

DEPARTMENT OF FINANCE

- Letter of Preliminary Determination September 24, 2009
 - Agency Response October 13, 2009
 - Letter of Final Determination November 12, 2009
 - Agency Response December 18, 2009
-



EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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September 24, 2009

David M. Frankel
Commissioner
Department of Finance
One Centre Street
New York, NY 10007

Re: Resolution #09/22-836/ Preliminary Determination Pursuant to the Audit of the Department of Finance (DOF) and its Compliance with the City's Equal Employment Opportunity Policy from July 1, 2005 through June 30, 2007.

Dear Commissioner Frankel:

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).)

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 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.

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

This letter contains the preliminary determinations of EEPC pursuant to its audit of compliance by the Department of Finance (DOF) during the twenty-four month period

commencing July 1, 2005 and ending June 30, 2007. Requests for corrective actions and/or recommendations are included where the EEPC has determined that the DOF 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 DOF's Agency Specific Plans, quarterly EEO reports, and responses to an EEPC Document and Information Request Form. The EEPC staff also analyzed Citywide Equal Employment Database System (CEEDS) data by which the DCAS determines underutilizations and concentrations of targeted groups within the 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. Where CEEDS data revealed underutilizations within the DOF workforce, the auditors determined whether the agency had undertaken reasonable measures to correct those underutilizations. (Appendix 5)

~~The EEPC auditors also conducted in-depth, on-site interviews with the DOF's EEO officer, four EEO counselors, and the career counselor.~~

A survey was distributed to 1,000 people employed by the DOF during the audit period. (This number excludes 136 surveys that were returned as undeliverable.) One hundred forty-seven people (17%) responded. The survey data are attached. (Appendix 1)

Description of the Agency

The Department of Finance administers and enforces tax laws; collects taxes, judgments and other charges; educates the public about its rights and responsibilities with regard to taxes and tax benefit programs to achieve the highest level of voluntary compliance; provides service to the public by assisting in customer problem resolution; and protects the confidentiality of tax returns. The Department processes parking summonses and provides an adjudicatory forum for motorists to contest them. The Department also provides enforcement services for collection of court-ordered private and public sector debt.

Personnel Activity During the Audit Period

During the audit period, 116 people were hired: 21 Caucasians, 69 African-Americans, 12 Hispanics, 9 Asians, 2 Native-Americans, and 3 "Unknown." Of the individuals hired, 69 were female. Seven hundred seventy-eight individuals were promoted during the audit period: 210 Caucasians, 400 African-Americans, 100 Hispanics, 67 Asians, and 1 Native-American. Of the employees promoted, 488 were female. (Appendix 4)

The DOF reports that 32 full-time employees were involuntarily separated during the audit period: 4 Caucasians, 27 African-Americans, and 1 Hispanic. Twenty-four of those individuals were female.

Between July 1, 2005 and June 30, 2007, the total number of the DOF employees decreased by .10% from 2,180 to 2,159. There was a small percentage increase for African-Americans (46% to 48%) and a small percentage decrease for Caucasian (32% to 30%). There were no changes for Hispanics (12%) and Asians (10%). However, there was a small increase for females (53% to 54%). (Appendices 2 and 3)

Discrimination Complaint Activity During the Audit Period

During the period in review, 75 internal discrimination complaints were filed: 11 were based on disability, 9 were based on race, 7 were based on retaliation, 5 were based on sexual harassment, 4 were based on religion, 3 were based on age, 2 were based on national origin, and 2 were based on military status. The other 32 internal discrimination complaints were based on multiple categories. The EEO officer completed and issued reports for 64 of these complaints, which received 3 probable cause determinations and 61 no probable cause determination. Eleven complaints were pending at the end of the audit period. Thirty-one external complaints were filed: 9 were based on national origin, 7 were based on race, 1 was based on disability, 1 was based on retaliation, 1 was based on race, 1 was based on gender, and 1 was based on sexual orientation. The other 10 external discrimination complaints were based on multiple categories. Twenty-four of the complaints were dismissed and 2 were withdrawn; the 5 remaining complaints, filed with multiple agencies (Federal Court, Equal Employment Opportunity Commission, State Division on Human Rights, and/or City Commission on Human Rights), were pending at the end of the audit period.

PRELIMINARY DETERMINATION

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

Plan Dissemination – Internally

The DOF is in compliance with the following requirements:

1. The DOF has distributed (in hardcopy and electronically) the Citywide EEO Policy to legal, human resources, and EEO representatives, as well as managers and supervisors. The DOF distributed its EEO Policy annually until 2005. It was last distributed in 2008 at EEO training and as part of the new hire package. The DOF also distributed the city's EEO Policy Handbook (*About EEO: What You May Not Know*, with addendum) by email and at EEO training in 2007. The DOF has issued a general EEO Policy statement; however, it is currently being revised. Included in the general EEO Policy statement are directions on how to access the Intranet to obtain a copy of the Citywide EEO Policy and Handbook. The policies are also distributed at specific orientation sessions, as well as at presentations and discussions.
2. The EEO policies are posted on bulletin boards at each site. The EEO officer maintains the boards to ensure the EEO information is clearly posted and current.

3. The DOF's EEO policies are available in alternate formats (large print) for use by applicants and employees with disabilities, and have been distributed to employees in the past upon request.

Plan Dissemination – Externally

The DOF is in compliance with the following requirement:

Five internal job vacancy notices submitted by the DOF to the EEPC (Senior Analyst, Webmaster, Mailroom Support Staff, Motor Vehicle Supervisor, Parking Summons Clerk, Borough Operations Coordinator) and five newspaper advertisements (Webmaster (2), Senior Analyst (2), Data Manager,) contain the EEO tag line.

