

## DEPARTMENT OF BUILDINGS

- Letter of Preliminary Determination      December 10, 2009
  - Agency Response      February 22, 2010
  - Letter of Final Determination      March 3, 2010
  - Agency Response      April 9, 2010
-



## EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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December 10, 2009

Robert LiMandri  
Commissioner  
Department of Buildings  
280 Broadway, 7<sup>th</sup> Floor  
New York, NY 10007

Re: Resolution #09/27-810/ Preliminary Determination Pursuant to the Audit of the Department of Buildings (DOB) and its Compliance with the City's Equal Employment Opportunity Policy from January 1, 2006 through December 31, 2007.

Dear Commissioner LiMandri:

Pursuant to Chapter 35, Section 814(a)(12) of the New York City Charter, the City established the Citywide Equal Employment Opportunity Policy (EEOP), a set of uniform standards and procedures designed to ensure the equality of opportunity for women and minority municipal government employees and job applicants, and, consistent with federal, state and local laws, identified other groups for protection from discrimination in employment by city agencies.

Pursuant to Chapter 36 of the New York City Charter, the Equal Employment Practices Commission (EEPC) is empowered to audit and evaluate the employment practices, programs, policies and procedures of city agencies and their efforts to ensure fair and effective equal employment opportunity for minority group members and women. (New York City Charter, Chapter 36, sections 831(d)(2) and (5).)

The Charter defines city agency as any "city, county, borough or other office, administration, board, department, division, commission, bureau, corporation, authority, or other agency of government, where the majority of the board members of such agency are appointed by the mayor or serve by virtue of being city officers or the expenses of which are paid in whole or in part from the city treasury..."

This letter contains the preliminary determinations of the EEPC pursuant to its audit of compliance by the Department of Buildings (DOB) during the twenty-four month period commencing January 1, 2006 and ending December 31, 2007. Requests for corrective actions

and/or recommendations are included where the EEPC has determined that the DOB has failed to comply in whole or in part with the City's EEO Policy.

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

### **Scope and Methodology**

Audit methodology included an analysis of the DOB's responses to an EEPC Document and Information Request Form, Agency Specific Plans and quarterly EEO reports. The EEPC staff also analyzed City-wide Equal Employment Database System (CEEDS) data prepared by the Department of Citywide Administrative Services which determines underutilizations and concentrations of targeted groups within the agency's workforce. These designations represent imbalances between the number of employees in a particular job category and the number that would reasonably be expected when compared to their availability in the relevant labor market. CEEDS data is critical in identifying underutilization in the city's workforce. Where underutilization is revealed within an agency's workforce, auditors determine whether an agency has undertaken reasonable measures for addressing underutilization.

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

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

A survey was distributed to 1,000 people employed by the DOB during the audit period. (This number excludes 41 surveys that were returned as undeliverable.) Two hundred nineteen people (22.8%) responded. The survey data are attached. (Appendix I)

### **Description of the Agency**

The NYC Department of Buildings ensures the safe and lawful use of over 950,000 buildings and properties by enforcing the City's Building Code, Electrical Code, Zoning Resolution, New York State Labor Law and New York State Multiple Dwelling Law. Its main activities include performing plan examinations, issuing construction permits, inspecting properties, and licensing trades. It also issues Certificates of Occupancy and Place of Assembly permits. The DOB states that in all its activities, its focus is on safety, service and integrity.

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

During the audit period, 328 people were hired: 146 Caucasians, 85 African-Americans, 44 Hispanics, 46 Asians, 6 "Unknown," and 1 "Other." Of the individuals hired, 122 were female. Three hundred and thirty-four individuals were promoted during the audit period: 133 Caucasians, 110 African-Americans, 51 Hispanics, 28 Asians, 10 "Unknowns," and 2 "Other." Of the employees promoted, 138 were female. (Appendix 4)

The DOB reports that 228 full-time employees were involuntarily separated during the audit period: 89 Caucasians, 66 African-Americans, 28 Hispanics, 30 Asians, 14 "Unknown," and 1 "Other." One hundred and nine of those individuals were female.

Between January 1, 2006 and December 31, 2007, the total number of the DOB employees increased by 13%, from 1,052 to 1,187. There were small percentage decreases for African-Americans (38% to 36%) and females (44% to 42%). There was a small percentage increase for Caucasians (38% to 39%). There were no changes for Hispanics and Asians. (Appendices 2 and 3)

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

During the period in review, 1 internal discrimination complaint was filed; it was based on sexual orientation. The EEO Officer completed and issued a report, which received a probable cause determination. There were no internal complaints pending at the end of the audit period. Twenty-three external complaints were filed: 4 were based on age, 2 were based on disability, 2 were based on race, 2 were based on retaliation, 1 was based on sexual orientation, and 1 was based on prior arrest. The other 11 external discrimination complaints were all based on multiple categories. ~~Eight of the complaints were closed and 8 dismissed; the 7 remaining~~ complaints that were pending at the end of the audit period were filed with the Equal Employment Opportunity Commission or State Division on Human Rights. Cases were also pending at the New York State Supreme Court, United States Court of Appeals, 2d Circuit and/or the United States District Court.

### **PRELIMINARY DETERMINATION**

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

#### **Plan Dissemination – Internally**

The DOB is in compliance with the following requirements:

1. The DOB last distributed (in hardcopy) the Citywide EEO Policy to legal, human resources, and EEO representatives, as well as managers and supervisors on July 29, 2008. The general EEOP statement also last distributed on July 29, 2008, included directions on how to access the Internet to obtain a copy of the Citywide EEO Policy and EEO Policy Handbook ("About EEO: What You Need to Know"). The statement is continuously distributed to all employees particularly at EEO trainings. The Policies are distributed at specific orientation sessions (including new employee), EEO training sessions, as well as at relevant presentations and discussions. The DOB's human resources director ensures that all new employees are advised of the City's EEO Policies, the employees' rights and responsibilities under such policies, and the discrimination complaint procedure.
2. The DOB has made the EEO Policies available in alternate formats (e.g. audio cassette and large print) for use by applicants and employees with disabilities.

3. The Citywide EEO Policy, EEO Policy Statement and the EEO Policy Handbook are posted on the agency Intranet and bulletin boards. The EEO office and human resources department conducts periodic checks of the bulletin boards to ensure the EEO information is clearly posted.

