

**EQUAL EMPLOYMENT
PRACTICES COMMISSION**

ANNUAL REPORT

CALENDAR YEAR 2005

**EQUAL EMPLOYMENT PRACTICES COMMISSION
CITY OF NEW YORK**

Calendar Year 2005

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Mission Statement

The Equal Employment Practices Commission is empowered by the New York City Charter to monitor and evaluate the employment programs, practices, policies and procedures, of all city agencies to ensure that they maintain an effective affirmative employment program of equal employment opportunity for protected groups who are employed by, or seek employment with, the New York City government. We are therefore committed to ensuring that all protected groups employed by, or seeking employment with, city agencies are fully aware of their rights under the appropriate Federal, State, and City laws against employment discrimination.

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EXECUTIVE SUMMARY

Introduction

Created in Chapter 36 of the New York City Charter, As Amended, the Equal Employment Practices Commission (EEPC) is an independent city agency responsible for monitoring and auditing the equal employment practices, programs, policies and procedures of all city agencies. To address its mandate, the Commission is authorized to perform a number of functions, including:

1. Review the uniform standards, procedures and programs of the Department of Citywide Administrative Services and every city agency's affirmative employment program, policy, plan or procedure to provide equal employment opportunity of minority group members and women employed by, or seeking employment with, city agencies;
2. Recommend to the Department of Citywide Administrative Services and all other city agencies, procedures, approaches, measures, standards and programs to be utilized to ensure fair and effective equal employment opportunity for minority group members and women;
3. Audit and evaluate the employment practices and procedures of every city agency at least once every four years and whenever requested by the Civil Service Commission or the Human Rights Commission;
4. Publish a report to the Mayor with recommendations, if the Commission determines that an audited agency's corrective actions are not appropriate and effective to achieve compliance;
5. Hold public and private hearings, and compel the attendance of witnesses, if necessary, and administer oaths;
6. Establish appropriate advisory committees to assist the Commission in addressing its mandate; and
7. Publish an annual report to the Mayor and the City Council on the activities of the Commission.

The Commissioners

The Charter authorizes the appointment of two Commissioners by the Mayor, two by the City Council and the joint appointment of the Chair by the City Council Speaker and the Mayor. All

Commissioners serve part-time, four-year, staggered terms. At the beginning of calendar year 2005 the Mayoral appointees were Angela Cabrera and Manuel A. Méndez. The City Council appointees were Chereé A. Buggs, Esq. and Veronica Villanueva, Esq. In the Spring Mayor Michael Bloomberg and City Council Speaker Gifford Miller jointly-appointed Ernest Hart, Esq. chair of the Commission. Mr. Hart is the Assistant Vice President for Employees and Labor Relations at Columbia University. Among his previous positions were: Chief of Staff to the Deputy Mayor for Policy and EEO Officer for the Office of the Mayor, General Counsel for the New York City Department of Citywide Administrative Services, and Deputy Director and Counsel, New York City Department of Personnel. The Commission has been without a Chair since May 1999.

Accomplishments

During 2005 the Equal Employment Practices Commission (EEPC) accomplished the following:

Audits

Commission staff initiated audits of the following twenty-seven city agencies (mayoral and non-mayoral): Department of Youth and Community Development, Taxi and Limousine Commission, Office of Management and Budget, Department of Information Technology and Telecommunications, Office of the City Clerk/Clerk of the Council, Off-Track Betting Corporation, New York County District Attorney, Queens County District Attorney, New York Police Department, Board of Correction, New York City Housing Authority, Department of Education, NYC Civil Service Commission, and Queens Community Boards (14). Commission staff completed audits of the following sixteen agencies: Office of the City Clerk/Clerk of the Council, Department of Youth and Community Development, Taxi and Limousine Commission, New York County District Attorney, Off-Track Betting Corporation, Office of Management and Budget, Department of Information Technology and Telecommunications, Housing Development Corporation, Bronx County District Attorney, Campaign Finance Board, Human Resources Administration, Kings County District Attorney, Department of Consumer Affairs, Economic Development Corporation, Department of Health and Mental Hygiene and; Department of Small Business Services.

Compliance

Commission staff also initiated audit compliance with the following fifteen agencies: Financial Information Services Agency, Department of Design and Construction, Office of Payroll Administration, City Commission on Human Rights, New York City Housing Development Corporation, New York City Law Department, Landmarks Preservation Commission, Department of Housing Preservation and Development, Department of Sanitation, Department of Buildings, Department of Cultural Affairs, Department of Environment Protection, Department of Probation, Business Integrity Commission, and; Office of Labor Relations.

At the end of the year, audit compliance was in progress with the following ten agencies: Richmond County District Attorney's Office, Campaign Finance Board, Bronx County District Attorney's Office, Department of Consumer Affairs, Office of the City Clerk/ Clerk of the Council, Department of Youth and Community Development, Kings County District Attorney, New York City Economic Development Corporation, Human Resources Administration, and; the Department of Small Business Services.

Public Hearings

On June 15, 2005 the Commission held a public hearing on: The Equal Employment Opportunity Policy of the Bloomberg Administration. Commissioner Martha Hirst of the Department of Citywide Administrative Services and Chief Administrative Law Judge Roberto Velez of the Office of Administrative Trials and Hearings were invited to testify. Commissioner Hirst discussed the new Equal Employment Opportunity Policy issued by the Bloomberg Administration in January 2005. Chief Administrative Law Judge Roberto Velez discussed the newly established Mediation Center at the Office of Administrative Trials and Hearings.

FY '06 Strategic Plan

In July 2005, the Commission initiated a thorough review of its operating procedures for addressing the Commission's mandate. The purpose of the review was to develop recommendations to refine the audit process, improve audit procedures, and strengthen implementation of the City's Equal Employment Opportunity Policy. Once the review was completed, the Commission approved the FY '06 Strategic Plan. Among the Plan components are: Revised Audit Procedures, Revised Audit Protocols, Revised Audit Instruments, Desk Audits of City Agencies with Less Than 15 Employees, Establish Audit Jurisdiction Over City-Funded

Agencies Created by State Law, and; Establish Advisory Committees on Major Employment Discrimination Issues. The Commission has already initiated a number of these components. Funds to implement the entire FY '06 Strategic Plan have been requested.

Mission Statement

Shortly after the appointment of Mr. Hart, the Commissioners adopted the EEPC's Mission Statement. The Statement affirms the Commission's commitment to ensuring that all New York City government employees and applicants are "fully aware of their rights under the appropriate Federal, State and City laws against employment discrimination".

Legal Cost of Employment Discrimination

At the beginning of each calendar year, the EEPC requests from the City Comptroller the number and total cost of employment discrimination suits against the City settled or adjudicated in the preceding year. The Comptroller's office reported one judgment and fifty-six settlements of employment discrimination cases in calendar year 2005 with a total cost of \$29,219,996.00--a percentage increase of 6,494% over the total cost in calendar year 2004 (\$443,100.00).

Recommendations:

Pursuant to this Commission's authority to make recommendations to the Mayor, the City Council, and the Department of Citywide Administrative Services to improve the administration of the City's Equal Employment Opportunity Program (Section 831(d) 6 of the New York City Charter), we offer the following recommendations:

Recommendation # 1

The Mayor and City Council Should Fund the Implementation of the Equal Employment Practices Commission's Fiscal Year 2006 Strategic Plan.

Recommendation #2

The Mayor and City Council Should Increase the Funding for the Department of Citywide Administrative Services to Increase the Staff in the Office of Citywide Equal Employment Opportunity.

Recommendation #3

The Department of Citywide Administrative Services Through its Division of Citywide Equal Employment Opportunity Should Develop a Procedure to Immediately Inform All City Agencies (mayoral and non-mayoral) of Changes in State and City Human Rights Laws That Impact the City's Equal Employment Opportunity Policy.

Recommendation # 4

The Office of Citywide Equal Employment Opportunity and the Division of Citywide Personnel Services Should Jointly Revise the EEO Tasks and Standards Component of the Managerial Performance Evaluation Form Used by All City Agencies.

Conclusion

Employment discrimination is prohibited by the New York City Charter and a broad range of laws, court decisions, amendments and executive orders, including the Fourteenth Amendment of the U.S. Constitution, the Civil Rights Act of 1964, Title VII; U.S. Executive Order #11246, the New York State Constitution, the New York State Human Rights Law and the New York City Human Rights Law.

The Equal Employment Practices Commission's City Charter mandate is to ensure that all city agencies are implementing equal employment opportunity programs that protect women and minorities from unlawful employment discrimination. Implementation of the aforementioned recommendations will strengthen the City's Equal Employment Opportunity Program.

CHAPTER I

THE MANDATE

“There shall be an equal employment practices commission which shall review, evaluate and monitor the employment procedures, practices and programs of any city agency and the department of citywide administrative services to maintain an effective affirmative employment program of equal employment opportunity for minority group members and women who are employed by or who seek employment with city agencies.”

Chapter 36, Section 830 (a), New York City Charter.

INTRODUCTION

Chapter 36 of the New York City Charter delineates the following powers and duties of the Equal Employment Practices Commission:

1. To review the uniform standards, procedures and programs of every city agency to ensure that it provides equal employment opportunity for minority group members and women employed by, or seeking employment with, city agencies;
2. To recommend to all city agencies procedures, approaches, measures, standards and programs to be utilized to ensure equal employment opportunity for minority group members and women;
3. To advise and, if requested, assist city agencies in their efforts to increase employment of minority group members and women;
4. To audit and evaluate the employment practices and procedures of each city agency at least once every four years and whenever requested by the Civil Service Commission or the Human Rights Commission;
5. To make policy, legislative and budgetary recommendations to the Mayor, the City Council, or any city agency to ensure equal employment opportunity for minority group members or women;
6. To publish annually a report to the Mayor and the City Council on the activities of the Commission, and the effectiveness of each city agency's efforts to ensure equal employment opportunity;
7. To establish appropriate advisory committees;
8. To serve with such other agencies or officials the Mayor designates as the city liaison to federal, state and local agencies responsible for compliance with equal employment opportunity;
9. To take such other actions as appropriate to effectuate the provisions and purposes of its mandate;
10. To hold public or private hearings; and
11. To compel the attendance of witnesses to determine if agencies are in compliance with the equal employment opportunity requirements of the New York City Charter.