Affirmative Action and Reasonable Accommodation for Persons with Disabilities

The DOF is in compliance with the following requirements:

1. In accordance with the reasonable accommodations procedure of the City's EEO Policy, the DOF has provided accommodations for employees with disabilities upon request. The agency provided a list of such accommodations granted.
2. The DOF participates in the Section 55-A Program. Information about the Program is included in the training booklet, which is distributed during EEO training. The personnel office informs the EEO officer on a quarterly basis of the number of 55-A Program participants; currently, 60 employees participate in the program. The DOF received an award from the DCAS/DCEEO for having the largest amount of Section-55-A Program participants.
3. The DOF's EEO officer is also the agency's disability rights coordinator.
4. The EEO Policies are available in large print format for use by persons with disabilities.

The DOF is in partial compliance with the following requirement:

The DOF has completed its own survey of its seven facilities and submitted an accessibility checklist that indicates that six of the seven locations are ADA compliant. They all have street accessible entrances and/or ramp access, wheelchair accessible elevators, bells and Braille in the elevators, wide restroom stalls, grab bars in the restrooms, and low sink or bathroom fixtures. However, one location (210 Joralemon) does not have wide restroom stalls, grab bars in the restrooms, and low sink or bathroom fixtures. Corrective action is required.

Recommendation: For the facility that is not ADA compliant the DOF should request that the DCAS perform an assessment to ensure that the facility is 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 DOF is in compliance with the following requirements:

1. The EEO officer receives and investigates discrimination complaints in conformance with the EEOC's model complaint and investigation procedures and implementation guidelines issued by the DCAS.
2. The EEO officer maintains a monthly log of discrimination complaints filed against the agency. Copies of completed monthly logs were provided.
3. The agency head conducts a review of EEO complaints at monthly cabinet meetings. The data is then put into the quarterly and annual report.
4. The EEO officer works closely with the general counsel when external EEO complaints or litigation have been brought against the agency. The general counsel takes responsibility for the investigation of, and response to, external EEO complaints. The EEO office also receives a copy of the final determination.
5. The DOF's EEO officer, counselors, and trainers have all completed the basic training course for EEO professionals at the Department of Citywide Administrative Services/ Office of Citywide Equal Employment Opportunity (DCAS/OCEEO). In addition to receiving basic training at DCAS, the EEO officer received certificates in EEO Studies, Human Resources Studies, Labor Relations, and advanced EEO training from Cornell University School of Industrial and Labor Relations. The EEO officer has also received mediation training from the Office of Administrative Trials and Hearings.
6. The agency identifies its EEO staff by posting their names, locations and numbers in the EEO Policy memorandum and training handbook.
7. The DOF has individuals not of the same gender available for complaint intake and investigation.

The DOF is not in compliance with the following requirements:

The DOF submitted 9 of its latest internal discrimination complaint files to the EEOC for review. Four of the complaint files were completed; 5 were pending. Three of the nine complaints filed were withdrawn.

1. The investigative report for one of the four completed internal complaint files (#07016) was not addressed to the agency head. Corrective action is required.

Recommendation: All confidential written reports should be addressed to the agency head. (DCPIG, sect. 12b)

2. One of the four completed internal complaint files (#07017) was not closed within 90-days of the date on which the complaint was filed. Corrective action is required.

Recommendation: The confidential written report should be issued within 90 days of the date the discrimination complaint was filed. In rare circumstances where the confidential written report cannot be issued within 90 days, the agency should send the complainant and respondent(s) a Delay Notification Letter. (DCAS, DCPIG, April 2, 1996 amendment)

3. The EEO officer's confidential written reports (#07016, #07017, and #07021A/B) were not prepared in accordance with the DCPIG: i.e., divided into three sections entitled "Findings of Facts," "Discussion and Conclusion," and "Recommendation." Corrective action is required.

Recommendation: All confidential written reports should be prepared in the above format as required by the DCPIG, Sect. 12b.

4. The "Confidential Written Reports" (#07016, #07017, and #07021A/B) were not signed by the agency head. Corrective action is required.

Recommendation: The agency head should sign each confidential written report to indicate it has been reviewed and whether the recommendation(s), if any, have been approved and adopted. (DCPIG, sect. 12b)

5. Two of the four completed internal complaint files (#07016 and #07021A/B) contained investigative reports that were not labeled "confidential."

Recommendation: All internal investigative reports should be labeled "confidential" in large bold print. (DCPIG, sect. 12b)

EEO Training

The DOF is in compliance with the following requirement:

The EEO officer told EEPAC auditors that the training unit (the training director of Training and Development, the assistant director of Training and Development, the attorney, and the EEO officer) conducts EEO training for staff. The training curriculum is based on the standards determined by the DCAS and includes a component on preventing sexual harassment. The EEO officer reviews and updates the training curriculum every year in conjunction with the Office of Legal Affairs.

The DOF's annual/fourth quarter reports indicated that the agency trained a total of 519 (24%) employees in FY 2005 and a total of 563 (26%) employees in FY 2006.

Underutilization

The DOF's CEEDS data indicated underutilization of at least three "protected" classes in 5 of the 16 job groups, and persistent underutilization in 3 job groups. (See Appendix 5 for underutilizations at the beginning and end of the audit period.)

Following is an analysis of personnel activity in these categories.

