

TAXI AND LIMOUSINE COMMISSION

- Letter of Preliminary Determination June 25, 2010
 - Agency Response August 3, 2010
 - Letter of Final Determination August 18, 2010
 - Agency Response September 1, 2010
-



EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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

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

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

June 25, 2010

Mr. David Yassky
Commissioner
Taxi & Limousine Commission
40 Rector Street, 5th Floor
New York, NY 10006

Re: Resolution #10/07-156 Preliminary Determination Pursuant to the Audit of the Taxi & Limousine Commission (TLC) and its Compliance with the City's Equal Employment Opportunity Policy from January 1, 2006 through December 31, 2008.

Dear Commissioner Yassky:

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 Taxi & Limousine Commission (TLC) 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 TLC 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 Taxi & Limousine Commission should incorporate these recommendations in its agency-specific EEO Plan. The relevant sections of the City’s EEO Policy are cited in parenthesis at the end of each recommendation. In addition, this Commission is empowered by Section 831 of the City Charter to recommend all necessary and appropriate actions to ensure fair and effective affirmative employment plans for minority group members and women.

The purpose of this audit is to evaluate the agency’s compliance with the EEOP, not to issue findings of discrimination pursuant to the New York City Human Rights Law.

Scope and Methodology

Audit methodology included analysis of the TLC’s responses to an EEPC Document and Information Request Form, agency specific plan and quarterly reports. Typically, the EEPC staff would analyze Citywide Equal Employment Database System (CEEDS) data prepared by the Department of Citywide Administrative Services (DCAS) 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.

EEPC auditors also sent electronic interview questionnaires to the TLC’s EEO Officer/Disability Rights Coordinator/Section 55-A program coordinator/Human Resources Director, three EEO Counselors, Career Counselor, EEO Trainer, and Agency Counsel. EEPC auditors also conducted an on-site, in-depth interview with the agency’s EEO Officer to discuss preliminary findings and outstanding issues and for feedback on the audit process.

In addition, employees were asked to participate in the EEPC's Employee Survey and managers/ supervisors were asked to participate in the EEPC's Supervisor/Manager Survey. The EEPC Employee Survey was distributed to 645 TLC employees; 114 (18%) responded. The Supervisor/Managers Survey was distributed to 97 TLC supervisors/managers; thirty-one (32%) responded. Survey findings are attached (Appendix 5).

Description of the Agency

The Taxi & Limousine Commission (TLC), created in 1971 by Local Law No. 12, is a Charter-mandated agency whose purpose of which is the continuance, further development and improvement of taxi and for-hire vehicle service in the City of New York. The Commission is also responsible for licensing and regulating for-hire vehicle, commuter van and wheelchair-accessible van services as it relates to the overall public transportation network of the city; to establish taxicab rates for all regulated industries, standards of service, standards of insurance and minimum coverage; standards for driver safety; standards for equipment safety and designs, and standards and criteria for the licensing of vehicles, drivers, and operators engaged in such services.

The Taxi & Limousine Commission shall consist of eight members (seven unsalaried) to be appointed by the Mayor with the advice and consent of the city council; five of said members, one resident from each of the five boroughs of New York City, shall be recommended for appointment by a majority vote of the council members of each respective borough.

Personnel Activity During the Audit Period

According to data provided by the TLC, during the audit period, 177 people were hired: 68 Caucasians, 63 African Americans, 26 Hispanics, 16 Asians, and 4 others. Of the individuals hired, 77 were female. Ninety-three individuals were promoted during the audit period: 35 Caucasians, 30 African Americans, 21 Hispanics, and 7 Asians. Of the employees promoted, 42 were female. (Appendix 4)

The TLC reports that 147 employees were involuntarily separated during the audit period: 47 Caucasians, 60 African Americans, 32 Hispanics, 7 Asians and 1 other. Of the employees separated, 60 were female. (Appendix 4)

Between January 1, 2006 and December 31, 2008, the total number of employees decreased from 485 to 483. The number of Caucasians employees decreased from 188 to 181, African-American employees increased from 156 to 157, Hispanics decreased from 106 to 103, Asians increased from 32 to 37, and the number of employees that were unknown increased from 1 to 3. Female employees increased from 195 to 198. (Appendices 2 and 3)

Discrimination Complaint Activity During the Audit Period

During the period in review, 4 internal discrimination complaints were filed. The complaints were based on sexual harassment, retaliation, age, gender, and disability. The EEO

Officer completed and issued reports for all of the complaints. Of the four complaints, one received a probable cause determination. The other three received no probable cause determinations. Thirteen external complaints were filed against the TLC during the audit period: 12 with the State Division on Human Rights and 1 with the Equal Employment Opportunity Commission. The complaints were based on retaliation, race, age, gender, disability, and sexual harassment. During the audit period, there was one EEO settlement based on gender and one pending EEO lawsuit based on disability and retaliation.