STRUCTURE

The New York City Charter authorizes the appointment of five part-time Commissioners to staggered four-year terms. Two Commissioners are appointed by the Mayor, and two are appointed by the City Council. The Chairperson is appointed jointly by the Mayor and the City Council Speaker. Last June, Mayor Michael Bloomberg and City Council Speaker Gifford Miller jointly-appointed Ernest F. Hart, Esq. Chair/Commissioner. Mr. Hart is the Assistant Vice President for Employee and Labor Relations at Columbia University. His last position in New York City government was Chief of Staff/Counsel to the Deputy Mayor for Policy and EEO Officer for the Office of the Mayor. He also served as Commissioner of Human Resources/Administration for the City of Yonkers and Adjunct Professor at New York Law School. His previous positions in New York City government include General Counsel for the New York City Department of Citywide Administrative Services, and Deputy Director/Counsel for the New York City Department of Personnel. The Commission has not had a Chair since May 1999. In July 2006 Mr. Hart will be eligible for a full four-year term as Chair.

The City Council appointees to the Commission are Chereé A. Buggs, Esq. and Veronica Villanueva, Esq. Ms. Buggs is a practicing attorney in Queens County, and an Administrative Law Judge for the Department of Health and Mental Hygiene. She is also a member of the Board of Managers of the Queens County Bar Association. Initially appointed to the Commission in 2000, she resigned in 2002 to take a Legislative Attorney position with the New York City Council. She was re-appointed to the Commission in 2004. Her term expires in June 2007.

Veronica Villanueva, Esq. was originally appointed in June 2003, and re-appointed in October 2004 to a full four-year term. Ms. Villanueva is an attorney with the firm of Beranbaum, Menken, Ben-Asher and Bierman, LLP where she specializes in employment law and civil rights cases. She was previously employed by the firm of Levy, Ratner, PC. Ms. Villanueva also served as a Human Rights Specialist with the New York City Human Rights Commission. Her term expires in June 2008.

Former Mayor Rudolph Giuliani appointed Manuel A. Méndez in 1995. Mr. Méndez is the former Executive Director/CEO of the Phipps Community Development Corporation and former Vice President of Phipps Houses. He is a former Deputy Commissioner of the Human Resources Administration and Trustee of the Bronx Lebanon Hospital. He also taught social/policy administration at Fordham University's Graduate School of Social Services. In July 2004, Mr.

Mendez was elected Vice-Chair by his fellow Commissioners. Mr. Mendez continues to serve as a holdover appointee.

Angela Cabrera was appointed by former Mayor Giuliani in 1997. Ms. Cabrera is the president of Cabrera & Associates, a consulting firm that specializes in public relations and business development. A former Deputy Commissioner for the State of New York, she is also a board member of the Family Institute, a Trustee of the Museo del Barrio, and a member of the Prospect Park Alliance. Ms. Cabrera is also on the Board of Trustees' Diversification/Outreach Committee of the Metropolitan Museum of Art, and a founding member of 100 Hispanic Women. Ms. Cabrera continues to serve as a holdover appointee.

As an independent city agency that reports to both the Mayor and the City Council, the Commission has established liaison relationships with both sides of City Hall. Historically, the City Council liaison has been the Counsel to the City Council Committee on Civil Service and Labor. Consistent with the Bloomberg Administration's Organization Chart, the Commission has a liaison relationship with the Office of the Deputy Mayor for Legal Affairs.

METHODOLOGY

In addressing its mandate, the Commission holds public hearings with mayoral agencies on the implementation of the City's Equal Employment Opportunity Policy and non-mayoral agencies on the implementation of their Equal Employment Opportunity Programs; and, special hearings on specific equal employment opportunity issues. Depending on the issue, the Commission may direct the staff to conduct an independent investigation.

The Commission is also empowered to audit city agencies; both mayoral and non-mayoral. An audit is a separate evaluation of the equal employment opportunity program, policies, practices and procedures of an agency during a specific period of time. The purpose of an audit is to determine if an agency is in compliance with the requirements of the City's Equal Employment Opportunity Policy (EEOP) which is established by the Mayor's office, as well as its own Equal Employment Opportunity Policy if it is a non-mayoral agency. Audit staff makes recommendations for corrective actions in all areas where the agency is not in compliance with the City's EEOP.

The audit exit meeting, attended by the agency head, is an integral component of the audit process. The Commission requires the agency head's attendance because the City Charter holds agency heads responsible for the implementation of their agencies' EEOP.

Prior to the audit exit meeting, the Commission forwards a draft letter of preliminary determination to the agency head and the EEO Officer. The EEPC's senior staff, audit team, and one member of the Commission attend the audit exit meeting. The purpose of the meeting is to resolve issues of fact prior to the issuance of the formal letter of preliminary determination. After the audit exit meeting, audit findings and recommendations with any necessary revisions are submitted to the Commission for review and approval. The approval process includes the adoption of a "Resolution of Preliminary Findings" pursuant to the audit which authorizes the Chair or Vice-Chair of the Commission to formally inform the agency head, by letter, of the Commission's preliminary determination.

The preliminary determination letter identifies areas where an agency is in compliance, or out of compliance, with the City's Equal Employment Opportunity Policy. The letter also requests that the agency head implement all recommendations for corrective actions. The City Charter requires the agency to respond within thirty days. The Charter also mandates a compliance procedure of no more than six months; that procedure is discussed in detail in Chapter III.

DEFINING ETHNIC GROUPS

According to the 2000 census, there are approximately two hundred ethnic groups, speaking one hundred fifteen different languages, and representing every race, living and working in New York City. Many of these ethnic groups are part of New York City government's diverse workforce. New Yorkers use a variety of terms to describe these different races and ethnic groups. Unfortunately, some of these terms are inappropriate, others are derogatory.

Since any discussion of race and ethnicity must be sensitive to the use of appropriate terminology, the Equal Employment Practices Commission consistently uses the following terms in discussing New York City's ethnic groups:

Caucasians: defined as persons of European ancestry and generally referred to as white.

Hispanics: defined as persons of Hispanic descent including Puerto Ricans, Mexican Americans, Central Americans and Latin Americans.

African-Americans: defined as persons of African descent including Caribbeans and Africans; generally referred to as black.

Asian-Pacific Islanders: defined as persons of Asian descent including Koreans, Phillipinos, Chinese, Japanese and the Indian subcontinent.

Native-Americans: defined as indigenous persons from the United States, including American Indians, Alaskans and Aleuts.

ANNUAL REPORT

The New York City Charter requires the Equal Employment Practices Commission to publish an annual report to the Mayor and City Council on the Commission's activities and the effectiveness of each city agency's affirmative employment efforts to ensure equal employment opportunity for its employees and applicants. This annual report also includes data on the cost of employment discrimination to the City, the workforce analysis by race, gender, and job group of all mayoral agencies; and recommendations for improving the administration of the City's Equal Employment Opportunity Program.

In addition to the Charter-mandated distribution of the annual report to the Mayor and City Council, the report is also distributed to the City Comptroller, the Public Advocate, Borough Presidents, District Attorneys, Deputy Mayors, Agency Heads and EEO Officers, Community Board Chairpersons, and a number of organizations, institutions, and individuals on the Commission's mailing list.

CHAPTER II

IMPLEMENTING THE MANDATE/AUDITS

“The Commission shall have the following powers and duties:

to audit and evaluate the employment practices and procedures of each city agency and their efforts to ensure fair and effective equal employment opportunity for minority group members and women at least once every four years and whenever requested by the civil service commission or the human rights commission or whenever otherwise deemed necessary by the Commission.”

Chapter 36, Section 831(d)(5), New York City Charter

INTRODUCTION

The Commission commenced calendar year 2005 with an approved agency headcount of nine (FY '05). Four of the nine positions were full-time auditors; one auditor position was vacant. The Deputy Director and one EEO Auditor II served as lead auditors while two EEO Auditors I served as junior auditors. To increase audit productivity, the Agency Counsel was also assigned to perform audits. The Commission continues to be understaffed. In order to meet our City Charter mandate to audit a minimum of forty city agencies annually, this Commission needs a permanent headcount of fifteen, including eight EEO Auditors and two Compliance Coordinators.

Last Spring, we submitted our annual budget request to the Office of Management and Budget and the City Council. We requested funds to hire two additional EEO Auditors and a second Compliance Coordinator. The Office of Management and Budget rejected our request. For the second successive year, the City Council increased our FY '06 budget to cover the cost of one Auditor I position (entry-level) and one Auditor II or Senior Auditor position. Because the funds were for the current fiscal year only and we could not guarantee employment to Auditor II or Senior Auditor candidates beyond the current fiscal year, we did not recruit for the position. We did however, retain the Auditor I employee funded by the City Council in FY '05.

Because of these staffing problems, Commission staff only commenced audits of twenty-seven agencies (including fourteen community boards). We only completed audits of sixteen agencies with a cumulative head count of approximately 28, 350 employees. At year's end, audits of twenty-one agencies (including fourteen community boards) were in progress; these agencies had a cumulative headcount of approximately 213, 475 employees.

Audit Process

The audit process encompasses the following tasks:

- The Commission issues a notice of intent to audit and requests relevant data,
- An audit entrance meeting is held with the agency and requested data is received,
- Auditors analyze relevant data,
- Auditors distribute surveys to all or some of the agency's employees,
- Auditors analyze employee surveys,
- Auditors analyze agency's quarterly reports,

- Auditors review the agency's Citywide Equal Employment Database System (CEEDS) reports for the audit period,
- Auditors interview EEO personnel and select supervisory personnel
- Auditors request and analyze additional data,
- Auditors conduct follow-up research,
- Auditors identify areas of compliance,
- Auditors prepare and distribute a draft preliminary determination letter,
- An audit exit meeting to discuss the draft is held with the agency head,
- Audit findings are presented to the Commission,
- Commission approves preliminary findings,
- Commission issues a formal letter of preliminary determination to the agency head and requests a response within thirty days,
- Commission reviews agency's response,
- Commission distributes letter of final determination to the agency head,
- Commission reviews agency's non-mandatory response to the final determination (if any).

Audit Protocols

The Commission has established audit protocols for auditing compliance with the City's Equal Employment Opportunity Policy and its Discrimination Complaint and Investigation Procedure. The Commission has also established protocols for auditing the Sexual Harassment Prevention Program of the City University of New York (in the community colleges), the Recruitment Program of the Police and Fire Departments, as well as the EEO Programs of borough and county agencies or offices (e.g., borough presidents, district attorneys, etc.)