#### **Plan Dissemination – Externally**

The DOB is in compliance with the following requirements:

1. The five internal job vacancy notices submitted by the DOB to the EEPC (Structural Engineer, Communications Assistant, Administrative Assistant, Special Projects Officer, and Inspection Manager) include the tag line “The City is an Equal Employment Opportunity Employer.”
2. The five newspaper advertisements submitted by the DOB to the EEPC (College Aides, Structural Engineers, Architect Auditor, Civil Engineer Auditor, and Executive Attorney) include the EEO tag line.

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#### **Affirmative Action and Reasonable Accommodation for Persons with Disabilities**

The DOB is in compliance with the following requirements:

3. The DOB is in accordance with the reasonable accommodations procedure of the City’s EEO Policy. During the audit period there was no request for reasonable accommodations for employees with disabilities.
4. The DOB participates in the Section 55-A Program. The human resources director informs the EEO Officer of efforts the DOB has made to employ, promote or accommodate individuals with disabilities; currently, no employees participate in the program.
5. The EEO Officer has been designated the agency’s disability rights coordinator.

The DOB is in partial compliance with the following requirement:

The DOB has completed its own survey of its facilities and submitted accessibility checklists for all five locations. The results indicate that 3 of the 5 facilities (210 Joralemon Street, 1932 Arthur Avenue, and 280 Broadway) are not compliant. None of these facilities have low sink or bathroom fixtures. Corrective action is required.

Recommendation: For facilities that are not compliant the DOB should request that the DCAS perform assessments to ensure that the facilities are in compliance with City, State, and Federal laws in regards to accessibility for employees and applicants for employment with disabilities. (Sect. VC, EEOP)

## **EEO Complaint and Investigation System**

The DOB is in compliance with the following requirements:

1. The EEO Officer receives and investigates discrimination complaints in conformance with the EEOP's model complaint and investigation procedures and implementation guidelines issued by the DCAS.
2. During the audit period there were EEO professionals of different genders available and authorized to investigate discrimination complaints.
3. The EEO Officer and counselor have both completed the basic training course for EEO professionals at the Department of Citywide Administrative Services/ Office of Citywide Equal Employment Opportunity (DCAS/OCEEO) and Cornell University School of Industrial and Labor Relation's EEO Studies Program.
4. The DOB identifies its EEO staff by posting their names, locations and numbers in the EEO Policy statement.
5. During the audit period, the agency head did conduct a quarterly review of the EEO complaints.
6. The EEO Officer maintains a monthly log of discrimination complaints filed against the agency.
7. The general counsel informs the EEO Officer when external EEO complaints or litigation are brought against the agency. The counsel takes responsibility for the investigation of, and response to, external EEO complaints.

The DOB submitted one internal discrimination complaint file to the EEPC for review.

The DOB is not in compliance with the following requirement:

The internal complaint file submitted (#01-08) contains handwritten notes. Corrective action is required.

Recommendation: It is the Commission's position that complaint files should contain clear and thorough word-processed notes of interviews conducted with the complainant, respondent or witnesses. (Sect. VB, EEOP)

## **EEO Training**

The DOB is in compliance with the following requirement:

The DOB has developed an EEO training plan and curriculum for all new and existing employees on EEO. During fiscal year 2007 the DOB trained all new and existing

employees. In fiscal year 2008 it will retrain managers, supervisors, line employees, new employees, college aides and temps.

This curriculum is based on the DCAS standards and includes an overview of EEO laws; theories of discrimination; preventing sexual harassment, religion, domestic violence, sex offenses and stalking, retaliation, and disabilities; the complaint and investigation procedures; reasonable accommodation policy and procedure; 55-a; EEO rights and responsibilities of managers and supervisors; and diversity awareness.

The EEO Officer conducts EEO training for staff. The EEO Officer stated that her qualifications include 16 years of EEO training experience within City government. She holds certificates for completing the DCAS' basic training for EEO professionals and the Cornell University School of Industrial and Labor Relation's EEO Studies Program.

The DOB's annual/fourth quarter reports indicated that the agency trained a total of 811 (72%) employees in FY 2006, and a total of 1,185 (100%) employees in FY 2007.

### **Selection and Recruitment**

#### The DOB is in compliance with the following requirement:

The DOB utilizes a discretionary applicant form (Interview/ Selection Reporting Log).

#### The DOB is in partial compliance with the following requirement:

The DOB placed several advertisements during the audit period. Although it provided a list of newspapers, journals, publications, and websites it used for recruitment purposes, it did not utilize any organizations geared towards individuals with disabilities. Corrective action is required.

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

#### The DOB is not in compliance with the following requirements:

1. The DOB has not conducted formal adverse impact studies. Corrective action is required.

Recommendation: Since the EEOP requires that city agencies assess the manner in which candidates are selected for employment to determine whether there is adverse impact upon any particular racial, ethnic, disability, or gender group, the DOB should conduct an adverse impact study for [job groups with underrepresentation/underutilization]. The DOB can use, and may modify, the Disparate Impact Analysis Program (an on-line Internet based application) recommended by DCAS/DCEEO by accessing: <http://www.hr-software.net/EmploymentStatistics/DisparateImpact.htm> for this purpose. To the extent that

adverse impact is discovered, the agency should determine whether the criteria being utilized are job-related. If the criteria are not job related, the agency should discontinue using those criteria. (Sect. IV, EEOP)

2. Prior to 2008 the Human Resources (HR) department conducted structured interview training on what seems like an informal basis or upon request. The DOB provided to the EEPC structured interviewing materials, for example, "typical interview questions." According to the EEO Officer, the DOB did give this issue some attention.

Since 2008, there has been no structured interview training provided to the relevant personnel except training provided to the HR director by the DCAS in August 2009. The HR department will begin auditing the recruitment and hiring program no later than January 2010, which will result in the appropriate training for the relevant personnel. Corrective action is required.