PRELIMINARY DETERMINATION

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

Plan Dissemination – Internally

The TLC is in compliance with the following requirements:

1. The agency head has issued a general EEO Policy Statement and the City's EEO Policy Handbook (*About EEO: What You May Not Know*, with addendum) to all employees; it was distributed with pay checks and at EEO training sessions. The EEO Policies and procedures are included in the agency's "new-hire" packet and distributed during new employee orientation. In addition, 89% of the respondents to the EEPC's Employee Survey indicated that they received the EEO Policy Handbook. Also, 98% of the respondents to the EEPC's Supervisor/Manager questionnaire indicated that they received a copy of the agency's EEO Policy Statement.
2. The EEO Policy and EEO Policy statement has been posted on the agency's bulletin boards. The EEO officer has continually checked and maintained the boards to ensure the EEO information is clearly posted and current. Employees were also informed that the EEO Policy can be accessed online through the TLC website. In addition, 81% of the respondents to the EEPC's Employee Survey indicated that the Citywide EEO Policy is posted on the agency's bulletin boards or kept in an area otherwise accessible to employees.
3. A list of the agency's EEO professionals and their contact information has been included in the agency's EEO Policy Statement. In addition, 86% of the respondents to the EEPC's Employee Survey questionnaire stated that they know who the agency's EEO Officer is.

Plan Dissemination – Externally

The TLC is in compliance with the following requirement:

The five job vacancy notices (Deputy Commissioner, Licensee Support/Customer Service, Records Aide, Customer Service Clerk, and Chief of Operations) and the two job advertisements (Administrative Law Judge and Chief Information Officer) that were submitted by the agency to the EEPC indicates that the NYC TLC is an equal opportunity employer.

EEO and Reasonable Accommodation for Persons with Disabilities

The TLC is in compliance with the following requirements:

1. The agency participates in the Section 55-A program and appointed its ADA Officer as the coordinator for the program. The 55-a program brochure is distributed during EEO training. There are no program participants.
2. The EEO Officer is aware that the EEO policies are available in alternate formats from DCAS and will make them available upon request. No requests for the policies in alternate formats were made during the audit period.
3. The TLC's response to the EEPD's accessibility for persons with disabilities checklist indicates that its four offices located at 40 Rector Street (5th floor), 24-55 BQE West Woodside, Queens, 1893 Richmond terrace Staten Island, NY and 32-02 Queens Boulevard, L.I.C., Queens which are privately-owned, is accessible to, and useable by, persons with disabilities. Each office has street accessible entrances and wide restroom stalls, grab bars, and low sink and fixtures. The Woodside Queens office also has ramp access. The L.I.C. office has wheelchair accessible elevators, Braille and a bell in the elevator.
4. The EEO Officer is also the agency's Disability Rights Coordinator (DRC), whose responsibility is to handle reasonable accommodation requests. The DRC maintains a log and files on all requests for accommodation. There were eight reasonable accommodation requests (3 reassignments, duty modification, tour change, 2 ergonomic chairs, and transfer to another facility) made during the audit period. All of the requests were granted.

The TLC is in partial compliance with the following requirement:

Although the agency appointed a disability rights coordinator, 77% of the respondents to the EEPD's Employee Survey indicated that they do not know who the agency's Disabilities Rights Coordinator is. Corrective action is required.

Recommendation: To ensure that all employees are aware of the person responsible for handling reasonable accommodation requests and ensuring compliance with all federal, state, and local laws, as well as City and agency policies, pertaining to persons with disabilities, the personnel officer should re-distribute to all employees the identity of the Disability Rights Coordinator. (Sect. VB, EEO)

Discrimination Complaint and Investigation Procedures

The TLC is in compliance with the following requirements:

1. The EEO Officer has received and investigated discrimination complaints in conformance with Section III of the EEO and the discrimination complaint procedures and implementation guidelines issued by the DCAS.

2. The EEO Officer maintains and updates a monthly log of discrimination complaints filed against the agency. Copies of completed monthly complaint logs were submitted.
3. The agency head conducted a monthly review of the agency's EEO complaints.
4. The agency's EEO Officer and three EEO counselors attended the basic training course for EEO professionals conducted by the Department of Citywide Administrative Services (DCAS). The EEO staff also received Computer based training offered by DCAS. In addition, 90% of the respondents to the EEPC's Supervisor/Manager Questionnaire indicated that they completed the DCAS' Division of Citywide EEO Computer Based Training.
5. The General Counsel is responsible for handling external EEO complaints. The agency's procedure for addressing external complaints is as follows: the General Counsel assigns the complaint to an assistant general counsel who specializes in EEO issues. Under the General Counsel's supervision, the assistant general counsel investigates the complaint, drafts responsive papers, and represents the agency. The agency General Counsel assists the agency head in identifying and determining appropriate responses to EEO issues, works cooperatively and closely with the EEO Officer in the implementation of the City's EEO policies and related procedures and is available to consult on internal EEO investigations.

The TLC is not in compliance with the following requirements:

1. The agency does not have at least two EEO Representatives, who are not of the same gender to conduct investigations. The EEO Officer, who serves part-time in her EEO capacity, is the only individual authorized to investigate complaints. The agency's male and female EEO Counselors who also serve part-time in their EEO capacity are only authorized for complaint intake. Corrective action is required.

Recommendation: The agency head should appoint another EEO representative, who is not of the same gender as the EEO Officer, to receive discrimination complaints and conduct investigations. (Sect. VB, EEOP)

2. The EEO Officer does not meet with the EEO Counselors to ensure that they implement their EEO functions satisfactorily and to keep them abreast of internal and external EEO developments. Corrective action is required.