Although the Commission's timetable for completing agency audits is twenty to twenty-two weeks (audit entrance meeting to audit exit meeting), the completion of an audit usually takes much longer. Delays in the audit process are usually due to the failure of the agencies to provide complete information on time, delays in scheduling of meetings and staff interviews, and follow-up research. Shortly after the appointment of Chairperson Ernest Hart Esq., EEPC senior staff initiated steps to address many of these delays.

FISCAL YEAR 2006 STRATEGIC PLAN

At the beginning of Fiscal Year 2006, the Commission initiated a thorough review of its operating procedures for addressing the Commission's mandate. A number of recommendations to refine the audit process, improve audit procedures, and strengthen implementation of the City's Equal Employment Opportunity Policy were developed by our staff. Following are the major components of the Plan:

Revised Audit Procedures

To shorten the time required to complete audits of the EEO Program of mayoral agencies, the Commission has adopted the following revisions:

1) Immediately after the Commission adopts its Annual Audit Plan, the Chair will inform the appropriate deputy mayors by letter, which of their agencies are included in the Plan;

2) Instead of sending the Commission's standard Document and Information Request Form (DIRF) to the EEO Officer under the signature of the Deputy Director (the current practice), the EEPC now sends the DIRF to the agency head under the signature of the Chair, with copies to the EEO Officer, Personnel Director, and General Counsel;

3) If responses to the DIRF are not submitted in a timely manner and the delay cannot be resolved after the appropriate diligence of effort, EEPC will seek the assistance of the agency's respective deputy mayor; and

4) Rather than request follow-up audit data and documents orally or by email (the current practice), we now direct all such requests in writing, to the agency head with copies to the EEO Officer, General Counsel, and the EEPC Chair. If there is no compelling reason for the delay(s) and the problem cannot be resolved, we will notify the respective deputy mayor.

Revised Audit Protocols

The agency supervisor interviews, part of the current audit protocol and a major source of delay, will be eliminated. Consistent with the accountability standards of the new EEO Policy, agency counsels and human resource directors will be interviewed.

Revised Audit Instruments

The Commission approved the following three changes in audit instruments:

(1) expansion of the DIRF to include more documents and information, which will eliminate delays involved in requesting data after interviews with EEO professionals; (2) revision of the voluntary employee survey form and standard interview questions for EEO professionals to elicit more useful and relevant responses; and, (3) development of an accessibility checklist to determine whether the audited agency's facilities are accessible to and usable by persons with disabilities.

Expand Desk Audits to City Agencies with Less Than 15 Employees

The Commission will modify and expand the use of desk audits, which were used only for the small community boards, to all mayoral and non-mayoral agencies with fewer than 15 employees. Agencies to receive these streamlined audits in calendar year 2006 include the Civil Service Commission, Board of Correction, and the county public administrator offices.

Establish Audit Jurisdiction Over City-Funded Agencies Created by State Law

The City Charter requires that the Commission audit any agency of city government where the majority of the board members 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. There are, however, agencies that fall into one or more of the categories mandated by the Charter that are established and function pursuant to state law. The equal employment opportunity programs of these agencies, such as the New York City Board of Elections, are not regularly monitored by any city, state or federal agency. To educate and protect the employees in these agencies from illegal employment discrimination and reduce the City's liability for these agencies, the Commission will pursue strategies to convince these agencies to comply with the equal employment opportunity requirements of the New York City Charter. One strategy is the development of a Model Board Resolution for agencies which function pursuant to state law but are funded, in whole or in part, by the city treasury, that will mandate compliance with the equal employment opportunity requirements of the New York City Charter. This Model Resolution will accept jurisdiction by the EEPC to audit compliance by the agency with the City's Equal Employment Opportunity Policy.

Annually Publish the City's Total Employment Discrimination Cost

Each year the Commission's annual report includes the approximate cost to the City for the settlement or adjudication of employment discrimination cases against city agencies. This data, provided by the City Comptroller's office, does not include all employment discrimination costs (such as back pay). To address this issue, the Commission will create a centralized database where the information will be gathered from all City agencies. The information, to include all modes of payouts for settlements and adjudications of employment discrimination cases, will be published on the EEPC website as well as in the annual report.

Public Hearings on Major Employment Discrimination Issues in City Government

The Commission will sponsor future public hearings on major employment discrimination issues; such as, "Women and Minorities in Senior Level Position in City Agencies," "Illegal Discrimination via the One-in-Three Rule," and "Diversity Programs in the Private Sector."

Establish Advisory Committees on Major Employment Discrimination Issues

The EEPC has established Advisory Committees to address two major equal employment opportunity issues in City government: "The Advisory Committee to Recommend Improvements in the Fire Department Recruitment Program" and "The Advisory Committee to Recommend Changes in the Current Report Structure of the City's Equal Employment Opportunity Program." Advisory committees provide an opportunity for the Commission to secure outside expertise on EEO issues, work with individuals on all sides of an EEO issues, and work with the EEO professionals responsible for the day-to-day administration of their agencies' EEO program.

Strategic Plan Funding

To successfully implement all phases of this Strategic Plan, as well as meet our City Charter mandate to audit every city agency at least once every four years, the Commission submitted a New Needs Request of \$160,033 to the Office of Management and Budget and the City Council. \$150,000 is for: one Senior EEO Auditor, one Compliance Coordinator, one EEO Auditor I, and salary adjustments for current staff. We also requested an additional \$10,033 for: staff training, computer equipment, and other expenses identified in the Strategic Plan.

Strategic Plan Implementation

The following initiatives have already been implemented: Desk Audits of City Agencies with Less Than 15 employees, Pursuit of Audit Jurisdiction Over City-Funded Agencies Created by State Law, and Development of a Central Database of the City's Total Employment Discrimination Cost. Implementation of the Commission's Annual Audit Plan commenced January 2006. The Annual Audit Plan/Calendar Year 2006 includes: Approved Revised Audit Procedures, Approved Revised Audit Protocols, and Approved Revised Audit Instruments. Funds permitting, the other components of the Strategic Plan will be implemented in Fiscal Year 2007.

AUDIT ISSUES

Agencies Without EEO Programs

During calendar year 2005, EEPC audits revealed that one non-mayoral agency (Office of the City Clerk/Clerk of the Council) and two public benefit corporations controlled by the mayor—the Housing Development Corporation (HDC) and the Economic Development Corporation (EDC), had no formal EEO Programs. Although both public benefit corporations initially took the position that Chapter 36 of the New York City Charter did not apply to them, they subsequently agreed to accept EEPC jurisdiction. The EDC made this decision informally, while the HDC's board of directors formally agreed to accept EEPC jurisdiction. All three agencies said they had not received technical assistance from the Office of Citywide Equal Employment Opportunity Programs (DCAS). The Commission therefore recommended that those agencies petition the Office of Citywide Equal Employment Opportunity Programs for technical assistance in preparing Equal Employment Opportunity Programs that conform to the Citywide Equal Employment Opportunity Policy.

Managerial Performance Evaluations and EEO Criteria

Audits completed in calendar year 2005 revealed that a majority of managers interviewed by EEPC auditors in five agencies (New York County District Attorney's Office, Human Resources Administration, Department of Health and Mental Hygiene, Taxi and Limousine Commission, and

Department of Small Business Services) were not aware that their performance evaluations contained an EEO rating section. This, despite the fact that the citywide Managerial Performance Evaluation Form (prepared by DCAS) includes a reference to managerial accountability with regard to EEO matters. Specifically, section B. IV (“Utilizing Human Resources”) of the Form provides: “This accountability area covers responsibilities and processes for assuring that people are appropriately employed, effectively and efficiently utilized, and dealt with in a fair and equitable manner.”

In response to these audit findings, EEPC developed a standard audit recommendation: “The agency head should distribute a memo to all employees informing them that the ‘Utilizing Human Resources’ section of their annual performance evaluation includes tasks and standards relevant to EEO performance that will be considered in determining their eligibility for promotions or merit increases.”

In addition, DCAS informed City agencies that they are free to develop additional EEO rating language for managers. Two mayoral agencies—Department of Environmental Protection and Department of Small Business Services—did develop additional language to the EEO rating section of the citywide Performance Evaluation Form. This new language elaborates on, and clarifies, the EEO responsibilities of managers.

AUDIT RESOLUTIONS

Following are the Resolutions of Preliminary Determinations adopted by the Commission in calendar year 2005. With the exception of one, all resolutions were adopted unanimously.

January 19, 2005 Commission Meeting

1. Resolution #05/01-004 Re: Campaign Finance Board (CFB)
Pursuant to the audit of compliance by CFB with the City’s Equal Employment Opportunity Policy (EEO) for the thirty-month period commencing July 1, 2001 and ending December 31, 2003, the Resolution enumerated fourteen preliminary findings. Among the findings were:

- The agency's EEO Officer, EEO Counselor and Disability Rights Coordinator did not attend the standard 5-day training for EEO professionals provided by the Department of Citywide Administrative Services (DCAS) or similar appropriate training.
- CFB did not conduct EEO training for agency employees during or after the audit period.
- The agency's General EEO Policy and EEO Complaint Procedure did not contain up-to-date lists of "protected classes" under the New York State and New York City Human Rights Laws.
- The agency's EEO policies were not available in alternate formats for use by persons with disabilities and were not posted on bulletin boards during the audit period.

2. Resolution #05/02-902 Re: Bronx County District Attorney (BCDA)

Pursuant to the audit of compliance by BCDA with the City's EEOP for the thirty-month period commencing July 1, 2001 and ending December 31, 2003, the Resolution enumerated 14 preliminary findings. Among the findings were:

- BCDA did not issue a Reasonable Accommodation Procedure and did not update its EEO policy to include all the protected classes under the New York State and New York City Human Rights Laws.
- A significant portion of the employees surveyed indicated that they were not given, or did not know if they were given, the EEO Policy statement and discrimination complaint procedure.
- BCDA's EEO Administrator did not complete standard training for EEO professionals conducted by the DCAS or another reputable organization.
- The EEO Administrator did not schedule additional agency-wide EEO training for all existing and new employees who have not already received training.
- BCDA's EEO policies were not available in alternate formats for use by applicants and employees with disabilities.

April 27, 2005 Commission Meeting

3. Resolution #05/03-HDC Re: Housing Development Corporation (HDC)

Pursuant to the audit of compliance by HDC with the City's EEOP for the thirty-month period commencing July 1, 2002 and ending June 30, 2004, the Resolution enumerated the following four preliminary findings:

- The agency has not established an EEO Program.
- The agency's only EEO document did not conform to the Citywide EEO Policy or contain an updated list of "protected classes" under the Federal, State, or City human rights laws.
- The agency had not officially appointed an EEO Officer.
- The unofficial EEO Officer had not received comprehensive EEO training from DCAS or another appropriate agency or school.