EEO Job Groups / Hires and Promotions:

Management Specialist (003): Females were underutilized in this category during the fourth quarter of FY 2007. Twelve employees were hired into this category: 5 Caucasians, 4 African-Americans, and 3 Asians; 5 of those were female. One hundred and twenty-four individual were promoted to or within this category: 54 Caucasians, 48 African-Americans, 8 Hispanics, and 14 Asians; 61 of those were female.

Technicians (010): Asians were underutilized in this category during the third quarter of FY 2006 through the fourth quarter of FY 2007. Two individuals were hired into this category: 2 African-Americans. Fourteen employees were promoted to or within this category: 4 Caucasians, 9 African-Americans, and 1 Hispanic; 4 of these were female.

Clerical Supervisors (012): Hispanics were underutilized in this category throughout the audit period. Ten individuals were hired into this category: 2 Caucasians, 6 African-Americans, 1 Hispanic and 1 Asian; 9 of those were female. Two hundred and ten employees were promoted to or within this category: 29 Caucasians, 133 African-Americans, 28 Hispanics, and 20 Asians; 167 of these were female.

Police and Detectives (018): Females were underutilized in this category during the first quarter of FY 2006 through the third quarter of FY 2007. One individual was hired into this category: an African-American female. No employees were promoted to or within this category.

Paraprofessionals (031): Hispanics were underutilized in this category during the first through third quarters of FY 2007. Three individuals were hired into this category: 1 Caucasian and 2 African-Americans; 1 of those was female. Four employees were promoted to or within this category: 1 Caucasian and 3 African Americans; 3 of these were female.

Addressing Underutilization

The DOF is in partial compliance with the following requirements:

1. The EEO officer told EEOC auditors that she reviews the agency's CEEDS quarterly reports to determine if women and/or minorities are underrepresented in particular job groups. She submits a copy of her analysis to the agency head. However, the agency did not target its subsequent recruiting efforts to address the underutilizations.
2. However, the DOF placed several advertisements during the audit period. Although it provided a list of sources (newspapers, schools, and websites) it used for recruitment purposes, it (list) did not utilize any minority-oriented newspapers or publications and/or female-oriented agencies or organizations. Corrective action is required.

Recommendation: In keeping with the mandate of the EEOC, the DOF should ensure that job vacancies for which underutilization of women and/or minorities have previously been identified are advertised in female- and minority-oriented publications, and sent to professional and community organizations serving "the underutilized group." (Sect. IV, EEOC)

Selection and Recruitment

The DOF is in compliance with the following requirements:

1. The DOF utilizes a discretionary applicant form and log, which contain no illegal pre-employment inquiries under the EEO laws.
2. The DOF provided structured interview training for employees who conduct job interviews.
3. The EEO officer is involved in developing recruitment strategies and selecting recruitment media.

The DOF is not in compliance with the following requirement:

The EEO officer stated that it is in consultation with the DCAS about adverse impact studies. However, the agency did not conduct adverse impact studies during the audit period. Corrective action is required.

Recommendation: The DOF should assess the manner in which candidates are selected for employment, to determine whether there is any adverse impact upon any particular racial, ethnic, disability or gender group. (Section IV, EEOP).

Promotional Opportunities

The DOF is in compliance with the following requirements:

1. The DOF utilizes the citywide managerial performance evaluation form, which includes a rating for EEO.
2. During the audit period the DOF had a designated person (director of workforce planning and analysis) familiar with civil service and provisional jobs to serve as career counselor. Employees are aware that he is the career counselor by written notification (EEO Policy Statement), at EEO training sessions, and postings on the bulleting board. He devotes 5% of his time on career counseling matters. He receives adequate resources to perform both his office title and career counseling functions.

Supervisory Responsibility in EEO Plan Implementation

The DOF is in compliance with the following requirement:

The EEO officer said she meets with managers/supervisors to discuss the Citywide EEO Policy.

The DOF is in partial compliance with the following requirement:

The agency did not maintain documentation of meetings where its managers/ supervisors reaffirmed their commitment to the Citywide EEOP and discussed the right of employees to

file discrimination complaints with the EEO office at least twice a year during normal staff meetings. Corrective action is required.

Recommendation: It is the position of the DCAS ("Model Agency EEO Commitment Memo," http://extranet.dcas.nycnet/eep/pdf/model_memo.pdf) and the EEPC that 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.

EEO Officer Reporting Arrangement

The DOF is in compliance with the following requirement:

1. The organization chart submitted to EEPC shows a reporting relationship between the EEO officer and the agency head.
2. The EEO officer reports directly to the agency head on EEO matters. She keeps regularly scheduled meetings with the agency head; however, the EEO officer doesn't keep notes or agenda's of those meetings.

During the September 22, 2009 audit exit meeting, the EEO officer informed the EEPC that there were no EEO program operational decisions made during the audit period. The EEO officer and the agency head agreed that they will maintain documentation of meetings between them in regards to EEO program operational decisions in the future.

EEO Officer Responsibilities

The DOF is in compliance with the following requirement:

The DOF's EEO officer spends 100% of her time on EEO matters.