Recommendation: Since the EEO Officer has supervisory responsibility of the EEO Counselors, the EEO Officer should meet with the EEO Counselors at least at quarterly intervals to ensure that the Counselors implement EEO functions satisfactorily and is kept abreast of internal and external EEO developments. (Sect. VB and VC, EEOP)

The following section refers to the four latest internal discrimination complaint files (08-04, 08-01, 06-01, and 08-02) that were submitted by the TLC for the period in review.

The TLC is not in compliance with the following requirement:

None of the confidential written reports submitted were labeled "Confidential". Corrective action required.

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

EEO Training

The TLC is in compliance with the following requirements:

The agency appointed a Director of Training to design, develop and deliver annual EEO training to staff. She completed the DCAS's Training for EEO Professionals, EEOC's train-the trainer course, and the EEO Computer Based Training offered by the DCAS. The agency has designed an EEO training plan consistent with the guidelines set forth by the Citywide EEO Policy. The training curriculum included a component on preventing sexual harassment.

During the audit period, all new and existing employees were trained. According to the agency's Quarterly reports for FY 2006, 2007, and 2008, a total of 1700 employees were trained during the audit period. In addition, 93% of the respondent to the EEPC's Employee Survey indicated that they received EEO training in the past 2 years and 81% of the respondents to the EEPC's Supervisor/ Manager Questionnaire indicated that they received sexual harassment prevention training from the agency.

Selection and Recruitment

The TLC is in compliance with the following requirements:

The agency provided Structured Interview training to employees who are involved in employment interviewing. In addition, 73% of the respondents to the EEPC's manager/supervisor survey questionnaire said that the agency provided them with training and/or a guide that outlines illegal or discriminatory questions and includes instructions for conducting a structured interview.

The TLC is not compliance with the following requirements:

1. 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 agency should conduct an assessment of its selection criteria for discretionary titles. The TLC 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)

2. Although the agency posted its two job advertisements for Chief Information Officer and Administrative Law Judge online at Hotjobs, Monster, Dice, Careerbuilder, Craigslist, and 6figurejobs and in the New York Law Journal, the agency did not utilize any organizations geared towards minority groups, women and individuals with disabilities. Corrective action is required.

Recommendation: Since the EEOP requires that city agencies assess recruitment efforts to determine whether such efforts adversely impact any particular group, the agency should further expand its recruitment efforts by sending job vacancy notices to professional and community organizations serving minority groups, women and people with disabilities when provisional positions become available or when the agency has discretion in hiring. (Sect. IV, EEOP)

3. During the audit period, the agency did not use applicant logs to retain applicant/hire information for its discretionary positions (i.e. name, gender and ethnicity of applicants, the reason for selection/rejection, and the source of recruitment). Corrective action is required.

Recommendation: Because the EEOP holds each agency responsible for retaining information about personnel actions, discretionary hiring, and applicants as required by federal, state and local law and/or the City's official records retention schedule, the agency should use and maintain the DCAS issued applicant log which includes the name, gender and ethnicity of applicants, the reason for selection/rejection, and the source of recruitment. (Sect. IV, EEOP)

Promotional Opportunities

The TLC is in compliance with the following requirement:

1. The managerial evaluation form submitted by the TLC includes a rating on EEO under number 7 of Section A (Position Responsibilities & Performance Expectations).
2. The agency conducted annual managerial and non-managerial performance evaluations during the audit period. In addition, 73% of the respondents to the EEPC's Supervisor/Manager questionnaire indicated that they received their last performance evaluation within a year. A memo to supervisors and managers was distributed to ensure that all employees receive annual evaluations. In addition, 52% of the respondents to the EEPC Employee Survey indicated that they received annual performance evaluations within the past 2 years.
3. The agency appointed a career counselor whose duties include conducting new employee orientation and counseling employees about career opportunities, including civil service exams. The name, location and contact information for the Career Counselor is included in the EEO Policy statement.

The TLC is in partial compliance with the following requirement:

Although the agency appointed a career counselor, 75% of the respondents to the EEPC's Employee Survey indicated that they do not know the name of the person responsible for providing career counseling. Corrective action required.

Recommendation: The Personnel Officer should ensure that employees know the identity of the agency Career Counselor and ensure that all employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings. (Sect. VF, EEOP)

Supervisory Responsibility in EEO Plan Implementation

The TLC is in partial compliance with the following requirement:

Managers and supervisors were instructed to discuss the department's EEO policies with their subordinates during normal staff meetings; however, documentation of these meetings was not maintained. 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 TLC is in compliance with the following requirements:

1. The agency submitted its agency-specific plan, three quarterly reports, and an annual fourth quarter final report to the EEPC for each fiscal year.
2. The agency's organizational chart indicates the reporting relationship between the Agency Head and EEO Officer.
3. The EEO officer reports to the agency head and meets with him on EEO matters monthly. Documentation of these meetings was maintained.

Special Contingencies

The EEO Officer is the agency's Director of Human Resources. She is responsible for implementing the agency's personnel policies and practices, including its disciplinary policy. Approximately 50% of her time is spent on EEO, Section 55a, and Disability Rights matters. To discharge her responsibilities under the Citywide EEO Policy, the EEO Officer must review all personnel policies and practices to ensure they are not discriminatory. The EEO Office is also required to investigate, or supervise the investigation of, discrimination complaints, which may

allege discriminatory implementation of these policies. There is a potential conflict of interest in this situation.