4. Resolution #05/04-866 Re: Department of Consumer Affairs (DCA)

Pursuant to the audit of compliance by DCA with the City's EEOP for the thirty-month period commencing July 1, 2001 and ending December 31, 2003, the Resolution enumerated 18 preliminary findings. Among the findings were:

- The agency did not issue a General EEO Policy Statement, and its Complaint and Investigation Procedure was an abbreviated version of the model contained in the Citywide EEO Policy.
- There was no comprehensive EEO training conducted during the tenures of the previous or current EEO Officers.
- The agency cannot locate the files of the first EEO Officer to serve during the audit period.
- Three of the agency's internal discrimination complaint files contained no indication that the respondents were served with a Notice of Complaint along with a copy of the complaint; contained confidential written reports that were not prepared in accordance with the Discrimination Complaint Procedures Implementation Guidelines; and contained confidential written reports that were not signed by the agency head.
- The agency did not conduct adverse impact studies.

5. Resolution #05/05-903 Re: King's County District Attorney (KCDA)

Pursuant to the audit of compliance by KCDA with the City's EEOP for the thirty-month period commencing July 1, 2001 and ending December 31, 2003, the Resolution enumerated 16 preliminary findings. Among the findings were:

- The agency's EEO Policy Statement and Discrimination Complaint Procedure did not contain the current list of "protected classes" under the New York City and NY State Human Rights Laws.
- KCDA, which had 970 employees at the end of the audit period, did not have a full-time EEO Officer.
- There was no regular, general distribution of the agency's EEO policies to all employees.
- Persons of both sexes were not available to receive and investigate discrimination complaints.
- No formal EEO training was provided to the non-legal staff and no follow-up EEO training was provided to legal staff after their initial orientation sessions.
- KCDA's EEO policies were not available in alternate formats for persons with disabilities.

6. Resolution #05/06-EDC Re: Economic Development Corporation (EDC)

Pursuant to the audit of compliance by EDC with the City's EEOP for the thirty-month period commencing July 1, 2002 and ending June 30, 2004, the Resolution enumerated the following four preliminary findings:

- The agency had not established a comprehensive EEO Program.
- The agency's three EEO documents were deficient in various ways.
- EDC's EEO Officer had not received EEO training from DCAS or another appropriate agency.
- The agency could not locate the files of the previous co-EEO Officers.

7. Resolution #05/07-096 Re: New York City Human Resources Administration (HRA)

Pursuant to the audit of compliance by HRA with the City's EEOP for the thirty-month period commencing July 1, 2001 and ending December 31, 2003, the Resolution enumerated 18 preliminary findings. Among the findings were:

- HRA’s EEO Policies did not contain an up-to-date list of “protected classes” under the New York City and New York State Human Rights Law.
- The EEO Officer was not included in the agency’s recruitment process.
- HRA did not conduct adverse impact studies.
- HRA did not develop a plan to train new and existing EEO Liaisons/Personnel Officers who had not received necessary EEO training.
- The EEO Officer did not maintain appropriate documentation of meetings with the direct report to the agency head.

June 8, 2005 Commission Meeting

8. Resolution #05/08-103 Re: Office of the City Clerk (OCC)

Pursuant to the audit of compliance by OCC with the City’s EEOP for the twenty-four-month period commencing January 1, 2003 and ending December 31, 2004, the Resolution enumerated four preliminary findings. Among the major findings were:

- The agency had not established an EEO Program or engaged in any EEO-related activities.
- The EEO Officer had not received EEO training from the Department of Citywide Administrative Services or another appropriate agency or school.
- The previous EEO Officer had left no EEO files.

9. Resolution #05/09-261 Re: Department of Youth and Community Development (DYCD)

Pursuant to the audit of compliance by DYCD with the City’s EEOP for the twenty-four-month period commencing January 1, 2003 and ending December 31, 2004, the Resolution enumerated eight preliminary findings. Among the major findings were:

- The agency did not conduct adverse impact studies during the audit period.
- Supervisors and managers were not directed to discuss the agency’s EEO policies with their subordinates.
- Seventy-five percent of survey respondents indicated they did not know the name of the persons responsible for providing career counseling.

July 28, 2005 Commission Meeting

10. Resolution #05/10-816 Re: Department of Health and Mental Hygiene (DOHMH)

Pursuant to the audit of compliance by DOHMH with the City's EEOP for the twenty-four-month period commencing July 1, 2002 and ending June 30, 2004, the Resolution enumerated eight preliminary findings. Among the findings were:

- DOHMH's general EEO Policy did not contain an up-to-date list of "protected classes" under the New York City Human Rights Law.
- DOHMH did not ensure that job vacancies for which underutilization of women and/or minorities were identified, were advertised in female-and minority-oriented publications, and sent to professional and community organizations serving minorities women, and persons with disabilities.
- DOHMH did not secure the necessary training to conduct adverse impact studies, either from DCAS or another appropriate source.

11. Resolution #05/11-801 Re: Department of Small Business Services (SBS)

Pursuant to the audit of compliance by SBS with the City's EEOP for the twenty-four-month period commencing July 1, 2002 and ending June 30, 2004, the Resolution enumerated nine preliminary findings. Among the findings were:

- SBS's general EEO Policy did not include an up-to-date list of "protected classes" under the New York City Human Rights Law, or an indication that it is illegal to discriminate on the basis of gender identity and status as a victim of sex offenses and stalking.
- SBS's agency head did not sign each confidential written report to indicate that it had been reviewed and whether the recommendation, if any, was approved and adopted.
- SBS did not secure the necessary training to conduct adverse impact studies, either from DCAS or another appropriate source.
- Managers/supervisors were not aware that the "Utilizing Human Resources" section of the annual performance evaluation form includes tasks and standards relevant to EEO performance that will be considered in determining promotions or merit increases.

September 14, 2005 Commission Meeting

12. Resolution #05/12-156 Re: Taxi and Limousine Commission (TLC)

Pursuant to the audit of compliance by TLC with the City's EEOP for the twenty-four-month period commencing July 1, 2002 and ending June 30, 2004, the Resolution enumerated nine preliminary findings. Among the findings were:

- The agency head did not sign each report, or issue a memo to indicate that it had been reviewed and whether the recommendation, if any, was approved and adopted.
- TLC did not secure the necessary training to conduct adverse impact studies, either from DCAS or another appropriate source.
- Ninety-three percent of survey respondents were not aware of the career counselor's identity, location and telephone number.

October 26, 2005 Commission Meeting

13. Resolution #05/13-901 Re: New York District Attorney (DANY)

Pursuant to the audit of compliance by DANY with the City's EEOP for the twenty-four-month period commencing January 1, 2003 and ending December 31, 2004, the Resolution enumerated 13 preliminary findings. Among the findings were:

- The agency's EEO Pamphlet contained an out-of-date address and telephones number for the U.S. Equal Employment Opportunity Commission.
- The agency's EEO Policy Statement and Internal Discrimination Complaint Procedure did not contain the current list of "protected classes" under the New York City and New York State Human Rights Laws.
- The nine internal job vacancy notices submitted by DANY did not contain the EEO tag line.
- The agency's EEO policies were not available in alternate formats for persons with disabilities.

- The EEO Officer and the EEO Counselors had not received a certificate in EEO Studies from Cornell University's School of Industrial and Labor Relations or attended DCAS's training for EEO professionals.

14. Resolution #05/14-OTB Re: New York City Off-Track Betting Corporation

Pursuant to the audit of compliance by OTB with the City's EEOP for the twenty-four-month period commencing January 1, 2003 and ending December 31, 2004, the Resolution enumerated 10 preliminary findings. Among the major findings were:

- The agency's EEO policies did not contain the current list of "protected classes" under the New York City and New York State Human Rights Laws.
- OTB's Discrimination Complaint Procedure lacked several important components contained in the City's Discrimination Complaint Procedures Implementation Guidelines.
- OTB's EEO policies were not available in alternate formats for use by persons with disabilities.
- All six internal job postings submitted by OTB did not contain the EEO tag line.
- OTB has not appointed EEO Counselors.

December 14, 2005 Commission Meeting

15. Resolution #05/15-019 Re: Office of Management and Budget (OMB)

Pursuant to the audit of compliance by OMB with the City's EEOP for the twenty-four-month period commencing January 1, 2003 and ending December 31, 2004, the Resolution enumerated five preliminary findings. Among the major findings were:

- The EEO Officer did not submit a confidential written report to the agency head that consists of the 3 sections outlined in the DCPIG.
- The agency head did not sign each report to indicate that it had been reviewed and whether the recommendation, if any, was approved and adopted.
- OMB did not ensure that job vacancies for which underutilization of women and/or minorities have previously been identified were advertised in female-and minority-

oriented publications, and sent to professional and community organizations serving minorities, women, and persons with disabilities.

16. Resolution#05/16-858 Re: Department of Information Technology and Telecommunications (DoITT)

Pursuant to the audit of compliance by DoITT with the City's EEOP for the twenty-four-month period commencing July 1, 2002 and ending June 30, 2004, the Resolution enumerated eight preliminary findings. Among the major findings were:

- DoITT did not develop a plan to evaluate all employees annually.
- DoITT employees were not aware of the identity, location and telephone number of the Career Counselor.

MOST FREQUENT AUDIT FINDINGS

Following are some of the most frequent audit findings during calendar year 2005. The frequency of each finding is in parenthesis.

1. The agency's General EEO Policy and EEO Complaint Procedure did not contain up-to-date lists of "protected classes" under the New York State and New York City Human Rights Laws. (10)
2. The EEO Officer did not keep agendas or notes of meetings with their respective supervisors regarding EEO matters. (10)
3. The EEO Officer and EEO Counselor did not attend DCAS's training for EEO professionals or similar appropriate training. (8)
4. The agency had not conducted adverse impact studies. (7)
5. Employees were not aware of the identity, location and telephone number of the Career Counselor. (6)

6. The agency's EEO policies were not available in alternate formats for use by persons with disabilities. (6)

7. The EEO Officer was not involved in developing recruitment strategy or selecting recruitment media. (5)

8. The agency did not inform its supervisory staff that the "Utilizing Human Resources" section of their annual performance evaluation form includes tasks and standards relevant to EEO performance that will be considered in determining their eligibility for promotions or merit increases. (5)

9. The agency's job advertisements did not contain the EEO tag line. (5)

The Audit Performance Report for Calendar Year 2005 is on the following pages.