Recommendation: The DOB should adhere to the above-mentioned plan to provide structured interview training to personnel involved in the recruitment and hiring process. (Sect. IV, Citywide EEO Policy)

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### **Promotional Opportunities**

The DOB is in compliance with the following requirements:

1. The DOB utilizes the citywide managerial performance evaluation form, which includes a rating for EEO.
2. According to the EEO Officer, the previous career counselor provided career counseling upon request. The DOB recently designated two persons familiar with civil service and provisional jobs to serve as career counselors. They also provide career counseling upon request. Employees were notified of the appointment in the fall 2008 distribution of the EEO Policy memorandum. In addition, the individuals are identified on its Intranet.

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

The DOB is in partial compliance with the following requirement:

The EEO Officer meets individually and in groups (EEO training) with managers/supervisors to discuss the Citywide EEO Policy. They receive a copy of the EEO Policy and if they require assistance, she provides guidance. The EEO Officer has also directed them to at least twice a year, reaffirm their commitment to the Citywide EEOP and discuss the right of employees to file discrimination complaints with the EEO office. However, the EEO Officer does not maintain documentation of the meetings. Corrective action is required.

Recommendation: A least twice a year during normal staff meetings, managers and supervisors should emphasize their commitment to the agency's EEO policies and affirm the right of each employee to file a discrimination complaint with the EEO office. Documentation

should be maintained. (DCAS Model Agency EEO Commitment Memo, [http://extranet.dcas.nycnet/eep/pdf/model\\_memo.pdf](http://extranet.dcas.nycnet/eep/pdf/model_memo.pdf), 2005)

### **EEO Officer Reporting Arrangement**

The DOB is in compliance with the following requirement:

The EEO Officer reports to the agency head on EEO matters. She has regularly scheduled meetings with the agency head and records are kept of those meetings. The organizational chart submitted to the EEPC shows a reporting relationship between the EEO Officer and the agency head.

### **EEO Officer Responsibilities**

The DOB is in compliance with the following requirement:

1. The EEO Officer spends 100% of her time on EEO matters. She does not have support staff, but feels she is given adequate resources to meet her obligations.
2. The EEO Officer meets periodically with the counselor to review their work and keep them abreast of EEO developments.

### **Reporting Standards**

The DOB is in compliance with the following requirement:

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

### **SUMMARY OF RECOMMENDED CORRECTIVE ACTIONS**

1. It is the Commission's position that complaint files should contain clear and thorough word-processed notes of interviews conducted with the complainant, respondent or witnesses. (Sect. VB Citywide EEOP)
2. For facilities that are not compliant the DOB should request that the DCAS perform assessments to ensure that the facilities are in compliance with City, State, and Federal laws in regards to accessibility for employees and applicants for employment with disabilities. (Sect. VC, EEOP)
3. Since the EEOP requires that city agencies assess recruitment efforts to determine whether such efforts adversely impact any particular group, the DOB should expand its recruitment efforts by also sending job vacancy notices to professional and community organizations serving persons with disabilities when provisional positions become available or when the DOB has discretion in hiring. (Sect. IV, EEOP)

4. Since the EEOP requires that city agencies assess the manner in which candidates are selected for employment to determine whether there is adverse impact upon any particular racial, ethnic, disability, or gender group, the DOB should conduct an adverse impact study for [job groups with underrepresentation/underutilization]. The DOB can use, and may modify, the Disparate Impact Analysis Program (an on-line Internet based application) recommended by DCAS/DCEEEO by accessing: <http://www.hr-software.net/EmploymentStatistics/DisparateImpact.htm> for this purpose. To the extent that adverse impact is discovered, the agency should determine whether the criteria being utilized are job-related. If the criteria are not job related, the agency should discontinue using those criteria. (Sect. IV, EEOP)
5. The DOB should adhere to the above-mentioned plan to provide structured interview training to personnel involved in the recruitment and hiring process. (Sect. IV, EEOP)
6. A least twice a year during normal staff meetings, managers and supervisors should emphasize their commitment to the agency's EEO policies and affirm the right of each employee to file a discrimination complaint with the EEO office. Documentation should be maintained. (DCAS Model Agency EEO Commitment Memo, [http://extranet.dcas.nycnet/eep/pdf/model\\_memo.pdf](http://extranet.dcas.nycnet/eep/pdf/model_memo.pdf), 2005)

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

At the December 4, 2009 Audit Exit Meeting -- attended by you, EEO Officer Bernadette Nespole, Senior Counsel Stephen Kramer, Assistant Commissioner Gina Berto and HR Director Salvador Valles from the DOB and Commissioner Elaine Reiss, Lead Auditor Michelle Marecheau, Junior Auditor Ales Salta, Executive Director Abraham May, Jr., and Deputy Director Charise Hendricks from the EEPC -- the DOB representatives presented a response to the Commission's Draft Preliminary Determination, which contained a summary of the actions already taken to ensure compliance with our audit recommendations. The DOB made no factual corrections to the draft.

## Conclusion

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

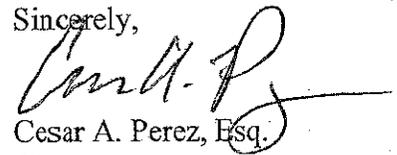
Your response should indicate what corrective actions your office will take to bring the agency in compliance with the aforementioned policies and which recommendations it intends to follow. As your staff informed us during the exit meeting, you have already implemented some of our recommended corrective actions. Please specify these corrective actions in your response,

and include any documentation as addenda to your formal response to the Preliminary Determination.

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

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

Sincerely,



Cesar A. Perez, Esq.  
Chair

## APPENDIX - 1

### Department of Buildings EMPLOYEE SURVEY RESULTS

#### A. GENERAL OVERVIEW

1. Do you know who your agency's EEO Officer is?  
Yes (180)      No (38)
2. Is your agency's EEO Policy Statement posted on your agency's bulletin boards?  
Yes (159)      No (48)
3. Were you given the EEO Policy Statement?  
Yes (199)      No (4)      Do not remember (20)
4. Were you given a copy of the EEO Policy Handbook – *About EEO: What You Need to Know*?  
Yes (214)      No (5)
5. Do you agree with the principles of equal employment opportunity?  
Yes (211)      No (8)

