENT**

16. Does your agency use training and development programs in order to improve job performance and/or career opportunities?  
Yes (82)                      No (19)                      I do not know (11)
17. Were vacant positions advertised on bulletin boards or other areas accessible to employees in a timely manner?  
Yes (85)                      No (15)                      Do not remember (12)
18. The Personnel Rules and Regulations of the City of New York and the Guidelines for Evaluating Managerial Performance in NYC Agencies require that all employees (managerial and non-managerial) receive at least one performance evaluation a year. Have you received annual performance evaluations within the past 2 years?  
Yes (74)                      No (23)                      Employed for less than 12 mos (11)
19. Did your evaluation contain recommendations for improving your job performance?  
Yes (64)                      No (10)                      Not Applicable (0)
20. Did your evaluation contain recommendations for career advancement with your agency?  
Yes (38)                      No (41)                      Not Applicable (0)
21. Do you know the name of the person in your agency that is responsible for providing career counseling?  
Yes (33)                      No (77)
- 

**E. SPECIFIC PROTECTIONS**

22. Do you know who your agency's Disability Rights Coordinator is?  
Yes (30)                      No (81)
23. The City's EEO Policy requires that agencies take appropriate action to reasonably accommodate qualified employees and applicants with disabilities, and those who are victims of domestic violence, sex offenses, or stalking, to enable them to perform their jobs or enjoy equal benefits and privileges of employment. It also requires agencies to provide reasonable accommodations for the religious observances, beliefs and practices of an employee or applicant. During the past 3 years, did you ask for a reasonable accommodation due to any of the above?  
Yes (11)                      No (101)
24. Was your accommodation granted?  
Yes (11)                      No (53)

**OPTIONAL INFORMATION**

25. Race/Ethnicity
- |                                      |                                     |
|--------------------------------------|-------------------------------------|
| Asian or Pacific Islander (0)        | Hispanic (16)                       |
| American Indian or Alaska Native (0) | White (not of Hispanic origin) (32) |
| Black (not of Hispanic origin) (28)  | Other (9)                           |
26. Gender
- |           |             |
|-----------|-------------|
| Male (44) | Female (58) |
|-----------|-------------|

## Department of Small Business Services

## SUPERVISOR/MANAGER QUESTIONNAIRE RESULTS

Total Supervisors = 37 Completed Questionnaire = 26 (70%)

1. Which of the following are you?  
Supervisor (7)                      Manager (19)
2. How many employees are under your supervision?  
Less than 5 (5)                      11 - 20 (6)  
6 - 10 (9)                      21 or more (6)
3. How long have you worked for this agency?  
3yrs or less (10)                      Over 3 yrs (16)
4. Each agency head may distribute a statement in support of Equal Employment Opportunity to all employees. Have you received a copy of your agency's EEO Policy Statement?  
Yes (22)                      No (4)                      Do not remember (0)
5. In your agency, where can the City's EEO Policy be found?  
In the EEO Office (19)                      In my office (0)  
In the HR/Personnel Office (0)                      I do not know (0)  
On the Intranet (6)
6. Of the choices indicated, which is most easily accessible to you?  
The EEO Office (4)                      Your Office (1)  
The HR/Personnel Office (1)                      Not applicable (0)  
The Intranet (19)
7. Is the Discrimination Complaint Procedure included with the EEO Policy?  
Yes (20)                      No (1)                      Do not know (5)
8. Do you know the name of your agency's EEO Officer?  
Yes (26)                      No (0)                      Do not know (0)
9. Did the EEO Officer meet with you to discuss your EEO rights as an employee?  
Yes (12)                      No (13)
10. Did the EEO Officer meet with you to discuss your EEO responsibilities as a supervisor or manager?  
Yes (12)                      No (14)
11. Did you complete the Department of Administrative Services' (DCAS) Division of Citywide EEO Computer based Training?  
Yes (9)                      No (17)
12. In your role as a supervisor/manager, have you discussed the agency's commitment to the principle of Equal Employment Opportunity during staff meetings at least twice within the past year?  
Yes (9)                      No (16)
13. In your role as a supervisor/manager, have you discussed with employees their right to file a discrimination complaint with the agency's EEO Officer during staff meetings at least twice within the past year?  
Yes (5)                      No (21)
14. Did you receive sexual harassment prevention training from your agency?  
Yes (18)                      No (8)
15. Please indicate when the training was done.  
Within the past 2 years (18)                      over 2 years ago (0)
16. Did all of the employees that you supervise receive sexual harassment prevention training?  
Yes (6)                      No (7)                      Do not know (13)