EQUAL EMPLOYMENT PRACTICES COMMISSION
AUDIT PERFORMANCE REPORT/CALENDAR YEAR 2005

AUDITS COMMENCED IN 2005: 27

1. Department of Youth and Community Development
2. Taxi and Limousine Commission
3. Office of Management and Budget
4. Department of Information Technology and Telecommunications
5. Office of the City Clerk/Clerk of the Council
6. Off-Track Betting Corporation
7. New York County District Attorney
8. Queens County District Attorney
9. New York Police Department
10. Board of Correction
11. New York City Housing Authority
12. Department of Education
13. NYC Civil Service Commission
14. Queens Community Boards (14)

AUDITS COMPLETED IN 2005: 16

Commenced and Completed in 2005: 7

1. Office of the City Clerk/Clerk of the Council
2. Department of Youth and Community Development
3. Taxi and Limousine Commission
4. New York County District Attorney
5. Off-Track Betting Corporation
6. Office of Management and Budget
7. Department of Information Technology and Telecommunications

Commenced Prior to 2005 and Completed in 2005: 9

1. Housing Development Corporation
2. Bronx County District Attorney
3. Campaign Finance Board
4. Human Resources Administration
5. Kings County District Attorney
6. Department of Consumer Affairs
7. Economic Development Corporation
8. Department of Health and Mental Hygiene
9. Department of Small Business Services

AUDITS IN PROGRESS AT THE END OF 2005: 21

1. Department of Correction
2. Queens County District Attorney
3. New York Police Department
4. New York City Housing Authority
5. Department of Education
6. Board of Correction
7. Civil Service Commission
8. Queens Community Boards (14)

CHAPTER III

IMPLEMENTING CORRECTIVE ACTIONS/ COMPLIANCE

“...If the commission, after a period not to exceed six months, determines that the agency has not taken appropriate and effective corrective actions, the commission shall notify the agency in writing of this determination and the commission may thereafter publish a report and recommend to the mayor whatever appropriate corrective action the commission deems necessary to ensure compliance with equal employment opportunity pursuant to the requirements of this chapter and chapter thirty-five. Within thirty days of such determination the agency shall submit a written response to the commission and the mayor. The mayor after reviewing the commission’s findings and the agency’s response, if any, shall order and publish such action as he or she deems appropriate.”

Excerpt from Section 832 (c), Chapter 36, New York City Charter

INTRODUCTION

Commission staff initiated audit compliance with fifteen agencies and completed compliance with fifteen agencies during the year. Eleven agencies completed compliance within the Charter-mandated six month period; four requested, and were granted, extensions. At the end of the year, ten agencies were under compliance.

Compliance Procedure

Section 832 of the City Charter sets forth the compliance procedures including steps to be taken when the Commission, pursuant to an audit of any agency, makes a preliminary determination that the agency has adopted or utilized a plan, program, procedure, approach, measure, or standard that does not provide equal employment opportunity. Those steps are:

- The Commission will notify the agency in writing of its determination and provide an opportunity for response.
- If, after consideration of the agency's response and consultation with the agency, the Commission concludes corrective actions, if any, are not sufficient to correct non-compliance, it will make a final determination in writing, including recommended corrective actions.
- The agency shall respond within thirty days on corrective actions it intends to make and submit monthly reports on the progress of such corrective action.
- After a period not exceeding six months, if the Commission determines the agency has not taken appropriate or effective action, the Commission shall notify the agency in writing of its determination and may thereafter publish a report, and recommend to the Mayor the appropriate or effective action it deems necessary.
- Within thirty days of the determination by the Commission, the agency shall submit a written response to the Commission and the Mayor.
- The Mayor reviews the Commission's findings and the agency's response, if any, and shall order and publish such action that the Mayor deems appropriate.

COMPLIANCE ISSUES

Extended Compliance

Seven agencies received an extension of the compliance period to implement outstanding required actions. Some received extensions because they were unable to secure EEO training for employees or EEO Counselors/Investigators. Some of the agencies that were granted extensions were not able to fully implement all of the required actions. (A Compliance Monitoring Timeline Chart for Calendar Year 2005 is in the Appendix.)

Partial Compliance

Agencies that do not complete compliance within the City Charter-mandated six-month compliance period and do not complete Compliance after receiving an extension of the compliance period, receive a letter of partial compliance. The letter of partial compliance informs the agency why it is in partial compliance and says the agency may be audited again before the Charter-prescribed four year maximum time period.

COMPLIANCE RESOLUTIONS

Following are the Resolutions of Compliance Completion or Partial Completion adopted by the Commission during the year. All Resolutions were adopted unanimously.

January 19, 2005 Commission Meeting

1. Resolution #05/01-025C Re: New York City Law Department (NYCLD)

This Resolution authorized the Commissioner to forward a letter to Corporation Counsel Michael A. Cardozo informing him that the NYCLD has implemented all twelve recommended corrective actions. Among the corrective actions were:

- All recruitment literature, including newspaper advertisements, should indicate that NYCLD is an equal opportunity employer.
- NYCLD should ensure that all employees involved in interviewing receive structured interview training, either through internal training or training provided by DCAS.

- Supervisors should hold documented meetings with their staffs to emphasize their (supervisors') commitment to the agency's EEO policies and reaffirm the right of each employee to file a discrimination complaint with the EEO Office.

2. Resolution #05/02-136PC Re: Landmarks Preservation Commission (LPC)

This Resolution authorized the Commissioner to forward a letter to Commissioner Robert B. Tierney informing him that the LPC has **partially complied** with the requirements of Chapters 35 and 36 of the New York City Charter. The LPC implemented nine of the ten recommended corrective actions pursuant to the Commission's audit and the Commission may initiate another audit of LPC prior to the conclusion of the four-year maximum timeframe mandated by the New York City Charter.

The recommended corrective action that was not implemented was: All staff, managerial and non-managerial, should receive an annual performance evaluation.

Among the other corrective actions were:

- LPC should request that DCAS conduct an architectural survey of LPC's offices to ensure that they are accessible to and usable by persons with disabilities.
- The EEO Officer should develop a plan to provide EEO training, which includes a component on preventing sexual harassment, to all new and existing employees.
- LPC should inform all employees in writing of the name, location, and phone number of the agency's Career Counselor.

March 9, 2005 Commission Meeting

3. Resolution #05/03-806PC Re: Department of Housing Preservation and Development (HPD)

This Resolution authorized the Vice-Chair to forward a letter to Commissioner Shaun Donovan informing him that the HPD has **partially complied** with the requirements of Chapters 35 and 36 of the New York City Charter because the HPD implemented nine of the ten recommended corrective actions pursuant to the Commission's audit of compliance by the HPD with the City's Equal Employment Opportunity Policy; and that the Commission may initiate another audit of the HPD prior to the conclusion of the four-year maximum timeframe mandated by the New York City Charter.

The recommended corrective action that was not implemented was: All staff, managerial and non-managerial, should receive an annual performance evaluation.

Among the other corrective actions were:

- HPD's EEO Officer should attend the standard 5-day training for EEO professionals provided by the Department of Citywide Administrative Services.
- HPD should inform all employees in writing of the identity, location and telephone number of the Career Counselor.

4. Resolution #05/04-827C Re: Department of Sanitation (DSNY)

This Resolution authorized the Vice-Chair to forward a letter to Commissioner John J. Doherty informing him that the DSNY has implemented all fifteen recommended corrective actions. Among the corrective actions were:

- The agency should appoint an EEO Counselor for each borough.
- DSNY should develop a plan to train all existing DSNY employees on EEO.
- To ensure that employees receive career guidance from a trained professional, DSNY should appoint a person familiar with civil service and provisional jobs to provide career counseling to employees who request it.
- It is the Commission's position that supervisors should hold documented meetings with their staffs to emphasize their (supervisors') commitment to the agency's EEO Policies and reaffirm the right of each employee to file a discrimination complaint with the EEO Office.

5. Resolution #05/05-810C Re: Department of Buildings (DOB)

This Resolution authorized the Vice-Chair to forward a letter to Commissioner Patricia J. Lancaster, FAIA, informing her that the DOB has implemented all eighteen recommended corrective actions. Among the corrective actions were:

- DOB should ensure that all employees involved in job interviewing receive structured interview training, either through internal training or training provided by DCAS or another appropriate organization.
- DOB should inform all employees in writing of the identity, location, and telephone number of the agency's Career Counselor.

- It is the Commission's position that supervisors should hold documented meetings with their staffs to emphasize their (supervisor's) commitment to the agency's EEO policies and reaffirm the right of each employee to file a discrimination complaint with the EEO Office.
- The EEO Officer should be proactively involved in developing recruitment strategies and selecting recruitment media.
- DOB should implement its 2004 EEO Plan and ensure that all new and current employees who have not received EEO training receive such training, which includes a component on preventing sexual harassment.

6. Resolution #05/06-126C Re: Department of Cultural Affairs (DCLA)

This Resolution authorized the Vice-Chair to forward a letter to Commissioner Kate D. Levin informing her that the DCLA has implemented all three recommended corrective actions. Among the corrective actions was:

- DCLA should establish a plan, which includes a timeframe, for all of its employees to receive EEO training through the Department of Finance or any other appropriate organization.

April 27, 2005 Commission Meeting

7. Resolution #05/07-826C Re: Department of Environmental Protection (DEP)

This Resolution authorized the Commissioner to forward a letter to Commissioner Emily Lloyd informing her that the DEP has implemented all twelve recommended corrective actions. Among the major corrective actions were:

- DEP should adhere to the goals projected in its training plan, or develop a more practical training plan in which all new and existing employees will receive EEO training.
- DEP should update its list of minority-oriented publications to include all protected groups.
- The EEO Officer should follow up on her pledge to be proactively involved in DEP's recruitment and selection process starting in the fall of 2004.

- Managerial staff should be informed in writing that their annual performance evaluation form includes tasks and standards that relate to EEO performance.