SUMMARY OF RECOMMENDED CORRECTIVE ACTIONS

1. To ensure that all employees are aware of the person responsible for handling reasonable accommodation requests and ensuring compliance with all federal, state, and local laws, as well as City and agency policies, pertaining to persons with disabilities, the personnel officer should re-distribute to all employees the identity of the Disability Rights Coordinator. (Sect. VB, EEOP)
2. The agency head should appoint another EEO representative, who is not of the same gender as the EEO Officer, to receive discrimination complaints and conduct investigations. (Sect. VB, EEOP)
3. Since the EEO Officer has supervisory responsibility of the EEO Counselors, the EEO Officer should meet with the EEO Counselors at least at quarterly intervals to ensure that the Counselors implement EEO functions satisfactorily and is kept abreast of internal and external EEO developments. (Sect. VB and VC, EEOP)
4. All confidential written reports should be labeled "Confidential" in large bold print. (DCPIG, Sect. 12b)
5. 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 agency should conduct an assessment of its selection criteria for discretionary titles. The TLC 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)
6. Since the EEOP requires that city agencies assess recruitment efforts to determine whether such efforts adversely impact any particular group, the agency should expand its recruitment efforts by sending job vacancy notices to professional and community organizations serving minority groups, women and people with disabilities when provisional positions become available or when the agency has discretion in hiring. (Sect. IV, EEOP)
7. Because the EEOP holds each agency responsible for retaining information about personnel actions, discretionary hiring, and applicants as required by federal, state and local law and/or the City's official records retention schedule, the agency should use and maintain the DCAS issued applicant log which includes the name, gender and ethnicity of

applicants, the reason for selection/rejection, and the source of recruitment. (Sect. IV, EEOP)

8. The Personnel Officer should ensure that employees know the identity of the agency Career Counselor and ensure that all employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings. (Sect. VF, EEOP)
9. 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)

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

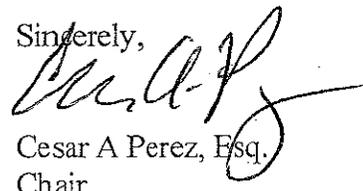
Pursuant to Chapter 36 of the New York City Charter and the previously cited preliminary determinations relating to EEPC's audit of the TLC's compliance with its Equal Employment Opportunity Policy, and EEO standards expressed in the Citywide EEO Policy, we respectfully request your response to the aforementioned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



Cesar A Perez, Esq.
Chair

APPENDIX - 1

Taxi and Limousine Commission
EMPLOYEE SURVEY RESULTS

Employees = 645 Survey Respondents = 114 18%

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 (6)
2. Do you know who your agency's EEO Officer is?
Yes (98) No (15)
3. Is the City's EEO Policy posted on your agency's bulletin boards or kept in an area otherwise accessible to employees?
Yes (92) No (17)
4. Were you given a copy of the EEO Policy Handbook - About EEO: What You Need to Know?
Yes (101) No (11)
5. Do you believe your agency practices equal opportunity (i.e. ensures fairness in all aspects of employment including hiring, selection, promotions, etc.)?
Yes (61) No (47)
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 (40) No (43) 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 (41) No (44) Do not remember (25)
8. When hired, were you advised of the City's EEO policies, and of your rights and responsibilities under such policies?
Yes (64) No (13) Do not remember (35)

B. EEO COMPLAINTS

9. Do you know how to file an EEO complaint?
Yes (92) No (21)
10. If you had an EEO complaint, would you bring it to your agency's EEO Office?
Yes (43) No (25) Undecided (44)
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 (17) Undecided (31)
12. During the past 3 years, did you file a complaint with your agency's EEO Office?
Yes (4) No (109)
13. Was your manager or supervisor supportive of your right to file a complaint?
Yes (12) No (7) Not Applicable (92)

C. EEO TRAINING

14. During the past 2 years, did you receive EEO training?
Yes (106) No (7)
15. How informative was this training?
Very informative (54) Somewhat informative (42)
Not really informative (9) Not Applicable (7)

SURVEY RESULTS CONTINUED

D. JOB PERFORMANCE/ADVANCEMENT

Does your agency use training and development programs in order to improve job performance and/or career opportunities?

Yes (50) No (39) I do not know (23)

17. Were vacant positions advertised on bulletin boards or other areas accessible to employees in a timely manner?

Yes (87) No (13) Do not remember (13)

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 (55) No (50) Employed for less than 12 mos (6)

19. Did your evaluation contain recommendations for improving your job performance?

Yes (36) No (22) Not Applicable (0)

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

Yes (13) No (47) Not Applicable (0)

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

Yes (28) No (85)

E. SPECIFIC PROTECTIONS

22. Do you know who your agency's Disability Rights Coordinator is?

Yes (25) No (88)

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 to 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 (20) No (92)

24. Was your accommodation granted?

Yes (16) No (35)