**SUPERVISOR/MANAGER QUESTIONNAIRE CONTINUED**

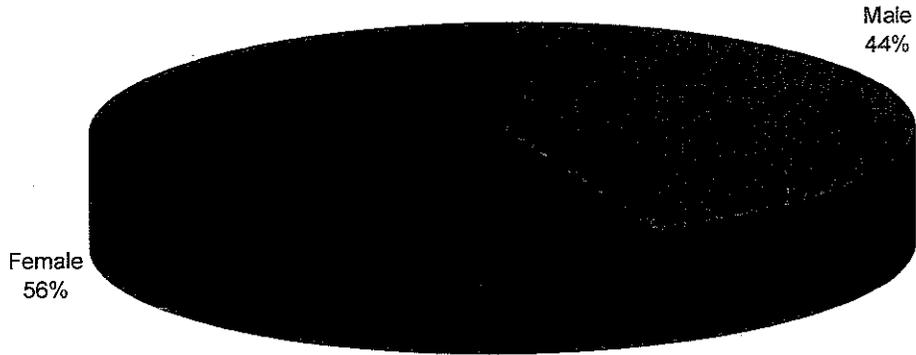
17. When you were hired, did you receive an orientation session that included a review of the City's EEO Policy?  
Yes (18)                      No (2)                      Do not remember (6)
18. Do you participate in orientation sessions for new employees?  
Yes (8)                      No (18)
19. Do new employee orientation sessions include information on the City's EEO Policy?  
Yes (15)                      No (0)                      Do not know (11)
20. Do you interview candidates for positions in your agency?  
Yes (23)                      No (3)
21. If you are involved in interviewing job applicants, did your agency provide you with training and/or a guide that outlines illegal or discriminatory questions and includes instructions for conducting a structured interview?  
Training (2)                      Both training and guide (3)  
Guide (11)                      I do not interview applicants (2)
22. When was your last performance evaluation?  
Within the past year (16)                      Over a year ago (9)
23. Were you informed that fulfillment of your EEO responsibilities will be part of your overall performance evaluation and will be considered in determining your eligibility for promotions and merit increases?  
Yes (6)                      No (18)                      Not applicable (2)
24. Does your performance evaluation include an EEO component? (A section that rates your ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner.)  
Yes (6)                      No (19)                      I do not receive performance evaluations (0)
25. Do you conduct formal evaluations of the employees under your supervision annually?  
Yes (25)                      No (1)
26. Do you believe the agency has provided sufficient training to supervisors/managers on their responsibilities in assisting employees who may complain about discrimination or harassment?  
Yes (16)                      No (10)

**OPTIONAL INFORMATION**

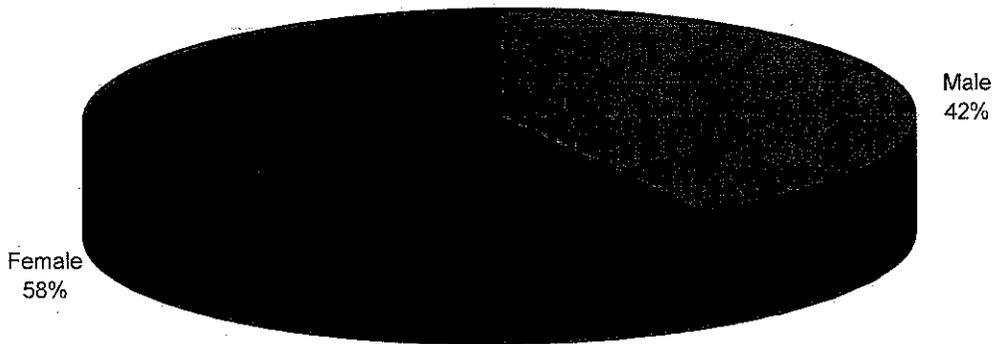
27. Race/Ethnicity  
Asian or Pacific Islander (0)                      Hispanic (1)  
American Indian or Alaskan Native (0)                      White (12)  
Black (6)                      Other (1)
28. Gender  
Male (11)                      Female (12)