July 28, 2005 Commission Meeting

8. Resolution #05/08-781C Re: Department of Probation (DOP)

This Resolution authorized the newly-appointed Chair Ernest Hart, Esq. to forward a letter to Commissioner Martin Horn informing him that the DOP has implemented all seventeen recommended corrective actions. Among the major corrective actions were:

- To insure that employees are aware that persons of both sexes are available to receive and investigate discrimination complaints, DOP should officially appoint a male EEO Counselor and notify employees of that appointment.
- DOP should either adhere to the goals projected in its Agency-Specific EEO plan, or develop a more practical training plan in which all new and existing employees will receive EEO training.
- DOP should prepare a list of minority-oriented organizations, which includes all protected EEO groups, to be used for recruitment purposes.
- DOP should ensure that all employees involved in interviewing receive structured interview training, either through internal training or training provided by DCAS.
- DOP should inform its managerial staff in writing that their annual performance evaluation form includes tasks and standards relevant to EEO performance that will be considered in determining eligibility for promotions or merit increases.

9. Resolution #05/09-127C Re: Financial Information Services Agency (FISA)

This Resolution authorized the Chair to forward a letter to Executive Director Robert W. Townsend informing him that the FISA has implemented all nine recommended corrective actions. Among the corrective actions were:

- FISA should remind all managers that their evaluation form does contain a rating for equal employment opportunity.
- FISA should re-distribute information about the identity, location and telephone number of the Career Counselor to all agency employees.

- The EEO Officer should submit a confidential written report to the agency head. The report should consist of the three sections outlined in the DCPIG: (1) Findings of Facts, (2) Discussion and Conclusion, and (3) Recommendations. The agency head must sign each report to indicate that it has been reviewed and whether the recommendation, if any, is approved and adopted.

September 14, 2005 Commission Meeting

10. Resolution #05/10-831C Re: Business Integrity Commission (BIC)

This Resolution authorized the Chair to forward a letter to Chair Thomas McCormack informing him that the BIC has implemented all twenty-two recommended corrective actions. Among the corrective actions were:

- The Business Integrity Commission (BIC) should establish an EEO Program in accordance with the Citywide EEO Policy. The agency should petition the Office of Citywide Equal Employment Opportunity (DCAS) for assistance in preparing and implementing that Program.
- The BIC should develop a plan to train all new and existing employees (supervisors and non-supervisors) on EEO.
- The BIC should ensure that all employees involved in interviewing receive structured interview training, either from internal training or training provided by DCAS.
- The BIC should appoint an individual in the human resources department who is familiar with civil service and provisional jobs to serve as a Career Counselor.
- The Co-EEO Officers should be proactively involved in developing recruitment strategies and selecting recruitment media.

11. Resolution #05/11-850C Re: Department of Design and Construction (DDC)

This Resolution authorized the Chair to forward a letter to Commissioner David J. Burney informing him that the DDC has implemented all fourteen recommended corrective actions. Among the major corrective actions were:

- The agency head should sign each report to indicate that it has been reviewed and whether the recommendation, if any, is approved and adopted.

- The EEO Officer should submit a confidential written report to the agency head labeled “Confidential.” The report should consist of the three sections outlined in the DCPIG: (1) Findings of Facts, (2) Discussion and Conclusion, and (3) Recommendations.
- DDC should secure the necessary training to conduct adverse impact studies, either from DCAS or another appropriate source.
- DDC should remind all managers that their evaluation form does contain rating for equal employment opportunity.

12. Resolution #05/12-131C Re: Office of Payroll Administration (OPA)

This Resolution authorized the Chair to forward a letter to Executive Director Joel Bondy informing him that the OPA has implemented all thirteen recommended corrective actions. Among the major corrective actions were:

- The agency head should appoint at least two EEO representatives, who may not be of the same gender, to receive discrimination complaints and conduct investigations.
- The EEO Officer should follow-up on her pledge and develop a plan to provide EEO training, which includes a component on preventing sexual harassment, for all new and current employees.
- OPA should redistribute a memo informing all employees of the identity, location, and telephone number of the agency’s career counselor.
- It is the Commission’s position that at least twice a year during normal staff meetings, supervisors should emphasize their commitment to the agency’s EEO policies and affirm the right of each employee to file a discrimination complaint with the EEO Office.

13. Resolution #05/13-226PC Re: City Commission on Human Rights (CCHR)

This Resolution authorized the Chair to forward a letter to Chair/Commissioner Patricia L. Gatling informing her that the CCHR has **partially complied** with the requirements of Chapters 35 and 36 of the New York City Charter because the CCHR implemented eight of the ten recommended corrective actions pursuant to the Commission’s audit of compliance by the CCHR with the City’s Equal Employment Opportunity Policy;

and that the Commission may initiate another audit of the CCHR prior to the conclusion of the four-year maximum timeframe mandated by the New York City Charter.

The recommended corrective actions that were not implemented were: It is the Commission's position that at least twice a year, during normal staff meetings, supervisors should emphasize their commitment to the agency's EEO policies and affirm the right of each employee to file a discrimination complaint with the EEO Office; and CCHR should petition the Office of Citywide Equal Employment Opportunity of DCAS to obtain the necessary assistance to conduct adverse impact studies.

Among the other corrective actions were:

- CCHR should develop a plan, which includes a timeframe, to train all existing and new employees who have not already received sexual harassment prevention training.
- CCHR should inform its managerial staff in writing that their annual performance evaluation form includes tasks and standards that relate to EEO performance, which will be considered in determining their eligibility for promotions or merit increases.
- CCHR should update its recruitment list to include all protected groups.

14. Resolution #05/14-214C Re: Office of Labor Relations (OLR)

This Resolution authorized the Chair to forward a letter to Commissioner James F. Hanley informing him that the OLR has implemented all twelve recommended corrective actions. Among the major corrective actions were:

- At least twice a year during normal staff meetings, supervisors should emphasize their (supervisors') commitment to the agency's EEO policies and reaffirm the right of each employee to file a discrimination complaint with the EEO Office. Those meetings should be documented.
- All staff-managerial and non-managerial-should receive an annual performance evaluation.
- All employees should be notified in writing of the name, location, and phone number of the agency's career counselor.
- OLR should ensure that all supervisors involved in job interviewing receive structured interview training, either through internal training or training provided by DCAS.

December 14, 2005 Commission Meeting

15. Resolution #05/15-HDC/C Re: New York City Housing Development Corporation (HDC)

This Resolution authorized the Chair to forward a letter to President Emily Youssouf informing her that the HDC has implemented all seventeen recommended corrective actions. Among the corrective actions were:

- HDC should officially appoint an EEO Officer and Counselor, or Co-EEO Officers and notify all employees in writing of that appointment.
- The EEO Officer and Counselor/or Investigator or Co-EEO Officers should receive EEO training from DCAS or another reputable organization, such as Cornell University's School of Industrial and Labor Relations.
- HDC should develop a plan to train all new and existing employees (supervisors and non-supervisors) on EEO.
- The EEO Officer should be proactively involved in developing recruitment strategies and selecting recruitment media.

REPORT TO THE MAYOR

City Charter Section 832 authorizes this Commission to publish a Report and recommend to the Mayor whatever action it deems necessary, if it determines after a six month compliance period that an audited agency has not taken "appropriate and effective corrective action" to address equal employment opportunity requirements. The Commission is required to forward a copy of the Report to the subject agency. The agency has thirty days to respond to the Commission and the Mayor. After reviewing the Commission's Report and the agency's response, the Mayor is required to order and publish whatever action he (or she) deems necessary. The Commission did not publish a Report to the Mayor in 2005.

The Compliance Performance Report for Calendar Year 2005 is on the following pages.

**EQUAL EMPLOYMENT PRACTICES COMMISSION
COMPLIANCE PERFORMANCE REPORT/CALENDAR YEAR 2005**

COMPLIANCE COMMENCED IN 2005: 15

1. City Commission on Human Rights
2. Financial Information Services Agency
3. Department of Design and Construction
4. Office of Payroll Administration
5. Richmond County District Attorney's Office
6. Campaign Finance Board
7. Bronx County District Attorney's Office
8. New York City Housing Development Corporation
9. Department of Consumer Affairs
10. Office of the City Clerk/ City Council
11. Department of Youth and Community Development
12. Kings County District Attorney's Office
13. New York City Economic Development Corporation
14. Human Resources Administration
15. Department of Small Business Services

COMPLIANCES COMPLETED IN 2005: 15

Commenced and Completed in 2005: 5

1. Financial Information Services Agency
2. Department of Design and Construction
3. Office of Payroll Administration
4. City Commission on Human Rights
5. New York City Housing Development Corporation

Commenced Prior to 2005 and Completed in 2005: 10

1. New York City Law Department
2. Landmarks Preservation Commission
3. Department of Housing Preservation and Development
4. Department of Sanitation
5. Department of Buildings
6. Department of Cultural Affairs
7. Department of Environment Protection
8. Department of Probation
9. Business Integrity Commission
10. Office of Labor Relations

COMPLIANCES IN PROGRESS AT THE END OF 2005

1. Richmond County District Attorney's Office
2. Campaign Finance Board
3. Bronx County District Attorney's Office
4. Department of Consumer Affairs
5. Office of the City Clerk/ City Council
6. Department of Youth and Community Development
7. Kings County District Attorney's Office
8. New York City Economic Development Corporation
9. Human Resources Administration
10. Department of Small Business Services

CHAPTER IV

PUBLIC HEARING

AND

ILLEGAL EMPLOYMENT DISCRIMINATION

“a. The commission shall conduct such study or investigation and hold such hearings as may be necessary to determine whether agencies are in compliance with the equal employment opportunity requirements of this chapter and chapter thirty-five.”

Chapter 36, section 832a, New York City Charter, As Amended, 1999

PUBLIC HEARING

On June 15, 2005 the Commission held a public hearing on: The Equal Employment Opportunity Policy of the Bloomberg Administration. Martha Hirst, Commissioner of the Department of Citywide Administrative Services (DCAS) and Roberto Velez, Chief Administrative Law Judge of the Office of Administrative Trials and Hearings (OATH) were invited to testify.

Martha K. Hirst, Commissioner, Department of Citywide Administrative Services (DCAS)

Commissioner Hirst commenced her testimony by stating that the format and most of the major components of the revised Equal Employment Opportunity Policy remain the same, but they have been updated and reorganized. Among the recent revisions are updates that reflect organizational changes within the administration, and amendments to the City Charter and other applicable statutes. These changes include amendments to city and state laws, which protect against discrimination based on gender identity, military status, genetic predisposition or carrier status, and status as a victim of domestic violence, sex offenses or stalking. She also said that the revised Policy elaborates on who is covered under the policy and the circumstances under which prohibited behavior may occur; for example the accountability section now explicitly prohibits discrimination based on associations and relationships. This section also clarifies the parameters of the workplace to identify the locations outside the typical office setting where discriminatory conduct may occur.