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6. Do you believe your agency practices equal employment opportunity?  
Yes (165)      No (54)
7. Do you know what the City's Equal Employment Opportunity Policy (EEOP) is?  
Yes (187)      No (31)
8. Has your supervisor emphasized his/her commitment to the agency's EEO policies at any staff meeting during the past 8 months?  
Yes (94)      No (77)      Do not remember (49)
9. When you started working at your agency, did you attend an orientation session?  
If No, please skip to question #11.  
Yes (184)      No (18)      Do not remember (15)
10. If hired within the past 12 months, did your orientation session include information on your rights and responsibilities under the EEO Policy?  
Yes (68)      No (7)      Do not remember (18)

#### B. EEO COMPLAINTS

11. Do you know how to file an EEO complaint?  
Yes (186)      No (30)
12. If you had an EEO complaint, would you bring it to your agency's EEO Office?  
Yes (154)      No (26)      Undecided (40)

**DEPARTMENT OF BUILDINGS SURVEY RESULTS CONTINUED**

13. Would you prefer to file an EEO complaint with an office outside your agency?  
Yes (88)                      No (79)                      Undecided (51)

14. Did you ever file an EEO complaint with your agency's EEO Office?  
If No, please skip to question #18.  
Yes (14)                      No (198)

15. What was the basis of the complaint?

Age (1)	Partnership Status (0)
Alienage or Citizen Status (0)	Predisposing genetic characteristic (0)
Arrest or Conviction Record (0)	Race (3)
Color (0)	Sexual Harassment (2)
Creed (0)	Sexual Orientation (0)
Disability (0)	Veteran's Status (0)
Gender (incl. gender identity) (2)	Victim of Domestic Violence, Stalking, and Sex Offenses (0)
Marital Status (0)	Other (5)
Military Status (0)	
National Origin (0)	

16. Were you satisfied with the manner in which your complaint was managed?  
Yes (8)                      No (7)

17. Was your manager or supervisor supportive of your right to file a complaint?  
Yes (1)                      No (8)                      Not Applicable (7)

**C. EEO TRAINING**

18. Did you receive EEO training? If No, please skip to question #20.  
Yes (212)                      No (9)

19. Did you find this training helpful?  
Very (96)                      Somewhat (105)  
Not really (0)                      Waste of time (0)

**D. JOB PERFORMANCE/ADVANCEMENT**

20. Did you see your agency's job postings on agency bulletin boards for vacant positions prior to the application deadline?  
Yes (176)                      No (21)                      Do not remember (21)

21. If you were employed at your agency for over one year, did you receive annual evaluations?  
If No, skip to question #24.  
Yes (105)                      No (102)                      Not employed  
for >1 year (0)

22. Did your evaluation contain recommendations for improving your job performance?  
Yes (53)                      No (75)

**DEPARTMENT OF BUILDINGS SURVEY RESULTS CONTINUED**

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

Yes (41)                      No (86)

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

Yes (31)                      No (180)

**E. AFFIRMATIVE ACTION FOR PERSONS WITH DISABILITIES**

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

Yes (152)                      No (14)                      Don't Know (38)

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

If No, skip to question #28.

Yes (15)                      No (167)

27. Did the agency accommodate you?

Yes (17)                      No (2)

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**OPTIONAL**

28. What is your race/ethnicity?

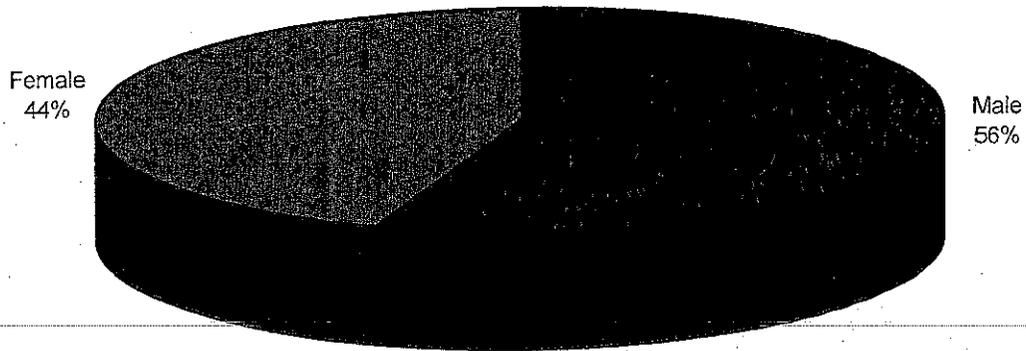
Asian (22)	Native American (2)
Black (56)	White (92)
Hispanic (21)	Other (4)

29. What is your gender?

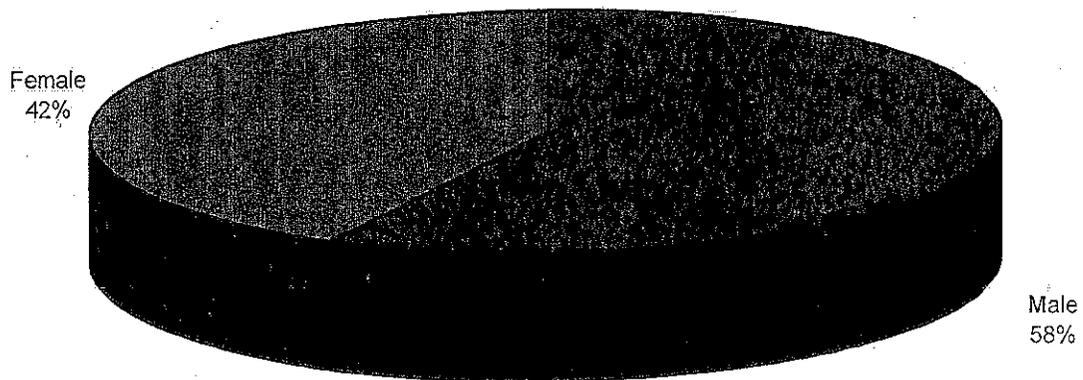
Male (99)                      Female (98)