OPTIONAL INFORMATION

25. Race/Ethnicity

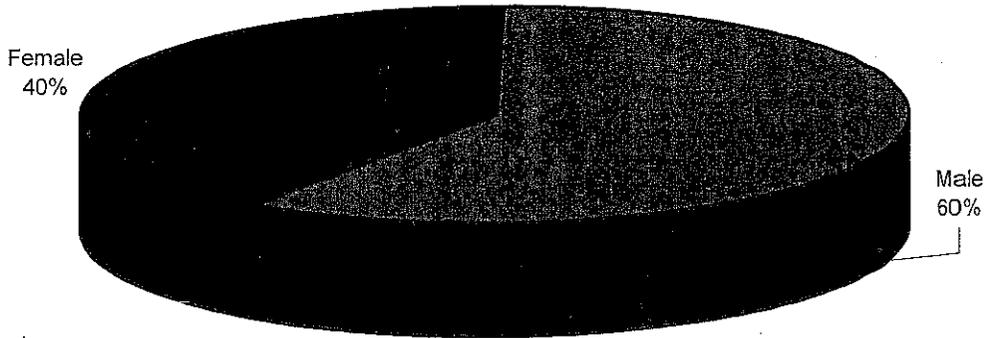
Asian or Pacific Islander (0)	Hispanic (18)
American Indian or Alaska Native (0)	White (not of Hispanic origin) (40)
Black (not of Hispanic origin) (26)	Other (3)

26. Gender

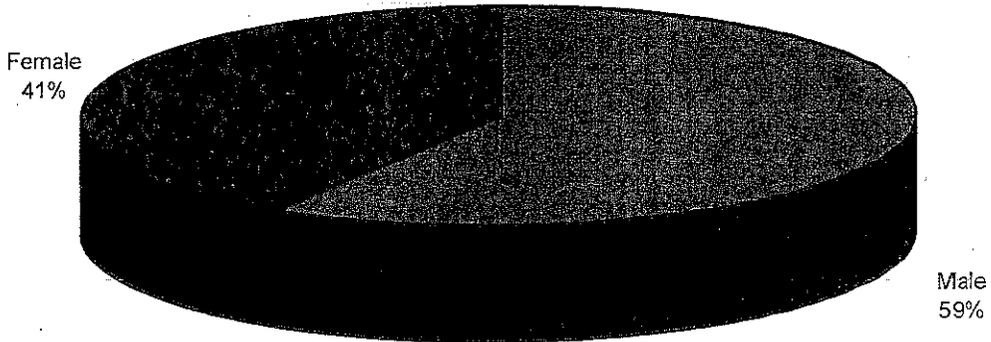
Male (43) Female (57)

Appendix - 2

Taxi and Limousine Commission Workforce by Gender



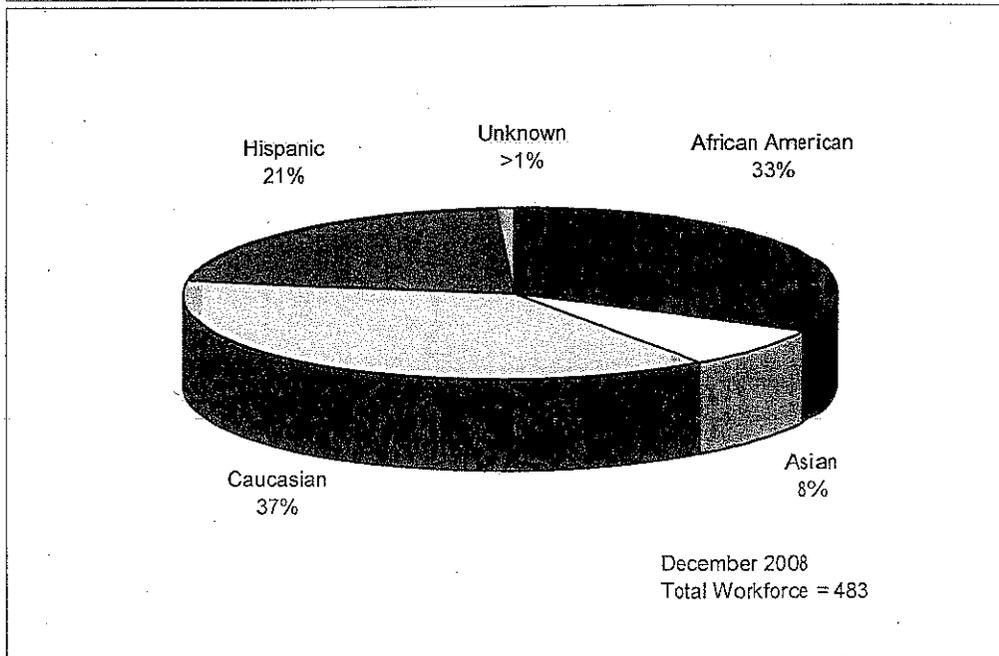
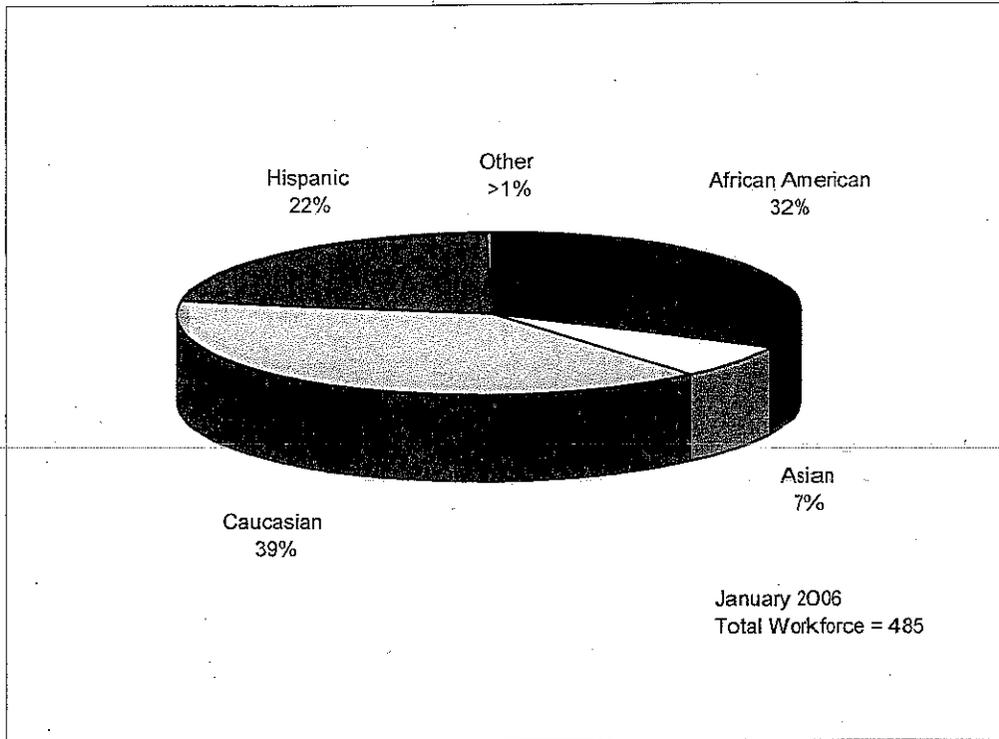
January 2006
Total Workforce = 485