# Appendix - 3

## Department of Small Business Services Workforce by Gender



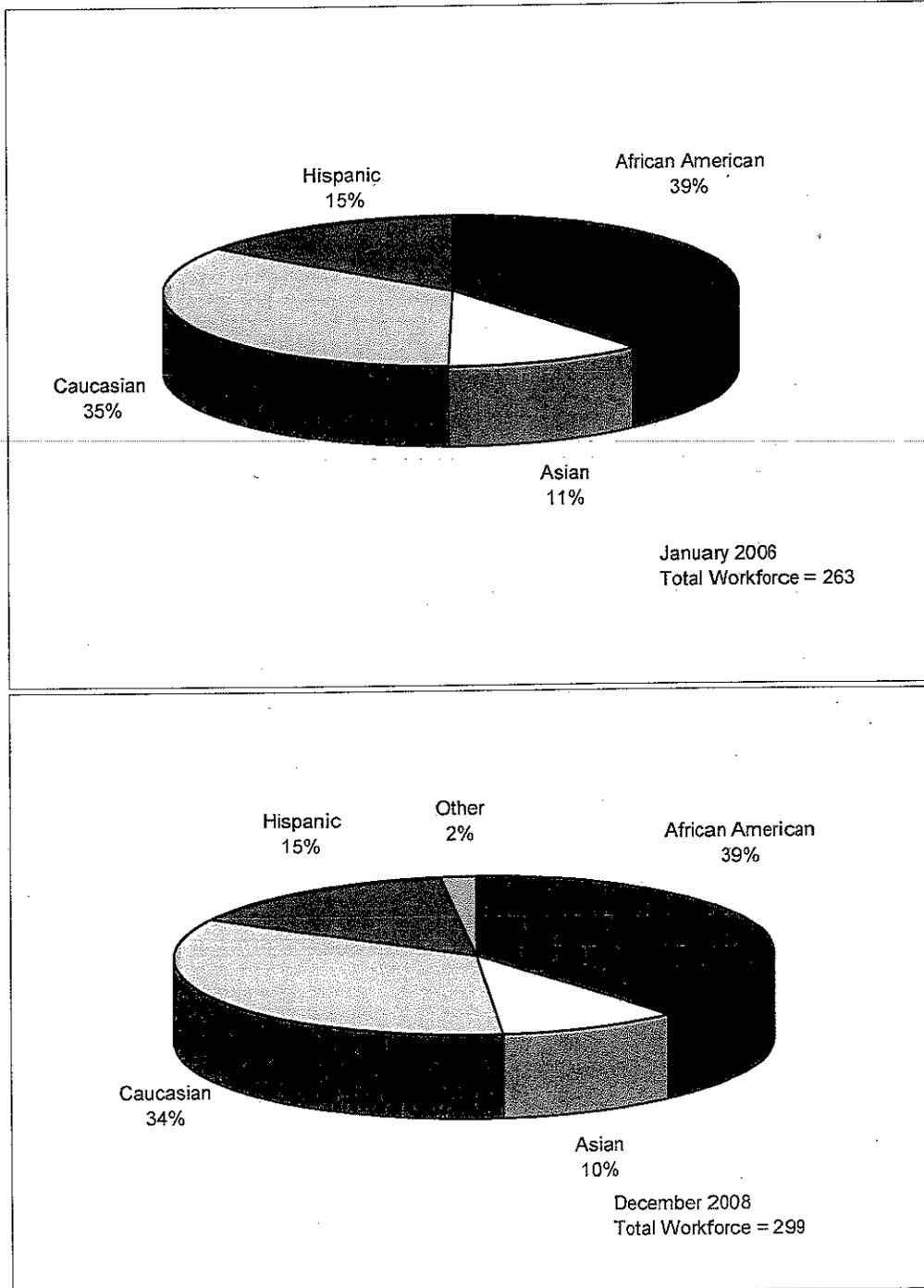
January 2006  
Total Workforce = 158



December 2008  
Total Workforce = 257

# Appendix - 4

## Department of Small Business Services Workforce by Ethnicity



## APPENDIX – 5

The following table indicates personnel activity during the audit period, January 1, 2006 to December 31, 2008

### Department of Small Business Services

#### Hires by Sex and Ethnicity

Total Hires: 52

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Other	Total
16	36	52	21	11	5	5	10	52

#### Promotions by Sex and Ethnicity

Total Promotions: 92

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Other	Total
36	56	92	41	20	19	12	0	92

#### Separations by Sex and Ethnicity

Total Separations: 6

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Other	Total
4	2	6	4	2	0	0	0	6

Source: Audit data supplied by SBS

NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES  
 OMIS CITYWIDE PERSONNEL PRODUCTION SYSTEMS  
 PERSONNEL REPORTING AND INFORMATION SYSTEM FOR EMPLOYEES (PRISE)  
 WORKFORCE SUMMARY AS OF DECEMBER 31, 2006