Reporting Standards

The DOF 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. For the facility that is not ADA compliant the DOF should request that the DCAS perform an assessment to ensure that the facility is in compliance with City, State, and Federal laws in regards to accessibility for employees and applicants for employment with disabilities. (Sect. VC, EEOP)

2. All confidential written reports should be addressed to the agency head. (DCPIG, sect. 12b)
3. The confidential written report should be issued within 90 days of the date the discrimination complaint was filed. In rare circumstances where the confidential written report cannot be issued within 90 days, the agency should send the complainant and respondent(s) a Delay Notification Letter. (DCAS, DCPIG, April 2, 1996 amendment)
4. All confidential written reports should be prepared in the above format as required by the DCPIG, Sect. 12b.
5. The agency head should sign each confidential written report to indicate it has been reviewed and whether the recommendation(s), if any, have been approved and adopted. (DCPIG, sect. 12b)
6. All internal investigative reports should be labeled "confidential" in large bold print. (DCPIG, sect. 12b)
7. In keeping with the mandate of the EEOP, the DOF should ensure that job vacancies for which underutilization of women and/or minorities have previously been identified are advertised in female- and minority-oriented publications, and sent to professional and community organizations serving "the underutilized group." (Sect. IV, EEOP)
8. The DOF should assess the manner in which candidates are selected for employment, to determine whether there is any adverse impact upon any particular racial, ethnic, disability or gender group. (Section IV, EEOP).
9. It is the position of the DCAS ("Model Agency EEO Commitment Memo," http://extranet.dcas.nycnet/eep/pdf/model_memo.pdf) and the EEPC that 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.

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

Conclusion

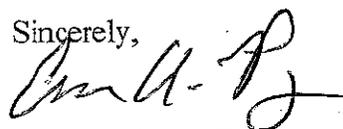
Pursuant to Chapter 36 of the New York City Charter and the previously cited preliminary determinations relating to EEPC's audit of DOF's compliance with its Equal Employment Opportunity Policy and EEO standards expressed in the Citywide EEO Policy, we respectfully request your response to the aforementioned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

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

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

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

Sincerely,



Cesar A. Perez, Esq.
Chair

**DEPARTMENT OF FINANCE
EMPLOYEE SURVEY RESULTS**

A. GENERAL OVERVIEW

1. Do you know who your agency's EEO Officer is?
Yes (145) No (71)
2. Is your agency's EEO Policy Statement posted on your agency's bulletin boards?
Yes (148) No (65)
3. Were you given the EEO Policy Statement?
Yes (149) No (16) Do not remember (55)
4. Were you given a copy of the EEO Policy Handbook – *About EEO: What You Need to Know*?
Yes (162) No (45)
5. Do you agree with the principles of equal employment opportunity?
Yes (195) No (16)

6. Do you believe your agency practices equal employment opportunity?
Yes (126) No (87)
7. Do you know what the City's Equal Employment Opportunity Policy (EEOP) is?
Yes (164) No (54)
8. Has your supervisor emphasized his/her commitment to the agency's EEO policies at any staff meeting during the past 8 months?
Yes (57) No (120) Do not remember (44)
9. When you started working at your agency, did you attend an orientation session?
If No, please skip to question #11.
Yes (152) No (26) Do not remember (23)
10. If hired within the past 12 months, did your orientation session include information on your rights and responsibilities under the EEO Policy?
Yes (37) No (8) Do not remember (13)

B. EEO COMPLAINTS

11. Do you know how to file an EEO complaint?
Yes (145) No (75)
12. If you had an EEO complaint, would you bring it to your agency's EEO Office?
Yes (112) No (54) Undecided (59)

13. Would you prefer to file an EEO complaint with an office outside your agency?
 Yes (98) No (54) Undecided (68)

14. Did you ever file an EEO complaint with your agency's EEO Office?
 If No, please skip to question #18.
 Yes (27) No (185)

15. What was the basis of the complaint?

Age (3)	Partnership Status (0)
Alienage or Citizen Status (0)	Predisposing genetic characteristic (0)
Arrest or Conviction Record (0)	Race (9)
Color (3)	Sexual Harassment (0)
Creed (1)	Sexual Orientation (0)
Disability (8)	Veteran's Status (0)
Gender (incl. gender identity) (8)	Victim of Domestic Violence, Stalking, and Sex Offenses (0)
Marital Status (0)	Other (10)
Military Status (0)	
National Origin (0)	

16. Were you satisfied with the manner in which your complaint was managed?
 Yes (6) No (24)

17. Was your manager or supervisor supportive of your right to file a complaint?
 Yes (5) No (17) Not Applicable (11)

C. EEO TRAINING

18. Did you receive EEO training? If No, please skip to question #20.
 Yes (159) No (51)

19. Did you find this training helpful?
 Very (62) Somewhat (79)
 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 (159) No (44) Do not remember (16)

21. If you were employed at your agency for over one year, did you receive annual evaluations?
 If No, skip to question #24.
 Yes (149) No (68) Not employed for >1 year (0)

22. Did your evaluation contain recommendations for improving your job performance?
 Yes (101) No (65)

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

Yes (42) No (126)

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

Yes (18) No (201)

E. AFFIRMATIVE ACTION FOR PERSONS WITH DISABILITIES

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

Yes (129) No (19) Don't Know (55)

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

If No, skip to question #28.