Commissioner Hirst testified that the revised Policy contains specific provisions regarding reasonable accommodations for religious observances, beliefs and practices and accommodations for victims of domestic violence, sex offenses and stalking. The Policy also contains stronger accountability standards for agency heads, and for the first time communicates accountability standards for personnel officers and general counsels.

Regarding external complaints, the Commissioner said that whether an external complaint is filed before, at the same time as, or after the internal complaint is filed, the complaint is the responsibility of the general counsel, and the Policy requires the transfer of the internal complaint from the agency's EEO Officer to the agency's General Counsel. The Policy also states that managers, supervisors and human resources personnel who receive complaints or who otherwise might become aware of any improper conduct are now unequivocally required to notify the agency's EEO office.

Commissioner Hirst concluded her testimony by saying said that the revised Policy encourages use of the recently created Center for Mediation Services (CMS) at the Office of

Administrative Trials and Hearings (OATH). The Policy provides a protocol for referring complaints to the Mediation Center. She said her agency will be working with OATH to develop a protocol to identify appropriate complaints for mediation, and working with EEO officers to finalize and implement revised complaint and reasonable accommodation procedures.

Questions and Comments

Newly-appointed EEPC Chair Ernest Hart asked Commissioner Hirst if the EEO Policy is applicable to mayoral agencies, as well as, non-mayoral agencies and elected officials. Commissioner Hirst responded that the Policy applies to all agencies but that DCAS must continue to work closely with the Law Department to clear up any discrepancies with the interpretation of the Policy. She also said that in the meantime OCEEEO will continue to provide information and guidance to every agency and elected official.

Commissioner Buggs asked Commissioner Hirst to identify some of the challenges that EEO Officers have communicated to her office, and how her office is dealing with them. Commissioner Hirst said that some of the concerns communicated to her office involve the additions to the Human Rights Law with respect to protections for gender status and gender identity, and inquiries about reasonable accommodation. She said that OCEEEO will continue to aide EEO Officers with issues as they arise.

In response to a question from Commissioner Villanueva regarding the provision of EEO training for WEP workers by DCAS, Commissioner Hirst deferred to DCAS Deputy Commissioner and Counsel Lew Finkelman. Mr. Finkelman said the Law Department is engaged in discussions with the Department of Justice about settling the dispute about whether or not the City's EEO Policy covers WEP workers. He also said that WEP workers in DCAS facilities receive the same EEO materials as City employees, but that he could not speak for other agencies.

EEPC Executive Director Abraham May, Jr., asked whether DCAS will assume the responsibility of providing structured interview training or if DCAS will train EEO Officers so that they can train those that do the interviewing. Commissioner Hirst said that the DCAS provides workshops for agency staff so that they can in turn train others to conduct structured interview training.

In response to Mr. May's question about an EEO component to the New York City Automated Personnel System (NYCAPS), Ms. Hirst said the first major component of NYCAPS

will be launched in some target agencies in August 2005 and that will involve some information related to EEO in the human resource component of NYCAPS.

Roberto Velez, Chief Administrative Law Judge, Office of Administrative Trials and Hearings (OATH)

Judge Velez's testimony focused on the Center for Mediation Services (CMS) established by OATH in 2003 with the help of the Deputy Mayor for Legal Affairs/Counsel to the Mayor, Carol Robles-Roman. He said that CMS's goal is to serve as a comprehensive conflict management institute for the City of New York. CMS has three core programs: (1) mediation of City workplace disputes; (2) training and conflict management; and, (3) serving as a resource for conflict management.

Mediation at CMS is a confidential, voluntary process that is offered at no charge to city agencies or their employees. CMS uses a facilitator co-mediation model where two trained staff members facilitate discussions between the participants and allow the participants to come to their own resolution. Judge Velez then stated that pursuant to the EEO Policy, the EEO Officer offers the complainant the option of mediating his or her complaint. Under the revised EEO Policy, the mediation may be conducted at the agency or at CMS. CMS also receives referrals from agencies seeking resolutions of disputes that led to, or could lead to, disciplinary hearings. Any case involving severe power imbalances or physical violence will not be referred.

In its first two years of operations, (March 2003 to May 2005) CMS received 56 referrals for mediation. In 37 cases participants agreed to participate in the mediation. Of those referrals, 41 were EEO and 13 were disciplinary; 25 of the EEO referrals actually went to mediation as well as 11 of the disciplinary matters. With a few exceptions, all cases resolved in mediation involved a written resolution agreement signed by both parties. CMS has a total resolution rate of 86 percent in all cases where mediation commenced and an 84 percent resolution rate for the EEO cases alone. The average time from referral to resolution for CMS cases was 35.5 days with an average mediation session time of only 2.87 hours. Judge Velez said that compared with the alternatives of lingering conflict or formal disciplinary hearings, mediation at CMS takes less time and costs agencies, including OATH, significantly less money.

CMS's conflict management program provided training for the Department of Housing Preservation and Development (HPD) and the New York City Fire Department (FDNY). For the

HPD, OATH teamed with expert trainers and consultants to deliver a four-day skills training to a group of Housing Court facilitators who assist in settlement negotiations at the new homeless prevention part in the Bronx Housing Court. For the FDNY, OATH provided conflict management training for newly promoted fire alarm dispatchers to assist them in managing conflicts among dispatchers and between dispatchers and the public.

Questions and Comments

Chair Hart asked Judge Velez to explain how agency management is involved in mediation. Judge Velez said that in the development stages of CMS, OATH collaborated with agency heads as well as EEO Officers to develop a program that could operate independent of management oversight.

In response to a question from Executive Director May regarding EEO officers' interest in mediation training as a tool in addressing EEO issues, Judge Velez said that OATH held a training session with NYU law school students and approximately ten EEO officers. The EEO officers showed great interest in the training. The goal of OATH is to make training in mediation available to all EEO Officers.

Other Testimony

Arlene Aikens, NYC Law Department

Ms. Aikens testified that she was denied permanent civil service status and a promotion by the Law Department. She filed an EEO complaint, but said that nothing has changed.

Questions and Comments

Mr. May asked Ms. Aikens how high within the Law Department's hierarchy did she take this complaint. Ms. Aikens said that she went as far as the Law Department's EEO Officer.

Lloyd Dawkins, Department of Education

Mr. Dawkins said that he represents quality assurance specialists and they have not been afforded equal opportunity under the civil service laws. He said the quality assurance specialists that

he represents are minorities who have performed well on the civil service exams, but have not received the promotions they believe they deserve.

ILLEGAL EMPLOYMENT DISCRIMINATION

There is a cost to the City for illegal employment discrimination. To reduce the settlement or adjudication costs of employment discrimination cases, this Commission believes that every city agency must have a properly structured and efficiently administered Equal Employment Opportunity Program that is in compliance with the City's Equal Employment Opportunity Policy. Each agency must have an agency head who is committed to the implementation of the agency's Equal Employment Opportunity Program. Violations of the City's Equal Employment Opportunity Policy leads to the filing of complaints of illegal employment discrimination and in some cases complainants file suit against the agency and the City and win. These documented settlement and judgment costs are in addition to the enormous loss-of-productivity costs of employment discrimination that are not documented.

At the beginning of each calendar year, the EEPC requests a report from the City Comptroller on the number of employment discrimination cases settled or adjudicated in the preceding year and the total cost to the City. The Comptroller's office reported fifty-six settlements of employment discrimination cases in calendar year 2005 and one judgment against the City. The total dollar value of these cases was \$29,219,996.03. This is a 6,494% increase over the cost in calendar year 2004 (\$443,100.00).

One settlement had a total value of \$25,246,611.42. This resulted from the suit filed by the Latino Officers Association against the New York City Police Department for disparate treatment of Hispanic and other minority police officers by NYPD supervisors. This settlement was discussed in last year's annual report.

The Charts on the following pages reflect the cumulative settlement and judgment costs to the City for employment discrimination since calendar year 1994, and the total number and value of settlements and judgments by agency, for employment discrimination in calendar year 2005.

**SETTLEMENT/ADJUDICATION COST OF EMPLOYMENT DISCRIMINATION
IN NEW YORK CITY GOVERNMENT AGENCIES**

CALENDAR YEARS 1994 - 2005

YEAR	SETTLEMENT	ADJUDICATION	TOTAL	% INCREASE
1994	—	—	\$869,150.00	—
1995	—	—	\$1,555,050.00	78.1%
1996	—	—	\$1,794,186.00	15.0%
1997	\$924,819.00	\$1,687,900.00	\$2,603,719.00	45.0%
1998	\$1,334,685.00	\$75,000.00	\$1,409,685.00	(45.8%)
1999	\$1,350,354.00	—	\$1,350,354.00	(5.0%)
2000	\$2,435,069.00	—	\$2,435,069.00	80.3%
2001	\$409,154.00	\$58,001.00	\$467,155.00	(81.8%)
2002	\$2,796,087.00	\$470,159.00	\$3,266,246.00	699.1%
2003	\$5,657,591.00	\$1,533,253.00	\$7,190,844.00	220.2%
2004	\$319,000.00	\$124,100.00	\$443,100.00	(93.8%)
2005	\$28,857,584.00	\$362,412.00	\$29,219,996.00	6,494.4%
Grand Total			\$52,604,554.00	
Average Annual Cost: \$4,383,713.00				