DEPARTMENT OF SMALL BUSINESS SERVICES (801)

JOB GRP	MALE							FEMALE							TOTAL
	WHITE	BLACK	HSPN	ASIAN	NATIVE AMER	UKWN	WHITE	BLACK	HSPN	ASIAN	NATIVE AMER	UKWN	OTHR		
001	6	0	0	0	0	0	0	0	0	1	0	0	0	7	
002	13	9	2	3	0	0	18	9	2	5	0	0	0	61	
003	13	24	7	3	0	0	17	24	8	7	0	0	0	103	
004	2	0	0	0	0	0	0	0	0	0	0	0	0	2	
008	1	1	1	0	0	0	0	0	0	0	0	0	0	3	
009	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
010	1	0	1	0	0	0	0	0	0	0	0	0	0	2	
012	3	1	2	3	0	0	6	22	6	4	0	1	0	48	
013	2	1	2	0	0	0	1	7	2	1	0	0	0	16	
031	4	3	2	2	0	1	3	1	4	4	0	0	0	20	
<b>TOTAL</b>	<b>46</b>	<b>39</b>	<b>17</b>	<b>11</b>	<b>0</b>	<b>0</b>	<b>45</b>	<b>63</b>	<b>22</b>	<b>18</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>263</b>	
<b>%TAGE</b>	<b>17%</b>	<b>15%</b>	<b>6%</b>	<b>4%</b>	<b>0%</b>	<b>0%</b>	<b>17%</b>	<b>24%</b>	<b>8%</b>	<b>7%</b>	<b>0%</b>	<b>0%</b>	<b>0%</b>	<b>100%</b>	

DEPARTMENT OF SMALL BUSINESS SERVICES (801)

JOB GRP	FEMALE										TOTAL			
	MALE					FEMALE								
	WHITE	BLACK	HSPN	ASIAN	NATIVE AMER	UKWN	WHITE	BLACK	HSPN	ASIAN	NATIVE AMER	UKWN	OTHR	TOTAL
001	6	1	0	0	0	0	0	0	0	0	0	0	0	7
002	16	7	2	3	0	1	24	7	4	6	0	4	0	74
003	12	22	5	4	0	1	20	24	10	5	0	0	1	104
004	2	0	0	0	0	0	0	0	0	0	0	0	0	2
008	1	1	1	0	0	0	0	0	0	0	0	0	0	3
010	0	0	1	0	0	0	0	1	0	0	0	0	0	2
012	5	2	2	2	0	1	8	21	7	5	0	1	0	54
013	0	1	1	0	0	0	1	7	2	1	0	0	0	13
031	4	3	3	2	0	1	4	1	1	0	0	2	0	21
<b>TOTAL</b>	<b>46</b>	<b>37</b>	<b>15</b>	<b>11</b>	<b>0</b>	<b>4</b>	<b>57</b>	<b>61</b>	<b>24</b>	<b>17</b>	<b>0</b>	<b>7</b>	<b>1</b>	<b>280</b>
<b>%TAGE</b>	<b>16%</b>	<b>13%</b>	<b>5%</b>	<b>4%</b>	<b>0%</b>	<b>1%</b>	<b>20%</b>	<b>22%</b>	<b>9%</b>	<b>6%</b>	<b>0%</b>	<b>3%</b>	<b>0%</b>	<b>100%</b>

DEPARTMENT OF SMALL BUSINESS SERVICES (801)

JOB GRP	FEMALE										TOTAL			
	MALE					FEMALE								
	WHITE	BLACK	HSPN	ASIAN	NATIVE AMER	UKWN	WHITE	BLACK	HSPN	ASIAN	NATIVE AMER	UKWN	OTHR	TOTAL
001	4	1	0	0	0	0	1	0	1	1	0	0	0	8
002	17	11	3	3	0	1	29	13	6	3	0	3	0	89
003	13	25	4	4	0	0	15	24	10	7	0	0	0	102
004	2	0	0	1	0	0	0	0	0	0	0	0	0	3
008	1	1	1	0	0	0	0	0	0	0	0	0	0	3
010	0	0	1	0	0	0	0	1	0	0	0	0	0	2
012	2	3	2	2	0	1	11	23	9	6	0	0	0	59
013	0	1	1	0	0	0	1	6	2	1	0	0	0	12
031	6	3	3	1	0	0	1	4	2	0	0	1	0	21
<b>TOTAL</b>	<b>45</b>	<b>45</b>	<b>15</b>	<b>11</b>	<b>0</b>	<b>2</b>	<b>58</b>	<b>71</b>	<b>30</b>	<b>18</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>299</b>
<b>%TAGE</b>	<b>15%</b>	<b>15%</b>	<b>5%</b>	<b>4%</b>	<b>0%</b>	<b>1%</b>	<b>19%</b>	<b>24%</b>	<b>10%</b>	<b>6%</b>	<b>0%</b>	<b>1%</b>	<b>0%</b>	<b>100%</b>