Yes (30) No (166)

27. Did the agency accommodate you?

Yes (21) No (20)

OPTIONAL

28. What is your race/ethnicity?

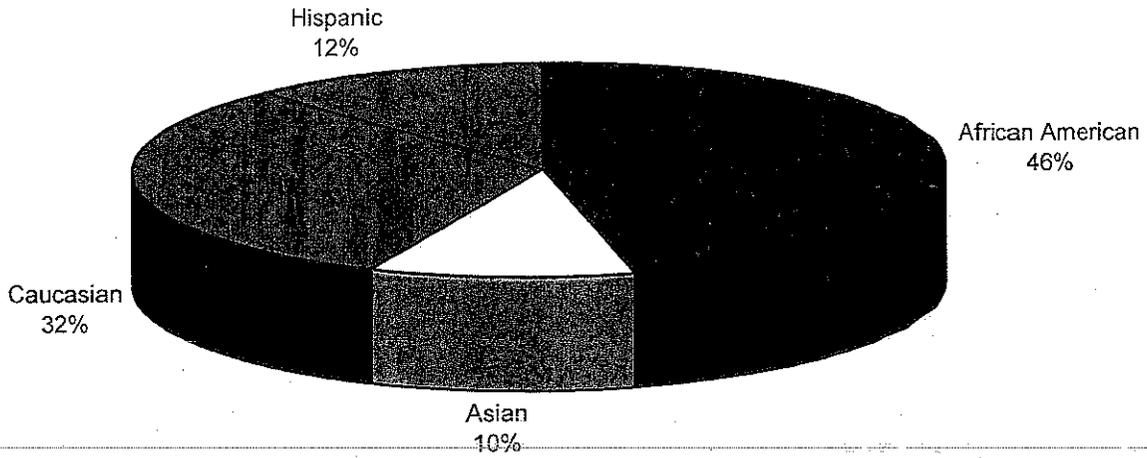
Asian (16)	Native American (0)
Black (62)	White (74)
Hispanic (25)	Other (9)

29. What is your gender?

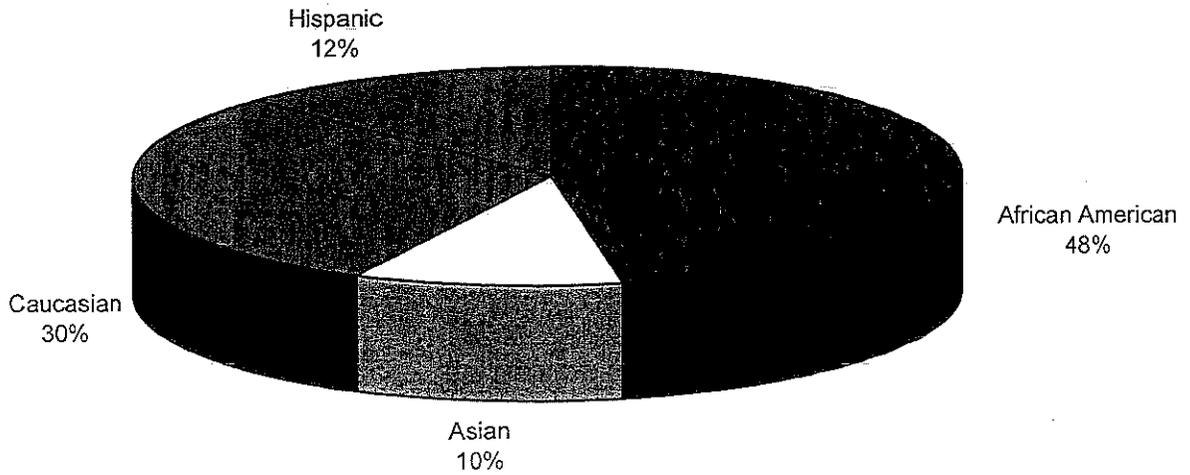
Male (93) Female (101)

APPENDIX - 2

Department of Finance Workforce by Ethnicity



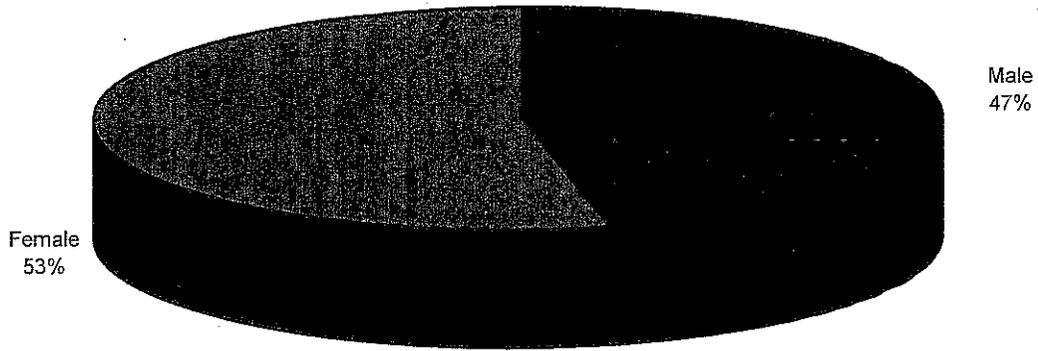
July 05, 2005
Total Workforce = 2180



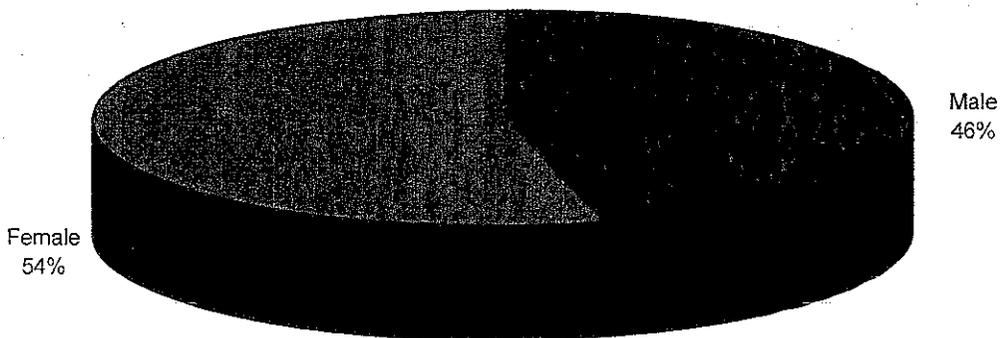
June 2007
Total Workforce = 2159

APPENDIX - 3

Department of Finance Workforce by Sex



July 2005
Total Workforce = 2180



June 2007
Total Workforce = 2159

APPENDIX – 4

The following table indicates personnel activity during the audit period, July 1, 2005 through June 30, 2007.