December 2008
Total Workforce = 483

Appendix - 3

Taxi and Limousine Commission Workforce by Ethnicity



APPENDIX – 4

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

Taxi and Limousine Commission

Hires by Sex and Ethnicity

Total Hires: 177

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Other	Total
100	77	177	68	63	26	16	4	177

Promotions by Sex and Ethnicity

Total Promotions: 93

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Other	Total
51	42	93	35	30	21	7	0	93

Separations by Sex and Ethnicity

Total Separations: 147

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Other	Total
87	60	147	47	60	32	7	1	147

Source: Audit data supplied by TLC

Taxi and Limousine Commission

SUPERVISOR/MANAGER QUESTIONNAIRE RESULTS

Total Supervisors = 97 Completed Questionnaire = 31 (32%)

1. Which of the following are you?
Supervisor (22) Manager (9)
2. How many employees are under your supervision?
Less than 5 (1) 11 - 20 (7)
6 - 10 (11) 21 or more (12)
3. How long have you worked for this agency?
3yrs or less (2) Over 3 yrs (28)
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 (30) No (1) Do not remember (0)
5. In your agency, where can the City's EEO Policy be found?
In the EEO Office (10) In my office (5)
In the HR/Personnel Office (12) I do not know (2)
On the Intranet (0)
6. Of the choices indicated, which is most easily accessible to you?
The EEO Office (2) Your Office (16)
The HR/Personnel Office (7) Not applicable (0)
The Intranet (3)
7. Is the Discrimination Complaint Procedure included with the EEO Policy?
Yes (24) No (0) Do not know (4)
8. Do you know the name of your agency's EEO Officer?
Yes (30) No (0) Do not know (0)
9. Did the EEO Officer meet with you to discuss your EEO rights as an employee?
Yes (23) No (7)
10. Did the EEO Officer meet with you to discuss your EEO responsibilities as a supervisor or manager?
Yes (23) No (5)
11. Did you complete the Department of Citywide Administrative Services' (DCAS) Division of Citywide EEO Computer based Training?
Yes (28) No (2)
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 (16) No (13)
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 (20) No (8)
14. Did you receive sexual harassment prevention training from your agency?
Yes (25) No (3)
15. Please indicate when the training was done.
Within the past 2 years (24) over 2 years ago (0)
16. Did all of the employees that you supervise receive sexual harassment prevention training?
Yes (20) No (2) Do not know (6)

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 (14) No (3) Do not remember (10)
18. Do you participate in orientation sessions for new employees?
Yes (3) No (24)
19. Do new employee orientation sessions include information on the City's EEO Policy?
Yes (17) No (0) Do not know (11)
20. Do you interview candidates for positions in your agency?
Yes (11) No (17)
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 (3) Both training and guide (7)
Guide (1) I do not interview applicants (16)
22. When was your last performance evaluation?
Within the past year (18) Over a year ago (10)
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 (9) No (10) Not applicable (9)
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 (11) No (12) I do not receive performance evaluations (0)
25. Do you conduct formal evaluations of the employees under your supervision annually?
Yes (23) No (5)
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 (22) No (6)

OPTIONAL INFORMATION

27. Race/Ethnicity
Asian or Pacific Islander (0) Hispanic (9)
American Indian or Alaskan Native (0) White (6)
Black (5) Other (3)
28. Gender
Male (20) Female (5)



**Taxi & Limousine
Commission**

August 3, 2010

Cesar A. Perez, Esq.
Chair
Equal Employment Practices Commission
40 Rector Street – 14th Floor
New York, New York 10006

10384

David Yassky
Commissioner
TLCCommissioner@tlc.nyc.gov

40 Rector Street, 5th Floor
New York, NY 10006

+1 212 676 1003 tel
+1 212 676 1100 fax

Re: Response to Resolution #10/07-156 Preliminary Determination Pursuant to the Audit of the Taxi and Limousine Commission (TLC) and its Compliance with the City's Equal Employment Opportunity Policy from January 1, 2006 through December 31, 2008.