Robert W. Waish  
Commissioner

110 William Street  
New York, NY 10038

212-513-6300 tel  
212-618-8865 fax

September 20, 2010

10398

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

Dear Mr. May:

I am writing in response to the preliminary determination of the Equal Employment Practices Commission (EEPC) pursuant to its audit of the Department of Small Business Services' (SBS) compliance with the City's Equal Employment Opportunity (EEO) Policy.

As we discussed in the audit exit conference, SBS is committed to compliance with Equal Employment Opportunity policy. SBS works hard to ensure that all agency employees are treated with respect and provided opportunities for career development and advancement. The agency constantly looks for ways to recognize employees for their work through establishment of an agency awards program and participation in various City-wide award programs and those sponsored by outside organizations. For example, agency staff members have received an award from the 100 Year Association in each of the last eight years and employees have regularly been selected to participate in CORO's Leadership New York and the Leadership Institute administered by the Department of Citywide Administrative Services.

I am pleased that your preliminary report summarized and highlighted many of the activities we have undertaken to train and inform employees of EEO policies and how much of the material has been made readily available to all staff through our intra-agency website known as the SBS Work Organization & Management Tool (WOMT). As stated, we would be willing to share this system with other agencies.

Detailed below are the agency's responses to recommendations contained in your preliminary report.

1. **Recommendation:** All agency recruitment literature should indicate that the agency and the City of New York is an equal opportunity employer.

**SBS response:** SBS has at various times advertised and posted employment openings, which included the Equal Opportunity tagline in the following format: *“Equal Opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. The City of New York and NYC SBS is an equal opportunity employer”*. SBS understands the EEPC finding and will make the necessary change. SBS’ EEO tagline now reads as follows: *“The Department of Small Business Services and the City of New York is an equal opportunity employer. Auxiliary aids and services are available upon request to individuals with disabilities”*. We will ensure that all recruitment literature carry this information

2. **Recommendation:** To ensure that all employees are aware of the Disability Rights Coordinator, the agency should re-distribute to all employees in writing the name, location, and telephone number of this person

**SBS Response:** SBS agrees with the EEPC recommendation and will send out an email notice to all employees with information on the Disability Rights Coordinator (DRC). The email will also provide a link to the site on the agency’s Work Organization & Management Tool (WOMT) identifying the Disability Rights Coordinator. SBS will display a profile of the DRC on WOMT. This profile will include name, location, telephone number, photo and a description of the DRC’s responsibilities. A hyperlink will be provided to direct staff to all disability related policies and procedures. In addition the new hire orientation package now includes the above mentioned information regarding the DRC and all new employees must sign an acknowledgement form that they have received this information.

3. **Recommendation:** All internal discrimination complaint files should include an “Agency Complaint of Discrimination Based on Anonymous/Oral Complaint Form” completed by the complainant or EEO representative, or a complaint that captures the information required on this form.

**SBS Response:** As indicated in the EEPC preliminary report, one file, of the three reviewed, did not contain the form. SBS agrees with the EEPC recommendation and will ensure that all internal complaint files contain the form or an appropriate form that captures the information required.

4. **Recommendation:** Since the EEOP requires that each agency assess its criteria for selecting persons for mid-level to high-level discretionary positions to determine whether there is adverse impact upon any particular racial, ethnic, disability or gender group, the SBS should conduct an assessment of its selection criteria for discretionary titles. The SBS can use, and may modify, the Disparity Impact Analysis Program (an on-line Internet based application) recommended by DCAS/DCEEO by accessing: <http://www.hr-software.net/EmploymentStatistics/DisparateImpact.htm>. To the extent that adverse impact is discovered, the agency head should determine whether the criteria being utilized are job-related. If the criteria are not job-related, the agency should discontinue using those criteria.

**SBS Response:** SBS accepts the EEPC recommendation to conduct a disparate impact study of its selection criteria for discretionary positions. SBS has contacted DCAS for

technical assistance and training in the use of the Disparity Impact Analysis Program and DCAS has agreed to provide customized training to the appropriate SBS staff.