Department of Finance

Hires by Gender and Ethnicity

Total Hires: 116

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Native Americans	Unknown	Total
47	69	116	21	69	12	9	2	3	116

Promotions by Gender and Ethnicity

Total Promotions: 778

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Native American	Total
290	488	778	210	400	100	67	1	778

APPENDIX - 5

Department of Finance
CEEDS UNDERUTILIZATION CHART
 July 1, 2005 thru June 30, 2007

Quarter:		1Q/2006	2Q/2006	3Q/2006	4Q/2006	1Q/2007	2Q/2007	3Q/2007	4Q/2007
		(Jul-Sep)	(Oct-Dec)	(Jan-Mar)	(Apr-Jun)	(Jul-Sep)	(Oct-Dec)	(Jan-Mar)	(Apr-Jun)
Job Group	Protected Class								
003 Mngmt Specs.	Afr. Am.								
	Asian								
	Hisp.								
	Nat. Am.								
	Female								X
010 Techs.	Afr. Am.								
	Asian			X	X	X	X	X	X
	Hisp.								
	Nat. Am.								
	Female								
012 Clerical Sups.	Afr. Am.								
	Asian								
	Hisp.	X	X	X	X	X	X	X	X
	Nat. Am.								
	Female								
018 Police	Afr. Am.								
	Asian								
	Hisp.								
	Nat. Am.								
	Female	X	X	X	X	X	X	X	
031 Para Prof	Afr. Am.								
	Asian								
	Hisp.					X	X	X	
	Nat. Am.								
	Female								

X= Underutilization



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DAVID M. FRANKEL
Commissioner

October 13, 2009

10189

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RE: Resolution #09/22-836/Preliminary Determination Pursuant to the Audit of the Department of Finance (DOF) and its Compliance with the City's Equal Employment Opportunity Policy from July 1, 2005 through June 30, 2007.

Dear Mr. Perez:

I am writing in response to your September 24, 2009 letter regarding the Equal Employment Practices Commission's (EEPC) Preliminary Determination pursuant to the audit of the Department of Finance and its compliance with the City's Equal Employment Opportunity Policy from July 1, 2005 to June 30, 2007.

Below are the preliminary determinations relating to the EEPC audit, followed by DOF's response (**in bold type**) indicating the corrective actions DOF will take and the recommendation DOF will follow in order to bring the agency in compliance with the City's Equal Employment Opportunity Policy (EEOP).

1. The DOF has completed its own survey of its seven facilities and submitted an accessibility checklist that indicates that six of the seven locations are ADA compliant. They all have street accessible entrances and/or ramp access, wheelchair accessible elevators, bells and Braille in the elevators, wide restroom stalls, grab bars in the restrooms, and low sink or bathroom fixtures. However, one location (210 Joralemon) does not have wide restroom stalls; grab bars in the restrooms and low sink or bathroom fixtures. Corrective action is required.

The Department of Finance have requested the Department of Citywide Administrative Services (DCAS) in writing to conduct an assessment of the 210

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Joralemon Street facility to ensure that the facility is in compliance with City, State and Federal laws in regards to accessibility for employees and applicants with disabilities. DOF currently awaits a response from DCAS.

2. The DOF submitted 9 internal discrimination complaint files to the EEPC for review. Four of the complaint files were completed; five were pending. Three of the nine complaints filed were withdrawn.

The investigative report for one of the four completed internal complaint files (#07016) was not addressed to the agency head. Corrective action is required.

At the time of the EEPC request for copies, complaint #07016 was still under investigation and in draft format (marked DRAFT). Complaint #07016 was closed and the complaint file includes a final confidential written report addressed to the agency head and signed-off by the agency head. (Copies were forwarded to the Executive Director' Office.)

3. One of the four completed internal complaint files (#07017) was not closed within 90-days of the date on which the complaint was filed. Corrective action is required.

The Department of Finance will ensure that confidential written reports are issued within 90 days of the date of discrimination complaint filing. In rare circumstances where the confidential written report cannot be issued with 90 days, DOF will send the complainant and respondent a Delay Notification Letter in accordance with the City's EEOP.

4. The EEO Officer's confidential written reports (#07016, #07017, and #07021A/B) were not prepared in accordance with the DCPIG: i.e., divided into three sections entitled "Findings of Facts," "Discussion and Conclusion," and "Recommendation." Corrective action is required.

Complaints #07016 and #07021A/B were fully investigated by the EEO Office and include a confidential written report prepared in accordance with the DCPIG. (Copies of the final written reports were forwarded to the Executive Director's Office.)

Complaint #07017 was withdrawn during the investigative process and did not require a final written report.

5. The "Confidential Written Reports" (#07016, #07017 and #07021A/B) were not signed by the agency head. Corrective action is required.

Complaints #07016 and #07021A/B were fully investigated by the EEO Office and complaint folders included a confidential report signed by the agency head. (Copies of the final written reports were forwarded to the Executive Director's Office.)

Complaint #07017 was withdrawn during the investigative process and did not require a confidential written report signed by the agency head.

6. Two of the 4 completed internal complaint files (#07016 and #07021A/B) contained investigative reports that were not labeled "confidential." Corrective action is required.