## Appendix - 2

### Department of Buildings Workforce by Sex



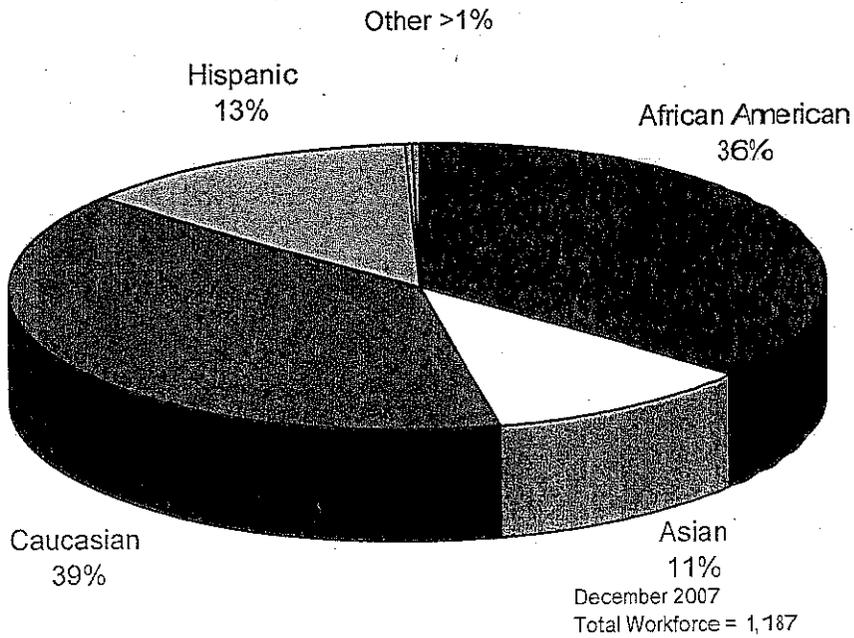
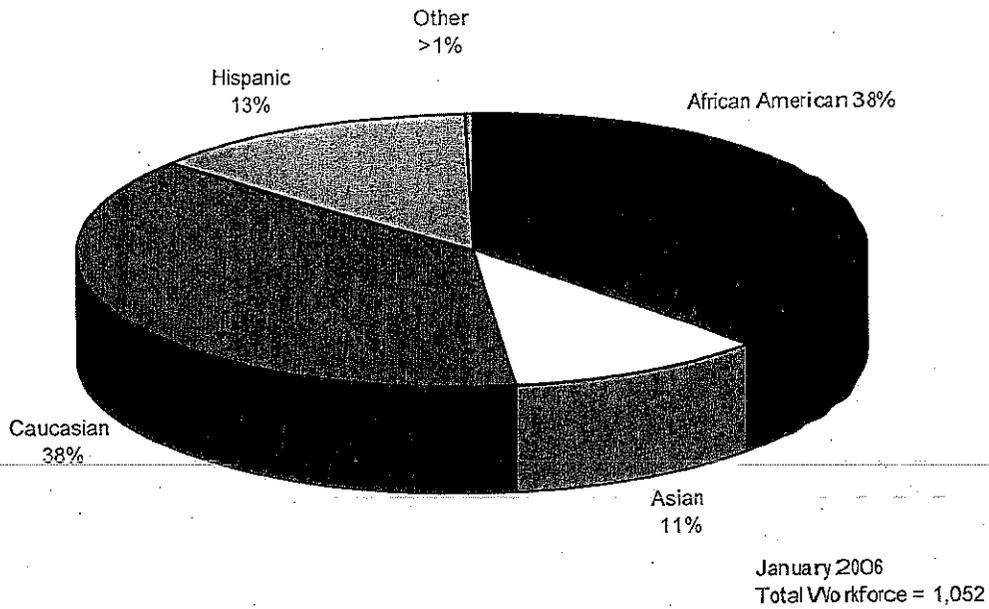
January 2006  
Total Workforce = 1,052



December 2007  
Total Workforce = 1,187

Appendix - 3

Department of Buildings  
Workforce by Ethnicity



## APPENDIX – 4

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

### Department of Buildings

#### Hires by Sex and Ethnicity

Total Hires: 328

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Unknown	Other	Total
206	122	328	146	85	44	46	6	1	328

#### Promotions by Sex and Ethnicity

Total Promotions: 334

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Unknown	Other	Total
196	138	334	133	110	51	28	10	2	334

#### Separations by Sex and Ethnicity

Total Separations: 228

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Unknown	Other	Total
119	109	228	89	66	28	30	14	1	228

Source: Audit data supplied by DOB

## DOB RESPONSE TO EEPC RECOMMENDATIONS

EEPC Audit: January 2006 to May 2008

Exit Interview: December 4, 2009

### Recommendation #1:

For facilities that are not compliant the DOB should request that the DCAS perform assessments to ensure that the facilities are in compliance with City, State, and Federal laws in regards to accessibility for employees and applicants for employment with disabilities. (Sect. VC, EEOP)

### Agency Response:

As of January 2010, the Agency coordinated a walkthrough of the three facilities: 210 Joralemon Street, 1932 Arthur Avenue, and 280 Broadway, all of which are City-owned buildings managed by the Department of Citywide Administrative Services (DCAS). The DCAS is currently in the process of reviewing the EEPC's recommendations and assessing the scope of work.

### Recommendation #2:

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

### Agency Response:

The Agency utilizes citywide postings as its chief recruitment method. For titles that are difficult to recruit (licensed engineers and architects) the Agency also posts job vacancy notices on the web-sites of professional organizations serving minority groups and women such as the Society of Women Engineers and the Society of Hispanic Professional Engineers. Job vacancies are also advertised in print media such as Professional Women in Construction. The Agency will continue to utilize its list of resources such as professional publications, print media and websites to reach the widest and most diversified protected group candidates to fill job vacancies as they become available.

### Recommendation #3:

Since the EEOP requires that city agencies assess the manner in which candidates are selected for employment to determine whether there is adverse impact upon any particular racial, ethnic, disability, or gender group, the DOB should conduct an adverse impact study for job groups with underrepresentation/underutilization. To the extent that adverse impact is discovered, the Agency should determine whether the criteria being utilized are job-related. If the criteria are not job-related, the Agency should discontinue using those criteria. (Sect. IV, EEOP)

### Agency Response:

The Agency's Human Resources (HR) Unit will conduct analyses similar to adverse impact studies for each position when a recruitment effort is undertaken. Since the Agency would not be empowered to make changes to specific job requirements to address adverse impact for a title based on the job specification developed by DCAS, the analysis will be based on the types of recruiting efforts that would help mitigate any diversity issues. Since the City is moving in the direction of compliance with Civil Service Law, it is expected that increased hiring will be made via Civil Service lists, rather than through specific postings and

recruitment efforts. However, the Agency does not anticipate all recruitment efforts to cease; therefore, the HR Unit will conduct the analysis for positions that are required to be posted.