5. **Recommendation:** To ensure that employees know the identity of the agency's Career Counselor, the personnel officer should re-distribute to all employees the identity and the type of guidance which is available from the Career Counselor. This should be done at least once each year.

**SBS Response:** SBS agrees with the recommendation of the EEPC and will send an email to all staff identifying the Career Counselor and information available with a link to WOMT. SBS will display a profile of the Career Counselor on WOMT. This profile will include name, location, telephone number, photo and a description of the Career Counselor's responsibilities. A hyperlink will be provided to direct staff to all Citywide/Civil Service related policies and procedures. In addition, the new hire orientation package now includes the above mentioned information regarding the Career Counselor and all new employees must sign an acknowledgement form.

6. **Recommendation:** Since the Personnel Rules and Regulations of the City of New York and DCAS and the Guidelines for Evaluating Managerial Performance in NYC Agencies require that managerial and non-managerial employees receive annual performance evaluations the agency should develop a plan, which includes a timetable, to evaluate all employees.

**SBS Response:** In accordance with the Personnel Rules and Regulations of the City of New York and the Guidelines for Evaluating Managerial Performance in NYC Agencies, SBS will ensure that managerial and non-managerial employees receive performance evaluations on an annual basis, commencing January 2011. The program will be monitored by the agency's Human Resources Unit. The program provides for evaluations on a calendar year basis with tasks and standards developed at the beginning of the year and evaluations conducted at the end of the year. Human Resources also suggests mid-year check in evaluations be done by supervisors with their employees.

7. **Recommendation:** Since the City's Equal Employment Opportunity Policy holds managers and supervisors accountable for effectively implementing EEO-related policies and ensuring non-discrimination within their departments or units, the agency's managerial performance evaluation form should contain a rating for EEO – which covers responsibilities and processes for assuring that people are appropriately employed, effectively and efficiently utilized and dealt with in a fair and equitable manner.

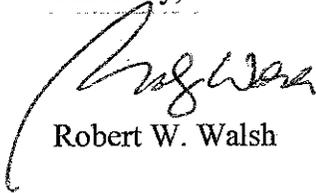
**SBS Response:** SBS accepts EEPC's recommendation to review managers and supervisors performance in effectively implementing EEO-related policies and ensuring non-discrimination within their departments or units. In accordance with the EEOP, Section V(E), the managerial performance evaluation will be modified to contain a rating for EEO – which covers responsibilities and processes for assuring that people are appropriately employed, effectively and efficiently utilized, and dealt with in a fair and equitable manner.

8. **Recommendation:** At least twice a year during normal staff meetings, managers and supervisors must emphasize their commitment to the agency's EEO policies and affirm the right of each employee to file a discrimination complaint with the EEO office. These meetings must be documented.

**SBS Response:** SBS will inform all senior managers on a bi-annual basis, to meet with staff and re-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. SBS will require that attendance sheets of these meetings be forwarded to the EEO office.

My staff and I look forward to continue working with you to resolve any remaining matters. We appreciate the courtesy and cooperation that you and your audit team have displayed throughout this process. Should you require any additional information or have any questions, please contact me, First Deputy Commissioner Andrew Schwartz, or SBS EEO Officer Nancy Gannie.

Sincerely,



Robert W. Walsh



## EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

40 Rector Street, 14<sup>th</sup> Floor, New York, New York 10006

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

Cesar A. Perez, Esq.  
*Chair*  
Angela Cabrera  
Malini Cadambi Daniel  
Elaine S. Reiss, Esq.  
Arva A. Rice  
*Commissioners*

Abraham May, Jr.  
*Executive Director*  
Charise Hendricks, PHR  
*Deputy Director*  
Judith Garcia Quiñonez  
*Counsel*

September 30, 2010

Robert Walsh  
*Commissioner*

Department Small Business Services  
110 Williams Street  
New York, NY 10038

Re: Final Determination Pursuant to the Audit of the Department Small Business Services (SBS) and its Compliance with the City's Equal Employment Opportunity Policy from January 1, 2006 through December 31, 2008.