Dear Chairman Perez:

The primary objective of this response is to indicate what corrective actions the Taxi and Limousine Commission (TLC) has either implemented or will implement to bring the agency in compliance with the corrective measures recommended by the City's Equal Employment Practices Commission.

1. Recommendation

To ensure that all employees are aware of the person responsible for handling reasonable accommodation requests and ensuring compliance with all federal, state, and local laws, as well as City and agency policies, pertaining to persons with disabilities, the personnel officer should re-distribute to all employees the identity of the Disability Rights Coordinator. (Sect. VB, EEOP)

Response

TLC will include in its issuance of its yearly EEO Policy Statement the identity, location and telephone number of the Disability Rights Coordinator.

2. Recommendation

The agency head should appoint another EEO representative, who is not of the same gender as the EEO Officer, to receive discrimination complaints and conduct investigations. (Sect. VB, EEOP)

Response

The agency head has appointed Mr. Jason Gonzalez, a male employee, to serve as an EEO representative to receive discrimination complaints and conduct investigations.

3. Recommendation

Since the EEO Officer has supervisory responsibility of the EEO Counselors, the EEO Officer should meet with the EEO Counselors at least at quarterly intervals to ensure that the Counselors implement EEO functions satisfactorily and is kept abreast of internal and external EEO developments. (Sect. VB and VC, EEOP)

Response

Meetings and other communications between EEO Officer and EEO Counselors will be documented.

4. Recommendation

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

As recommended, all future confidential written reports will be labeled "Confidential."

5. Recommendation

Since the EEPC 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 agency should conduct an assessment of its selection criteria for discretionary titles. The TLC 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)

Response

As recommended, TLC will conduct an assessment of its selection criteria for discretionary titles by utilizing the Disparate Impact Analysis Program. To the extent that adverse impact is discovered, the Agency Head will order that the criteria be discontinued.

6. Recommendation

Since the EEOP requires that city agencies assess recruitment efforts to determine whether such efforts adversely impact any particular group, the agency should expand its recruitment efforts by sending job vacancy notices to professional and community organizations serving minority groups, women and people with disabilities when provisional positions become available or when the agency has discretion in hiring. (Sect. IV, EEOP)

Response

Although not documented, TLC has assessed its recruitment efforts to determine whether such efforts adversely impact any particular group. TLC has and will continue to utilize the listing of professional and community organizations serving minority groups, women and people with disabilities listed in "Making The Most of New York City's Recruitment Process" when sending job vacancy notices for provisional positions.

7. Recommendation

Because the EEOP holds each agency responsible for retaining information about personnel actions, discretionary hiring, and applicants as required by federal, state and local law and/or the City's official records retention schedule, the agency should use and maintain the DCAS issued applicant log which includes the name, gender and ethnicity of applicants, the reason for selection/rejection, and the source of recruitment. (Sect. IV, EEOP)

Response

As recommended, TLC will utilize and retain an Applicant Log to record the name, gender and ethnicity of applicants and discretionary hiring's. This will include the reason for selection/rejection, and the source of recruitment.

8. Recommendation

The Personnel Officer should ensure that employees know the identity of the agency Career Counselor and ensure that all employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings. (Sect. VF, EEOP)

Response

TLC will continue to include in its issuance of its yearly EEO Policy Statement the identity, location and telephone number of the Career Counselor. The Personnel Officer will ensure that all employees have access to information regarding job responsibilities, performance evaluation standards, examination, training opportunities and job postings.

9. 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)

Response

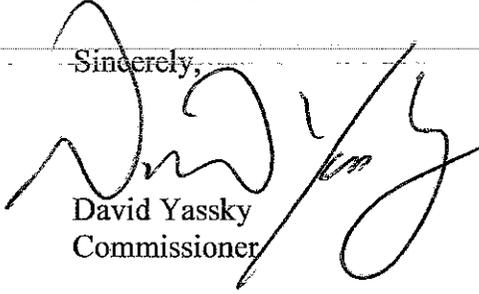
The Agency Head will reiterate to all managers and supervisors the importance of emphasizing their commitment to the agency's EEO policies by meeting with their staff and reaffirming their rights to file a discrimination complaint with the EEO Office. Managers and supervisors will be advised to document these meetings and forward the documentation to the EEO Officer.

The Taxi and Limousine Commission will, during the compliance process, distribute a memorandum from the Agency Head 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 the Agency Head's commitment to the agency's Equal Employment Opportunity Program.

We hope the above is responsive to your request for corrective measures as identified in the preliminary determination to the audit of TLC for the period January 1, 2006 through December 31, 2008.

I would like to thank you and your staff for providing guidance on how TLC could further its strong commitment to maintaining and enforcing fair employment practices and ensuring that all staff work in an environment that is free of discrimination.

Sincerely,



David Yassky
Commissioner

DY/cr

cc: Carmen Rojas, EEO Officer



EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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

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

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

August 18, 2010

David Yassky
Commissioner
Taxi & Limousine Commission
40 Rector Street, 5th Floor
New York, NY 10006

Re: Final Determination Pursuant to the Audit of the Taxi & Limousine Commission (TLC) and its Compliance with the City's Equal Employment Opportunity Policy from January 1, 2006 through December 31, 2008.