**Recommendation #4:**

The DOB should adhere to the City's EEO Plan to provide structured interview training to personnel involved in the recruitment and hiring process. (Sect. IV, Citywide EEO Policy).

**Agency Response:**

The Agency's Human Resources Unit will continue to provide structured interview training to hiring managers as positions are vacated and a selection process is approved. The unit will also deliver a broader version of the training at various management meetings as needed.

**Recommendation #5:**

At least twice a year during normal staff meetings, managers and supervisors should emphasize their commitment to the Agency's EEO policies and affirm the right of each employee to file a discrimination complaint with the EEO Office. Documentation should be maintained.

**Agency Response:**

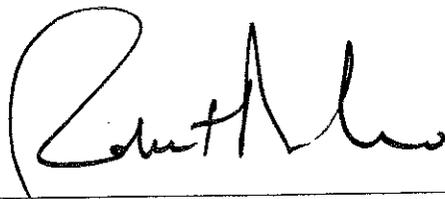
As of December 4, 2009, the Agency's EEO Office issued a memo to all managers and supervisors regarding their EEO responsibilities in accordance with the mandate of the City's EEO Policy. The memo included instruction that twice annually (January and June) during normal staff meetings, managers and supervisors must emphasize their commitment to the Agency's EEO policies and affirm the right of each employee to file a discrimination complaint with the Agency's EEO Office. (See attached memo, EEO Policy Statement and Notice of Compliance).

All unit heads are required to submit to the EEO Office a "Notice of Compliance" acknowledging that scheduled staff meetings include the aforementioned EEO component. The Notice of Compliance documents staff meetings that occurred in January and in June of the calendar year and is submitted no later than February 1 and July 1 respectively. All managers and supervisors have and will continue to receive reminders from the EEO Office regarding timely submission of the Notice of Compliance.

As of February 9, 2009, 35 managers and supervisors complied with the afore-mentioned mandate.

**AGENCY HEAD APPROVAL**

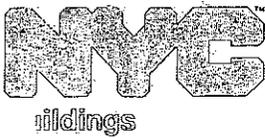
I have read and approve of the Agency's responses to the recommendations of the Equal Employment Practices Commission's Audit.



Commissioner

2/18/10

Date



Robert D. LiMandri  
Commissioner

Bernadette Nespole  
EEO Officer  
BNespole@buildings.nyc.gov

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(Floor)  
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MEMO

TO: All Agency Managers & Supervisors  
FROM: Bernadette Nespole  
EEO Officer  
DATE: December 4, 2009  
RE: EEO Managerial and Supervisory Responsibilities

In accordance with the mandates of the City's EEO Policy (EEOP) the Department of Buildings (DOB) is committed to maintaining an Agency environment that is both consistent with the law and the City's own policies, and free of discrimination and biases.

To that end, managers and supervisors are accountable to make every effort to maintain a work environment that fosters sensitivity and respect for the diversity of all individuals and to uphold the managerial and supervisory EEO requirements of the City's EEO Policy.

Specifically, each agency manager and supervisor shall:

- be accountable to the Agency head for effectively implementing EEO-related policies;
- perform managerial and supervisory responsibilities in a non-discriminatory manner;
- cooperate with the EEO Officer in the implementation of EEO policies and standards;
- promptly consult with the agency's EEO Officer if he or she observes, learns about, or suspects that a violation of this policy has occurred;
- allow employees to meet with EEO representatives to report EEO-related violation;
- conduct documented meetings with staff to reaffirm their commitment to the City's EEO Policy and to discuss the right of employees to file EEO complaints with the Agency's EEO Officer. (EEOP, Section V.)

Attached is DOB's Equal Employment Opportunity (EEO) Policy Statement affirming the Commissioner's commitment to preventing illegal discrimination and establishing managerial and supervisory accountability in upholding the requirements of the City's EEO Policy.

Please be advised that twice annually (January and June) during normal staff meetings, managers and supervisors must emphasize their commitment to the Agency's EEO policies and affirm the right of each employee to file a discrimination complaint with the Agency's EEO Office.

All unit heads will be required to submit to the EEO Office a "Notice of Compliance" acknowledging that scheduled staff meetings include the aforementioned EEO component. The Notice of Compliance must be document



staff meetings that have occurred in January and in June of the calendar year and submitted no later than February 1 and July 1 respectively.

All managers, supervisors, and unit heads will be receiving reminders from the EEO Office regarding timely submission of the Notice of Compliance. Cooperation is mandatory. Failure to comply may result in disciplinary action. Please refer to the attachment.

Questions regarding the above may be directed to the EEO Officer at (212) 566-3309 or [BNespole@buildings.nyc.gov](mailto:BNespole@buildings.nyc.gov).



Robert D. LiMandri  
Commissioner

Bernadette C. Nespole  
EEO Officer  
280 Broadway, NYC 10007  
212-566-3309 tel  
212-566-3859 fax  
[bnespole@buildings.nyc.gov](mailto:bnespole@buildings.nyc.gov)

## EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT

The Department of Buildings is committed to preventing illegal discrimination by ensuring that all employees and applicants are aware of their rights and obligations under the City's EEO Policy, by maintaining fair employment practices for all our employees and applicants, by encouraging a work environment that tolerates and appreciates differences among employees. All personnel should work together to maintain an atmosphere of appreciation for the diversity reflected in our staff. This Policy Statement ensures that Buildings' employees, applicants, clients, customers, consultants, vendors, interns and contracted employees are treated fairly by maintaining an environment that is both consistent with federal, state, and local employment laws and the City policies.

The Citywide EEO Policy has been recently revised and replaces the previous Equal Employment Opportunity Policy of the City of New York (1996). The EEO Policy handbook (About EEO: What You May Not Know) and Addendum, which is the companion guide summarizes the revised Citywide EEO Policy. Buildings employees are directed to comply with the revised Citywide EEO Policy and the EEO Policy Handbook and to demonstrate an attitude of professionalism and courtesy toward one another. In addition, all employees must receive training regarding their rights to be free of illegal and otherwise improper discrimination, as well as their responsibilities in terms of respecting the rights of others.