Dear Commissioner Walsh:

Thank you for your September 20<sup>th</sup> response to our August 6<sup>th</sup> 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 EEPIC recommendations, pending documentation that can be attached to your reply or provided during the compliance period:

#### Recommendation #1

All agency recruitment literature should indicate that the agency and the City of New York is an equal opportunity employer. (Sect. IV, EEOP)

#### Recommendation #2

To ensure that all employees are aware of the Disability Rights Coordinator, the agency should re-distribute to all employees in writing the name, location, and telephone number of this person. (Sect. VB, EEOP)

#### Recommendation #3

All internal discrimination complaint files should include an *Agency Complaint of Discrimination Based on Anonymous/Oral Complaint Form* completed by the complainant or an EEO representative, or a complaint that captures the information required on this form. (DCPIG Sect. 10/12 and Appendix D)

#### Recommendation #4

Since the EEOP requires that each agency assess its criteria for selecting persons for mid-level to high-level discretionary positions to determine whether there is adverse impact upon any particular racial, ethnic, disability, or gender group, the SBS should conduct an assessment of its selection criteria for discretionary titles. The SBS can use, and may modify, the Disparate Impact Analysis Program (an on-line Internet based application) recommended by DCAS/DCEEEO by accessing: <http://www.hr-software.net/EmploymentStatistics/DisparateImpact.htm>. To the extent that adverse impact is discovered, the agency head 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)

#### Recommendation #5

To ensure that employees know the identity of the agency's Career Counselor, the personnel officer should re-distribute to all employees the identity of, and the type of guidance which is available from, the Career Counselor. This should be done at least once each year. (12/14/ 2006 Addendum to *EEOP Standards and Procedures to Be Utilized By City Agencies (2005)*) and Sect. VF, EEOP)

#### Recommendation #7

Since the City's Equal Employment Opportunity Policy holds managers and supervisors accountable for effectively implementing EEO-related policies and ensuring non-discrimination within their departments or units, the agency's managerial performance evaluation form should contain a rating for EEO – which covers responsibilities and processes for assuring that people are appropriately employed, effectively and efficiently utilized, and dealt with in a fair and equitable manner. (EEOP, Sect. VE)

### **Requires Clarification**

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

#### Recommendation #8

At least twice a year during normal staff meetings, managers and supervisors must emphasize their commitment to the agency's EEO policies and affirm the right of each employee to file a

discrimination complaint with the EEO office. These meetings must be documented. (DCAS, Model Agency EEO Commitment Memo and EEPC Position)

Your Response

SBS will inform all senior managers on a bi-annual basis, to meet with staff and re-emphasize their commitment to the agency's EEO polices and affirm the right of each employee to file a discrimination complaint with the EEO office. SBS will require that attendance sheets of these meetings be forwarded to the EEO office.

EEPC Rationale

Your response indicates that the SBS will inform senior managers on a *bi-annual basis*, to meet with staff and re-emphasize their commitment to the agency's EEO polices and affirm the right of each employee to file a discrimination complaint with the EEO office. Our recommendation states that supervisors and managers should implement this practice twice a year; a *semi-annual basis*. Please clarify.

**Disagree**

---

For the following reasons, hereafter identified as EEPC rationale, we respectfully disagree with your response to the following EEPC recommendations:

Recommendation #6

Since the *Personnel Rules and Regulations of the City of New York and DCAS* and the *Guidelines for Evaluating Managerial Performance in NYC Agencies* require that managerial and non-managerial employees receive annual performance evaluations the agency should develop a plan, which includes a timetable, to evaluate all employees. (DCAS, Rule 7.5.4(e) of the *Personnel Rules and Regulations of the City of New York*, and the DCAS Division of Citywide Personnel Services, *Managerial Performance Evaluation, Guidelines for Evaluating Managerial Performance in NYC Agencies*, p. 1)

Your Response

In accordance with the Personnel Rules and Regulations of the City of New York and the Guidelines for Evaluating Managerial Performance in NYC Agencies, SBS will ensure that managerial and non-managerial employees receive performance evaluations on an annual basis, commencing on January 2011. The program will be monitored by the agency's Human Resources Unit. The program provides for evaluations on a calendar year basis with tasks and standards developed at the beginning of the year and evaluations conducted at the end of the year. Human Resources also suggests mid-year check in evaluations be done by supervisors with their employees.

EEPC Rationale

The EEPC is particularly concerned with performance evaluations for supervisors and managers since this group did not received annual performance evaluations consistently. During the audit, the SBS indicated that it had implemented a new evaluation program for the period from January 1, 2009 to December 31, 2009. Was this new evaluation program implemented? The EEPC would like information on how your agency has implemented this new program and how the program ensures annual evaluations for managers/supervisors.