Dear Commissioner Yassky:

Thank you for your August 3, 2010 response to our June 25, 2010 Letter of Preliminary Determination pursuant to the audit of the Taxi & Limousine Commission's Equal Employment Opportunity Policy from January 1, 2006 through December 31, 2008.

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

Agree

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

Recommendation #1

To ensure that all employees are aware of the person responsible for handling reasonable accommodation requests and ensuring compliance with all federal, state, and local laws, as well as City and agency policies, pertaining to persons with disabilities, the personnel officer should re-distribute to all employees the identity of the Disability Rights Coordinator. (Sect. VB, EEOP)

Recommendation #4

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

Recommendation #5

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 agency should conduct an assessment of its selection criteria for discretionary titles. The TLC 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)

Recommendation #6

Since the EEOP requires that city agencies assess recruitment efforts to determine whether such efforts adversely impact any particular group, the agency should expand its recruitment efforts by sending job vacancy notices to professional and community organizations serving minority groups, women and people with disabilities when provisional positions become available or when the agency has discretion in hiring. (Sect. IV, EEOP)

Recommendation #7

Because the EEOP holds each agency responsible for retaining information about personnel actions, discretionary hiring, and applicants as required by federal, state and local law and/or the City's official records retention schedule, the agency should use and maintain the DCAS issued applicant log which includes the name, gender and ethnicity of applicants, the reason for selection/rejection, and the source of recruitment. (Sect. IV, EEOP)

Recommendation #8

The Personnel Officer should ensure that employees know the identity of the agency Career Counselor and ensure that all employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings. (Sect. VI, EEOP)

Recommendation #9

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)

Requires Clarification

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

Recommendation #2

The agency head should appoint another EEO representative, who is not of the same gender as the EEO Officer, to receive discrimination complaints and conduct investigations. (Sect. VB, EEOP)

Your Response

The agency head has appointed Mr. Jason Gonzalez, a male employee, to serve as an EEO representative to receive discrimination complaints and conduct investigations.

EEPC Rational

The response does not indicate if the newly-appointed EEO representative has received DCAS's Basic Training for EEO Representatives or similar EEO training. If not, how will the TLC ensure that Mr. Gonzalez will secure the appropriate EEO training?

Recommendation #3

Since the EEO Officer has supervisory responsibility of the EEO Counselors, the EEO Officer should meet with the EEO Counselors at least at quarterly intervals to ensure that the Counselors implement EEO functions satisfactorily and is kept abreast of internal and external EEO developments. (Sect. VB and VC, EEOP)

Your Response

Meetings and other communications between EEO Officer and EEO Counselors will be documented.

EEPC Rational

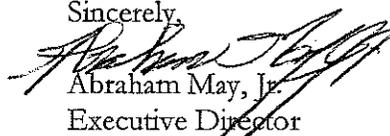
The response does not indicate if the EEO Officer will meet with EEO Counselors at least at quarterly intervals.

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 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., Counsel
Adrienne Smith, Auditor/Compliance Officer



**Taxi & Limousine
Commission**

September 1, 2010

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

10392

David Yassky
Commissioner
TLCCommissioner@tlc.nyc.gov

Re: Final Determination Pursuant to the Audit of the Taxi and Limousine Commission (TLC) and its Compliance with the City's Equal Employment Opportunity Policy from January 1, 2006 through December 31, 2008.

40 Rector Street, 5th Floor
New York, NY 10006

Dear Mr. May:

+1 212 676 1003 tel
+1 212 676 1100 fax

Below please find our response to your request for clarification of our response to the recommendations made by EEPC.

Recommendation #2

The agency head should appoint another EEO representative, who is not of the same gender as the EEO Officer, to receive discrimination complaints and conduct investigations. (Sect. VB, EEOP)

Clarification of Response

Mr. Jason Gonzalez has been appointed as the EEO Representative. Mr. Gonzalez has not received DCAS's Basic Training for EEO Representatives. We have contacted DCAS to secure training for Mr. Gonzalez. He has been placed on a waiting list for the next training to be offered by DCAS.

Recommendation #3

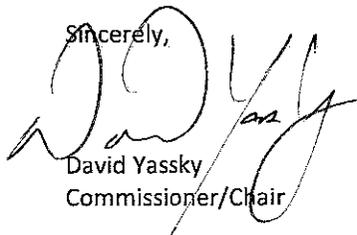
Since the EEO Officer has supervisory responsibility of the EEO Counselors, the EEO Officer should meet with the EEO Counselors at least at quarterly intervals to ensure that the Counselors implement EEO functions satisfactorily and is kept abreast of internal and external EEO developments. (Sect. VB and VC, EEOP)

Clarification of Response

The EEO Officer will meet with the EEO Counselors at least at quarterly intervals. Meetings and other communications between EEO Officer and EEO Counselors will be documented.

I hope the above clarifies the Taxi and Limousine Commission's response to the EEPC's determinations. We also look forward to a mutually satisfactory compliance process.

Sincerely,



David Yassky
Commissioner/Chair

DY:cr

cc: Carmen Rojas, EEO Officer