The revised Policy incorporates the "Guidelines Regarding 'Gender Identity' Discrimination" which were recently issued by the New York City Commission on Human Rights. In addition, the Policy contains special sections on Sexual Harassment, Disabilities, Retaliation, and Requests for Reasonable Accommodations (for people with disabilities, religious observances, beliefs, practices, and victims of domestic violence, sexual offenses and stalking).

I would like to remind you that our Department's EEO program contains the following requirements:

1. Managers and supervisors who know of/or become aware of intimidating or hostile work environment, an individual that needs a reasonable accommodation or has observed, learns about, or suspects that a violation of the City's EEO Policy has occurred must promptly consult with the Department's EEO Officer [Bernadette Nespole] or EEO Counselor [Mark Sanabria].
2. Managers and supervisors must conduct meetings with staff to reaffirm their commitment to the City's EEO Policy and to discuss the right of employees to file EEO complaints at Buildings' Office of EEO.

3. All managers and supervisors involved in conducting employment interviews must review Structured Interviewing materials prepared by the Office of Citywide EEO <http://extranet.dcas.nycnet/eeo/pdf/structuredinterviewing.pdf>. This information is also accessible at Buildings' Office of EEO.
4. The Office of Human Resources will ensure that career counseling is provided to employees who request it. The Department's Career Counselor is LaToneya Burwell (212) 566-4362. Appointments for career counseling may be made directly through Ms. Burwell as well.
5. The EEO Office must conduct EEO training for all employees.
6. The Citywide EEO Policy is posted on the Internet, which can be accessed at <http://www.nyc.gov/html/dcas/html/eeopol.html>. The EEO Policy handbook (About EEO: What You May Not Know) along with the handbook addendum can be accessed at [http://www.nyc.gov/html/dacs/html/eeo\\_booklet.html](http://www.nyc.gov/html/dacs/html/eeo_booklet.html). This information is also available on the Department of Buildings' website and its EEO Office.

We had many accomplishments that demonstrate the commitment and dedication of all staff. I encourage all employees to continue working together to make us better and stronger than ever by accessing the resources available within the Department of Buildings and to address any concerns you have with Bernadette C. Nespole, EEO Officer at (212) 566-3309 or Mark Sanabria, EEO Counselor at (212)442-1922.  
Thank you



## EEO NOTICE OF COMPLIANCE CONFIRMATION

This is to confirm that on \_\_\_\_\_, 2010 a scheduled unit staff meeting was held in which we (unit head and all unit managers and supervisors) reiterated our commitment to the City's EEO Policy as well as the emphasis to affirm the right of each unit employee to file a discrimination complaint with the Agency's EEO Office.

The unit head and all unit managers and supervisors have agreed to continue to disseminate this information at staff meetings twice annually (January and June) as required by compliance standards.

In addition, all of the above parties have received and read the NYC Buildings Department EEO Policy Statement and understand the managerial and supervisory duties to be performed as outlined.

\_\_\_\_\_  
Unit Head (Print Full Name)

\_\_\_\_\_  
Work Unit / Borough

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



## EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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

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

Cesar A. Perez, Esq.

*Chair*

Angela Cabrera

Malini Cadambi Daniel

Elaine S. Reiss, Esq.

Arva A. Rice

*Commissioners*

Abraham May, Jr.

*Executive Director*

Charise Hendricks, PHR

*Deputy Director*

Judith Garcia Quiñonez

*Counsel*

March 3, 2010

Robert LiMandri

Commissioner

Department of Buildings

280 Broadway, 7th Floor

New York, NY 10007

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

Dear Commissioner LiMandri:

Thank you for your February 22, 2010 response to our December 10, 2009 Letter of Preliminary Determination pursuant to the audit of the Department of Buildings' Equal Employment Opportunity Policy from January 1, 2006 through December 31, 2007.

Our review of your response indicates that you did not respond to Recommendation #1. As a consequence, your responses are numbered differently. (The EEPC's #2 is the DOB's #1, the EEPC's #3 is DOB's #2, etc.). Please respond to the following recommendation:

Recommendation #1

It is the Commission's position that complaint files should contain clear and thorough word-processed notes of interviews conducted with the complainant, respondent or witnesses. (Sect. VB Citywide EEOP)

Our Final Determination, based on our original recommendation numbers, is as follows:

## **Agree**

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

### Recommendation #2

For facilities that are not compliant the DOB should request that the DCAS perform assessments to ensure that the facilities are in compliance with City, State, and Federal laws in regards to accessibility for employees and applicants for employment with disabilities. (Sect. VC, EEOP)

### Recommendation #5

The DOB should adhere to the above-mentioned plan to provide structured interview training to personnel involved in the recruitment and hiring process. (Sect. IV, EEOP)

### Recommendation #6

A least twice a year during normal staff meetings, managers and supervisors should emphasize their commitment to the agency's EEO policies and affirm the right of each employee to file a discrimination complaint with the EEO office. Documentation should be maintained. (DCAS Model Agency EEO Commitment Memo, [http://extranet.dcas.nycnet/eep/pdf/model\\_memo.pdf](http://extranet.dcas.nycnet/eep/pdf/model_memo.pdf), 2005)

## **Disagree**

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

### Recommendation #3

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

### Your Response

The Agency utilizes citywide postings as its chief recruitment method. For titles that are difficult to recruit (licensed engineers and architects) the Agency also posts job vacancy notices on the web-sites of professional organizations serving minority groups and women such as the Society of Women Engineers and the Society of Hispanic Professionals Engineers. Job vacancies are also advertised in print media such as Professional Women in Construction. The Agency will continue to utilize its list of resources such as professional publications, print media and websites to reach the widest and most diversified protected group candidates to fill job vacancies as they become available.

### EEPC Rationale

This recommendation specifically addresses outreach to "persons with disabilities; your response does not. Based on the audit, the DOB did not send job vacancy notices to professional and community organizations serving persons with disabilities when provisional positions become available or when the DOB has discretion in hiring.