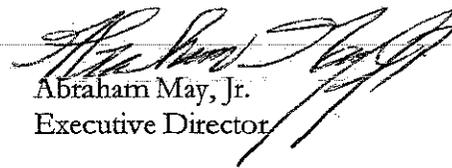
## Conclusion

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: Judith Garcia Quiñonez, Esq.  
Nancy Gannie, EEO Officer



Robert W. Walsh  
Commissioner

110 William Street  
New York, NY 10038

212-513-6300 tel  
212-618-8865 fax

10364

November 15, 2010

Mr. Abraham May, Jr.  
Executive Director  
Equal Employment Practice Commission  
40 Rector Street, 14<sup>th</sup> Floor  
New York, New York 10006

Dear Mr. May:

I am writing in response to the Equal Employment Practices Commission's (EEPC) Final Determination Pursuant to the Audit of the Department of Small Business Services (SBS) and its Compliance with the City's Equal Employment Opportunity Policy from January 1, 2006 through December 31, 2008. SBS previously responded to your Preliminary Determination and you have indicated that our response to Recommendations #6 and #8 require further clarification. We are pleased to provide the revisions below:

**EEPC Recommendation #6**

Since the *Personnel Rules and Regulations of the City of New York* and DCAS and the *Guidelines for Evaluating Managerial Performance in NYC Agencies* require that managerial and non-managerial employees receive annual performance evaluations the agency should develop a plan, which includes a timetable, to evaluate all employees. (DCAS, Rule 7.5.4(e) of the *Personnel Rules and Regulations of the City of New York*, and the DCAS Division of Citywide Personnel Services, Managerial Performance Evaluation, *Guidelines for Evaluating Managerial Performance in NYC Agencies*, p.1)

**EEPC Rationale:**

The EEPC is particularly concerned with performance evaluations for supervisors and managers since this group did not received annual performance evaluations consistently. During the audit, the SBS indicated that it had implemented a new evaluation program for the period from January 1, 2009 to December 31, 2009. Was this new evaluation program implemented? The EEPC would like information on how your agency has implemented this new program and how the program ensures annual evaluations for managers/supervisors.

**SBS revised response:**

SBS would like to clarify that in 2009, we reinforced the existing evaluation program in accordance with the *Personnel Rules and Regulations of the City of New York* and *DCAS* and the *Guidelines for Evaluating Managerial Performance in NYC Agencies*. SBS will continue to ensure that managerial and non-managerial employees receive performance evaluations on an annual basis, commencing January, 2011. On November 25, 2008, the SBS Human Resources (HR) Unit provided Performance Evaluation training to managers and supervisors. Consistent with *Personnel and Rules and Regulations of the City of New York and DCAS* and the *Guidelines for Evaluating Managerial Performance in NYC Agencies*, the SBS program requires that Managers and Supervisors:

- Meet with their employees to discuss 2010 Evaluations and 2011 Expectations during January 2011.
- Submit signed forms to HR by February, 2011
- Conduct mid-year reviews with employees during July, 2011
- Conduct year-end reviews with employees during December, 2011

In addition, a 5-Step Guide to conducting a successful mid-year review was developed to help managers navigate through the mid-year review process. Additional resources that are available via the Work Organization Management Tool (WOMT) include Professional Development Courses/Resources and a Job Skills Assessment tool that aids managers in determining the most critical skills for a task.

**EEPC Recommendation #8:**

At least twice a year during normal staff meetings, managers and supervisors must emphasize their commitment to the agency's EEO policies and affirm the right of each employee to file discrimination complaint with the EEO office. SBS will require that attendance sheets of these meetings be forwarded to the EEO office. These meetings must be documented. (DCAS Model Agency EEO Commitment Memo and EEPC Position)

**EEPC Rationale:**

Your response indicates that the SBS will inform senior managers on a *bi-annual basis*, to meet with staff and re-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. Our recommendation states that supervisors and managers should implement this practice twice a year; *a semi-annual basis*. Please clarify.

**SBS revised response:**

At least twice a year during normal staff meeting, managers and supervisors must emphasize their commitment to the agency's EEO policies and affirm the right of each employee to file discrimination complaint with the EEO office. SBS will require that attendance sheets of these meetings be forwarded to the EEO office.

Thank you for your courtesy during the audit process. Should you require additional information, please do not hesitate to contact me or SBS' EEO Officer, Ms. Nancy Gannie at 212-618-8727 or [ngannie@sbs.nyc.gov](mailto:ngannie@sbs.nyc.gov)

Sincerely,



Robert W. Walsh

c. A. Schwartz  
N. Gannie

---