**LEGAL COST OF EMPLOYMENT DISCRIMINATION
IN NEW YORK CITY GOVERNMENT AGENCIES
CALENDAR YEAR 2005**

CLAIM #	AGENCY	SETTLEMENT/JUDGMENT	
		AMOUNT	DESCRIPTION
2005PI014947	Police Department	\$5,000.00	Race
2005PI000877	Police Department	\$10,000.00	Disability
2005PI022171	Police Department	\$15,000.00	Race/Gender
2001PI026031	Police Department	\$38,000.00	Disability
1998PI005703	Police Department	\$50,000.00	Race/Religion
2005PI003434	Police Department	\$50,000.00	Sex/Gender
2004PI026187	Police Department	\$64,479.00	Religion
2004PI023480	Police Department	\$69,000.00	Gender
2004PI010810	Police Department	\$190,000.00	Whistleblower
2004PI024889	Police Department	\$475,000.00	Sex/Gender
2003LW018482	Police Department	\$25,246,611.42	National Origin
2005PI020756	Board of Education	\$4,500.00	Age
2005PI006021	Board of Education	\$7,500.00	National Origin/Race
1999PI013859	Board of Education	\$8,500.00	Race/Gender
2005PI024237	Board of Education	\$10,000.00	Age
2003PI016789	Board of Education	\$12,000.00	National Origin/Race
2005PI002935	Board of Education	\$12,000.00	Sex
2005PI018614	Board of Education	\$15,000.00	Sex/Gender
2003PI021465	Board of Education	\$25,000.00	Race
2005PI000094	Board of Education	\$75,000.00	Disability
1999PI013858	Board of Education	\$150,000.00	Age
2004PI022516	Board of Education	\$150,000.00	Disability
2001PI026030	Board of Education	\$175,000.00	Race
2004PI022514	Health & Hospitals Corporation	\$15,000.00	National Origin/Religion
2005PI005147	Health & Hospitals Corporation	\$15,000.00	Race/Gender
2004PI010624	Health & Hospitals Corporation	\$20,000.00	Disability/Race
2005PI016793	Health & Hospitals Corporation	\$40,000.00	Sex/Gender
2000PI026050	Health & Hospitals Corporation	\$42,500.00	Sex
2005PI024516	Health & Hospitals Corporation	\$77,500.00	National Origin/Race/Rel
2002PI018489	Health & Hospitals Corporation	\$122,000.00	National Origin/Whistleblower

LEGAL COST OF EMPLOYMENT DISCRIMINATION, CONTINUED

CLAIM #	AGENCY	SETTLEMENT/JUDGMENT	
		AMOUNT	DESCRIPTION
2005PI023981	Fire Department	\$750.00	Race
2005PI011435	Fire Department	\$8,000.00	Sex
2004PI000766	Fire Department	\$25,000.00	Race
2004PI019257	Fire Department	\$25,000.00	Age/Disability
2005PI003540	Fire Department	\$41,000.00	Disability
2004PI026868	Fire Department	\$45,000.00	National Origin/Race
2005PI019864	Human Resources Administration (HRA)	\$15,000.00	National Origin
2005PI024234	Human Resources Administration (HRA)	\$45,000.00	Sexual Orientation
2005PI021691	Human Resources Administration (HRA)	\$120,000.00	Sexual Harassment
2004PI015136	Human Resources Administration (HRA)	\$125,000.00	Age/Race/Gender
2005PI006552	Administration for Children's Services	\$3,000.00	Sex/Gender
2005PI012116	Administration for Children's Services	\$40,000.00	Sex/Gender
2004PI025438	Department of Environmental Protection	\$7,500.00	Disability
2002PI031355	Department of Environmental Protection	\$362,412.25	Age/Race
2005PI001983	Department of Finance	\$5,000.00	Age
2004PI025495	Department of Finance	\$20,000.00	Disability/Sex
2005PI014915	Department of Sanitation	\$95,000.00	Sex/Gender
2000PI026051	Department of Sanitation	\$190,000.00	Disability
2004PI024582	Department of Transportation	\$742.36	National Origin
2005PI002953	Department of Transportation	\$40,000.00	National Origin
2005PI009758	Department for the Aging	\$37,000.00	Age
2005PI004144	Department of Buildings	\$37,000.00	Disability
2004PI025007	Department of Corrections	\$650,000.00	Race
2005PI011187	Bronx Borough President's Office	\$40,000.00	National Origin/Race/Age
2005PI018985	City Planning Commission	\$13,001.00	Disability
2004PI015974	City University (CUNY)	\$25,000.00	Age/Race/Gender
2005PI014915	Housing Preservation and Development	\$15,000.00	National Origin/Race/Gender

Harassment Subtotal	\$120,000.00	
Whistleblower Subtotal	\$312,000.00	
Discrimination Subtotal	\$28,787,996.03	
Grand Total: 57	\$29,219,996.03	

Average Cost \$513,000.00

Source: NYC Comptroller's Office

Revised: 5/10/2006

CHAPTER V

RECOMMENDATIONS AND CONCLUSION

“ d. The commission shall have the following powers and duties:...

6. to make such policy, legislative and budgetary recommendations to the mayor, council, the department of citywide administrative services or any city agency as the commission deems necessary to ensure equal employment opportunity for minority group members and women;”

Section 831(d)6 of the New York City Charter

RECOMMENDATIONS

Pursuant to section 831(d)6 of the New York City Charter, As Amended, the Equal Employment Practices Commission recommends the following:

To The Mayor and City Council

Recommendation # 1

The Mayor and City Council Should Fund the Implementation of the Equal Employment Practices Commission's Fiscal Year 2006 Strategic Plan.

Rationale

The Fiscal Year 2006 Strategic Plan was approved by the Commission in December 2005. Components of the Strategic Plan include: revising audit instruments, procedures, and protocols; establishing audit jurisdiction over city-funded, state-chartered agencies, and creating additional advisory committees. Implementation of some of the Plan's components began last January. Full implementation of the Strategic Plan requires additional funds and an increase in the Commission's permanent headcount.

Section 831(d) 5 of the City Charter requires the EEPC to audit every city agency at least once every four years. There are one hundred and sixty agencies under the jurisdiction/authority of the EEPC. To audit all of these agencies at least once every four years requires that the Commission audit forty agencies annually. The Commission's current permanent headcount is nine. To address this mandate, the Commission needs a permanent headcount of fifteen (including eight auditors and two compliance coordinators). The Commission has requested a \$160,033.00 budget increase to be allocated as follows:

One Senior EEO Auditor @	\$ 52,500.00/yr.
One Compliance Coordinator @	\$ 45,000.00/yr.
One EEO Auditor I @	\$ 33,000.00/yr.
Salary Adjustments	\$ 19,500.00/yr.
Other Than Personnel Services (OTPS)	\$ <u>10,033.00/yr.</u>
Total	\$ 160,033.00

Recommendation #2

The Mayor and City Council Should Increase the Funding for the Department of Citywide Administrative Services to Increase the Staff in the Office of Citywide Equal Employment Opportunity.

Rationale

Eight of the sixteen agencies that were audited last year had EEO personnel that had not received EEO training by the Office of Citywide Equal Employment Opportunity (OCEEO) in the Department of Citywide Administrative Services (DCAS). Two agencies did not have functioning Equal Employment Opportunity Programs during the calendar year. The OCEEO establishes and enforces uniform standards to be utilized by city agencies to ensure effective equal employment opportunity programs. Towards that end, the OCEEO provides technical assistance to all mayoral agencies and EEO training to both mayoral and non-mayoral city agencies. To address these and other EEO program responsibilities, the OCEEO needs additional staff.

To The Department of Citywide Administrative Services

Recommendation #3

The Department of Citywide Administrative Services Through its Division of Citywide Equal Employment Opportunity Should Develop a Procedure to Immediately Inform All City Agencies (mayoral and non-mayoral) of Changes in State and City Human Rights Laws That Impact the City's Equal Employment Opportunity Policy.

Rationale

Ten of the sixteen agencies audited in 2005 had General EEO Policy Statements that did not have an up-to-date list of "protected classes" pursuant to state and city human rights laws. In some cases, the EEO Officers for these agencies were unaware of the new human rights laws. It is imperative that the EEO Officers of all city agencies are informed of new laws that impact the City's Equal Employment Opportunity Policy.

Recommendation # 4

The Office of Citywide Equal Employment Opportunity and the Division of Citywide Personnel Services Should Jointly Revise the EEO Tasks and Standards Component of the Managerial Performance Evaluation Form Used by All City Agencies.

Rationale

Despite a requirement in the City's Equal Employment Opportunity Policy, almost all the city agencies that were audited in calendar year 2004 failed to adequately inform their managerial staff that EEO Tasks and Standards are included in their performance evaluations. Five of the city agencies that were audited last year reported that managerial employees were unaware that they were being evaluated on their EEO performance even though the EEO Tasks and Standards were included in their evaluations. The language used in these tasks and standards is not very clear. While agencies have discretion to revise this language, most do not. Clearer and more specific language regarding employees' sensitivity to EEO issues should be developed.

CONCLUSION

Employment discrimination is prohibited by the New York City Charter and a broad range of laws, court decisions, amendments and executive orders, including the Fourteenth Amendment of the U.S. Constitution, the Civil Rights Act of 1964, Title VII; U.S. Executive Order #11246, the New York State Constitution, the New York State Human Rights Law, the New York State Civil Rights Law and the New York City Human Rights Law.

The Equal Employment Practices Commission's City Charter mandate is to ensure that women and minorities who work for, or seek employment with, city agencies, are protected by the aforementioned laws. Since its first meeting in April 1992, this Commission has pursued its mandate through public meetings, public hearings, special meetings, the creation of advisory committees (e.g. the Advisory Committee to Recommend Improvements in the Fire Department Recruitment Program, and the Advisory Committee to Recommend Improvements in the Reporting Structure of the City's Equal Employment Opportunity Program), audits of city agencies, and monitoring audit compliance. Historically, the Commission has been committed to addressing its mandate through dialogue and negotiation.

Pursuant to Section 1133a of the New York City Charter, the Equal Employment Practices Commission is required to forward to the Department of Records and Information Services (DORIS) copies of all “Letters of Preliminary Determinations” and all “Letters of Final Determinations” issued by the Commission pursuant to audits of city agencies. In fairness to those agencies, this Commission also provides DORIS with copies of the agencies’ responses to both letters when appropriate. Those audits and the agencies’ responses are available for public review at the City Hall Library. Pursuant to Local Law 119A, this Commission will place all documents that we are required to publish on the DORIS website.

Pursuant to the State Open Meetings Law, all meetings of the Commission are open to the public. A notice of every Commission meeting or public hearing is published in the City Record - the official newspaper of the New York City government. Persons who wish to be included on the Commission’s mailing list or wish to receive a copy of the minutes of Commission meetings, transcripts of public hearings, or copies of any publications of this Commission, should call (212) 788-8646 or fax (212) 788-8652 (<http://www.nyc.gov/html/eepc/html/home/home.shtml>).

Filing An Employment Discrimination Complaint

Individuals who wish to file an employment discrimination complaint with an outside government agency may contact one of the following government agencies:

U.S. Equal Employment Opportunity Commission
33 Whitehall Street
New York, NY 10004
(212) 336-3620
www.eeoc.gov

State Division of Human Rights
20 Exchange Place
New York, NY 10005
(212) 480-2522
www.nysdhr.com

New York City Commission on Human Rights
40 Rector Street
New York, NY 10006
(212) 306-7500
NYC.gov/html/cchr