#### Recommendation #4

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

#### Your Response

The Agency's Human Resources (HR) Unit will conduct analyses similar to adverse impact studies for each position when a recruitment effort is undertaken. Since the Agency would not be empowered to make changes to specific job requirements to address adverse impact for a title based on the job specification developed by DCAS, the analysis will be based on the types of recruiting efforts that would help mitigate any diversity issues. Since the City is moving in the direction of compliance with Civil Service Law, it is expected that increased hiring will be made via Civil Service lists, rather than through specific postings and recruitment efforts. However, the agency does not anticipate all recruitment efforts to cease; therefore, the HR Unit will conduct the analysis for positions that are required to be posted.

#### EEPC Rationale

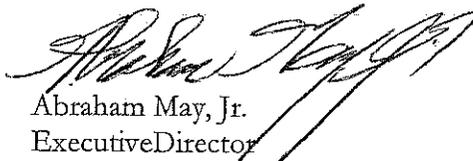
Your response addresses recruitment, not selection. The DOB should conduct actual adverse impact studies for those discretionary positions in which candidates were selected.

#### **Conclusion**

Pursuant to section 832 of the New York City Charter, this Commission will initiate an audit compliance procedure not to exceed six months shortly after we receive your response. Please forward your response within thirty days of the date of this letter.

In closing, we want to thank you and your staff for your cooperation during the audit process.

Sincerely,

  
Abraham May, Jr.  
Executive Director

## **DOB RESPONSE TO EEPD RECOMMENDATIONS**

**EEPC Audit:** January 2006 to May 2008

**Exit Interview:** December 4, 2009

### **Recommendation #1:**

It is the Commission's position that complaint files should contain clear and thorough word-processed notes of interviews conducted with the complainant, respondent, or witnesses. (Sect. VB EEOP).

### **Agency Response:**

The Agency will ensure that all future EEO complaint files contain word-processed notes of interviews conducted with the complaint, respondent, or witnesses. To date there have been no EEO complaints filed.

### **Recommendation #2:**

For facilities that are not compliant the DOB should request that the DCAS perform assessments to ensure that the facilities are in compliance with City, State, and Federal laws in regards to accessibility for employees and applicants for employment with disabilities. (Sect. VC, EEOP)

### **Agency Response:**

As of January 2010, the Agency coordinated a walkthrough of the three facilities : 210 Joralemon Street, 1932 Arthur Avenue, and 280 Broadway, all of which are City-owned buildings managed by the Department of Citywide Administrative Services (DCAS). The DCAS is currently in the process of reviewing the EEPD's recommendations and assessing the scope of work.

### **Recommendation #3:**

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

### **Agency Response:**

The Agency utilizes citywide postings as its chief recruitment method. For titles that are difficult to recruit (licensed engineers and architects) the Agency also posts job vacancy notices on the web-sites of professional organizations serving minority groups and women such as the Society of Women Engineers and the Society of Hispanic Professional Engineers. Job vacancies are also advertised in print media such as Professional Women in Construction.

In its outreach efforts to persons with disabilities, the Agency contracts "Good Temps", a temporary staffing service, specializing in short- and long-term employment and temp-to-hire opportunities for "persons with disabilities". During fiscal year 2006 the City's Office of Management and Budget (OMB) allowed the Agency to convert 21 Good Temp employees to full-time employees with the Agency. In addition, to continuing to employ Good Temps individuals, the Agency will send out job vacancy notices to professional and

community organizations serving persons with disabilities when positions become available or when the Agency has discretion in hiring.

**Recommendation #4:**

Since the EEOP requires that city agencies assess the manner in which candidates are selected for employment to determine whether there is adverse impact upon any particular racial, ethnic, disability, or gender group, the DOB should conduct an adverse impact study for job groups with underrepresentation/underutilization. To the extent that adverse impact is discovered, the agency should determine whether the criteria being utilized are job-related. If the criteria are not job-related, the Agency should discontinue using those criteria. (Sect. IV, EEOP)

**Agency Response:**

Since the City is moving in the direction of compliance with Civil Service Law, it is expected that candidate selection will be made via Civil Service lists. However, when the Agency has discretion in hiring, the Agency's Human Resource (HR) unit will conduct adverse impact studies for those discretionary positions in which candidates were selected.

---

**Recommendation #5:**

The DOB should adhere to the City's EEO Plan to provide structured interview training to personnel involved in the recruitment and hiring process. (Sect. IV, Citywide EEO Policy).

**Agency Response:**

The Agency's Human Resources unit will continue to provide structured interview training to hiring managers as positions are vacated and a selection process is approved to begin. The unit will also deliver a broader version of the training to regular management meetings, such as the Directors Meetings, Chief's Meetings, and Senior Staff Meetings.

**Recommendation #6:**

At least twice a year during normal staff meetings, managers and supervisors should emphasize their commitment to the Agency's EEO policies and affirm the right of each employee to file a discrimination complaint with the EEO Office. Documentation should be maintained.

**Agency Response:**

As of December 4, 2009, the Agency' EEO Office issued a memo to all managers and supervisors regarding their EEO responsibilities in accordance with the mandate of the City's EEO Policy. The memo included instruction that twice annually (January and June) during normal staff meetings, managers and supervisors must emphasize their commitment to the Agency's EEO policies and affirm the right of each employee to file a discrimination complaint with the Agency's EEO Office.  
(See attached memo, EEO Policy Statement and Notice of Compliance).

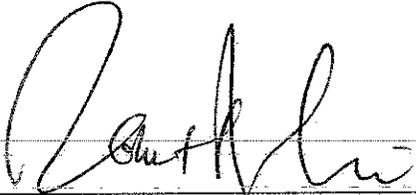
All unit heads are required to submit to the EEO Office a "Notice of Compliance" acknowledging that scheduled staff meetings include the aforementioned EEO component. The Notice of Compliance documents staff meetings that occurred in January and in June of the calendar year and is submitted no

later than February 1 and July 1 respectively. All managers and supervisors have and will continue to receive reminders from the EEO Office regarding timely submission of the Notice of Compliance.

As of April 2, 2010 45 managers and supervisors complied with the afore-mentioned mandate.

**AGENCY HEAD APPROVAL**

**I have read and approve of the Agency's responses to the recommendations of the Equal Employment Practices Commission's Audit.**



Commissioner



Date