Complaints #07016 and #07021A/B were fully investigated by the EEO Office. Each complaint file contains an investigative report stamped "confidential." (Copies of the final written reports were forwarded to the Executive Director's Office.)

Addressing Underutilization

7. However, DOF placed several advertisements during the audit period. Although it provided a list of sources (newspapers, schools and websites) it used for recruitment purposes, it (list) did not utilize any minority-oriented newspapers or publications and/or female-oriented agencies or organizations. Corrective action is required.

DOF will ensure that all job vacancies, specifically vacancies for which underutilization of women and/or minorities are identified are advertised in female and minority-oriented publications and sent to professional and community organizations serving "the underutilized groups" in accordance with the City's EEOP.

8. The EEO Officer stated that it is in consultation with the DCAS about adverse impact studies. However, the agency did not conduct adverse impact studies during the audit period. Corrective action is required.

DOF will work with DCAS EEO in order to develop/assess the manner in which candidates are selected for employment to determine whether there is any adverse impact upon any particular racial, ethnic, disability or gender group in accordance with the City's EEOP.

9. The agency did not maintain documentation of meetings where its managers/supervisors reaffirmed their commitment to the Citywide EEOP and discussed the right of employees to file discrimination complaints with the EEO Office at least twice a year during normal staff meetings. Corrective action is required.

DOF will ensure that its managers/supervisors reaffirmed their commitment to the Citywide EEOP and discussed the right of employees to file discrimination complaints with the EEO Office at least twice a year during normal staff meetings. EEO will require managers/supervisors to submit documentation of the meetings to be kept on file in the EEO Office.

In closing, we wish to thank you and your staff for providing us with the above listed preliminary determinations/recommendations. We look forward to utilizing these recommendations to create a more effective EEO Program at the Department of Finance.

If you have any questions or require additional information please feel free to contact me at (212) 669-4855 or Annie Long, EEO Officer at (212) 669-4488.

Sincerely,

A handwritten signature in black ink, appearing to read 'DMF', enclosed within a large, loopy circular flourish.

David M. Frankel
Commissioner

cc: Abraham May, Jr., Executive Director, EEPC
Annie M. Long, EEO Officer

DMF:al



EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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

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Commissioners

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Executive Director

Charise Hendricks, PHR

Deputy Director

Judith Garcia Quiñonez

Counsel

November 12, 2009

David M. Frankel
Commissioner

Department of Finance

One Centre Street

New York, NY 10007

Re: Final Determination Pursuant to the Audit of the Department of Finance (DOF) and its Compliance with the City's Equal Employment Opportunity Policy from July 1, 2005 through June 30, 2007.

Dear Commissioner Frankel:

Thank you for your October 13, 2009 response to our September 24, 2009 Letter of Preliminary Determination pursuant to the audit of the Department of Finance's Equal Employment Opportunity Policy from July 1, 2005 through June 30, 2007.

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

Agree

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

Recommendation #1

The confidential written report should be issued within 90 days of the date the discrimination complaint was filed. In rare circumstances where the confidential written report cannot be issued within 90 days, the agency should send the complainant and respondent(s) a Delay Notification Letter. (DCAS, DCPIG, April 2, 1996 amendment)

Recommendation #3

The agency head should sign each confidential written report to indicate it has been reviewed and whether the recommendation(s), if any, have been approved and adopted. (DCPIG, sect. 12b)

Recommendation #7

In keeping with the mandate of the EEOP, the DOF should ensure that job vacancies for which underutilization of women and/or minorities have previously been identified are advertised in female- and minority-oriented publications, and sent to professional and community organizations serving "the underutilized group." (Sect. IV, EEOP)

Recommendation #8

The DOF should assess the manner in which candidates are selected for employment, to determine whether there is any adverse impact upon any particular racial, ethnic, disability or gender group. (Section IV, EEOP).

Recommendation #9

It is the position of the DCAS ("Model Agency EEO Commitment Memo," http://extranet.dcas.nycnet/eep/pdf/model_memo.pdf) and the EEPC that 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.

Disagree

For the following reasons, hereafter identified as *EEPC Rationale*, we disagree with your response to the following EEPC recommendations: Please note that the findings for the complaint files were based on the four completed files.

Recommendation #2

All confidential written reports should be addressed to the agency head. (DCPIG, sect. 12b)

Your Response

At the time of the EEPC request for copies, complaint #07016 was still under investigation and in draft format (marked DRAFT). Complaint #07016 was closed and the complaint file includes a final confidential written report addressed to the agency head and signed-off by the agency head. (Copies were forwarded to the Executive Director' Office)

EEPC Rationale

The subject investigative report that was submitted to the EEPC was not marked "DRAFT" and was not addressed to the agency head.

Recommendation #4

All confidential written reports should be prepared in the above format as required by the DCPIG, Sect. 12b.

Your Response

Complaint's #07016 and #07021A/B were fully investigated by the EEO Office and include a confidential written report prepared in accordance with the DCPIG. (Copies of the final written reports were forwarded to the Executive Director's Office)

Complaint #07017 was withdrawn during the investigation process and did not require a final written report.

EEPC Rationale

The confidential written reports were not prepared in accordance with the DCPIG. In reference to Complaint file #07017, the file showed that a confidential written report was issued in June 2007 and the complainant withdrew the complaint in August 2007. We would like clarification for what happened during that time.

Recommendation #5

The agency head should sign each confidential written report to indicate it has been reviewed and whether the recommendation(s), if any, have been approved and adopted. (DCPIG, sect. 12b)

Your Response

Complaint's #07016 and #07021A/B were fully investigated by the EEO Office and include a confidential written report signed by the agency head. (Copies of the final written reports were forwarded to the Executive Director's Office). Complaint #07017 was withdrawn during the investigation process and did not require a confidential written report signed by the agency head.

EEPC Rationale

Included in the completed case files submitted to the EEPC were written reports that were not signed by the agency head.

Recommendation #6

All internal investigative reports should be labeled "confidential" in large bold print. (DCPIG, sect. 12b)

Your Response

Complaint's #07016 and #07021A/B were fully investigated by the EEO Office. Each complaint file contains an investigative report stamped "confidential." (Copies of the final written reports were forwarded to the Executive Director's Office).

EEPC Rationale

Included in the completed case files submitted to the EEPC were written reports that were not labeled "confidential."

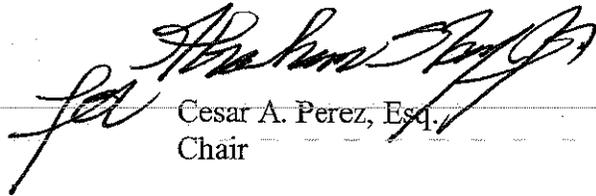
Conclusion

Pursuant to section 832 of the New York City Charter, this Commission will initiate an audit compliance procedure not to exceed six months. However, you may respond to the aforementioned determinations prior to the initiation of audit compliance.

If you choose to issue a written response, please do so within thirty days. If you choose not to issue a written response, we will initiate audit compliance shortly thereafter. EEPCCounsel Judith Quiñonez or her designee will contact your EEO Officer in seven days to ascertain your intentions.

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

Sincerely,



Cesar A. Perez, Esq.
Chair



Finance

Office of the Commissioner
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Tel. 212.669.4855
Fax 212.669.2275

DAVID M. FRANKEL
Commissioner

December 18, 2009

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

RE: Final Determination Pursuant to the Audit of the Department of Finance (DOF) and its Compliance with the City's Equal Employment Opportunity Policy from July 1, 2005 through June 30, 2007.

Dear Chairman Perez:

I am writing in response to your November 12, 2009 letter regarding the Equal Employment Practices Commission's (EEPC) Final Determination pursuant to the audit of the Department of Finance and its compliance with the City's Equal Employment Opportunity Policy from July 1, 2005 to June 30, 2007.

After reviewing your response, Finance would like to provide the following written response:

Below are the EEPC Recommendations contained in the Final Determination relating to the EEPC audit, followed by the EEPC rationale and DOF's response (**in bold type**) indicating the corrective actions DOF will take and the recommendation DOF will follow.

Recommendation #2. All confidential written reports should be addressed to the agency head. (DCPIG, section 12b)

EEPC Rationale: The subject investigative report that was submitted to the EEPC was not marked "DRAFT" and was not addressed to the agency head.

DOF's Final Response: In the future the DOF will ensure that all investigative written reports will be marked "DRAFT" and will be addressed to the agency head.

Recommendation #4: All confidential written reports should be prepared in the above format as required by the DCIPG, Section 12b.

EEPC Rationale: The confidential written reports were not prepared in accordance with the DCPIG. In reference to Complaint file #0707, the file showed that a confidential written report was issued in June 2007 and the complainant withdrew the complaint in August 2007. We would like clarification for what happened during that time.

DOF's Final Response: The final written report was issued to the former agency head on June 14, 2007 for review/signature. The former agency head returned the document to the EEO Office for follow-up. A revised version of the final written report was returned to the former agency head on June 22, 2009 for review/signature. Prior to the former agency head signing the final written report, the respondent left the agency. Therefore, the complainant contacted EEO via email to withdraw the complaint. The file was marked "withdrawn."

Recommendation #5: The agency head should sign each confidential written report to indicate it has been reviewed and whether the recommendation(s), if any, have been approved and adopted. (DCPIG, section 12b)

EEPC Rationale: Included in the completed case files submitted to the EEPC were written reports that were not signed by the agency head.

DOF's Final Response: Complaints #07016 and #07021A/B were under investigation at the time the EEPC requested copies of these files. As stated in our preliminary response, these complaints were fully investigated and copies of written reports signed by the agency head were provided to the EEPC.

As for Complaint # 07017, please refer to Finance's response above in recommendation #4.

Recommendation #6: All internal investigative reports should be labeled "confidential" in large bold print. (DCPIG, section 12b)

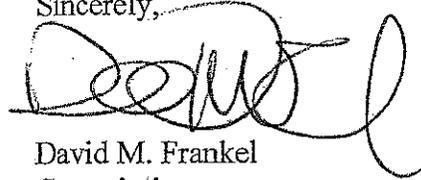
EEPC Rationale: Include in the completed case files submitted to the EEPC were written reports that were not labeled "confidential."

DOF's Final Response: In the future the DOF will ensure that all confidential written reports including drafts and complaint file documents will be labeled "confidential" in large bold print.

In closing, we wish to thank you and your staff for providing us with the above listed final determinations/recommendations. We look forward to utilizing these recommendations to create a more effective EEO Program at the Department of Finance.

If you have any questions or require additional information, please feel free to contact me at (212) 669-4855 or Annie Long, EEO Officer at (718) 403-4568.

Sincerely,

A handwritten signature in black ink, appearing to read 'DMF', written over a horizontal line.

David M. Frankel
Commissioner

cc: Abraham May, Jr., Executive Director, EEPC
Annie M. Long, EEO Officer

DMF:al