

BROOKLYN BOROUGH PRESIDENT'S OFFICE

- Letter of Preliminary Determination April 26, 2007
- Agency Response May 25, 2007
- Letter of Final Determination June 5, 2007



EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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April 26, 2007

Honorable Marty Markowitz
President
Borough of Brooklyn
209 Joralemon Street
Brooklyn, New York 11201

Re: Resolution #07/07-012/Preliminary Determination Pursuant to the Audit of the Brooklyn Borough President Office's (BBPO) Equal Employment Opportunity Program from January 1, 2005 to June 30, 2006.

Dear President Markowitz:

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..." The borough president's offices are funded by the City of New York and are therefore considered city agencies pursuant to Chapter 36, section 831(a) of the New York City Charter.

This Commission is empowered by Section 831 of the City Charter to recommend all necessary and appropriate actions to ensure fair and effective affirmative employment programs

for minority group members, women and other protected classes. This audit measures the BBPO's compliance with its Equal Employment Opportunity Policy, as well as Commission policies and EEO standards expressed in the 2005 Citywide EEO Policy. All recommendations for corrective actions are consistent with both the audit's findings and the parameters set forth in the 2005 Citywide EEO Policy. The relevant sections of these guidelines and documents are cited in parenthesis, where applicable, at the end of each recommendation.

The purpose of this audit is to evaluate the agency's compliance with the standards cited above, 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 BBPO's EEO Policy, and a review of responses to an EEPC Document and Information Request Form. EEPC auditors also conducted in-depth, on-site interviews with the EEO Officer and EEO Counselor to determine awareness of their rights and responsibilities under the agency's EEO Plan.

A survey of 82 people employed by the BBPO during the audit period was distributed (no surveys were returned as undeliverable.) Twenty-six people (32%) responded. Significant survey findings are attached and discussed in the proceeding pages. (Appendix 1) The survey methodology was established by the EEPC with the assistance of an academic expert from the City University of New York.

Description of the Agency

The Borough Presidents are the executive officials of each borough. The City Charter gives them authority to: work with the Mayor in preparing the annual executive budget submitted to the City Council and propose borough budget priorities directly to the council; review and comment on major land use decisions and propose sites for city facilities within their respective boroughs; monitor and modify the delivery of city services; and engage in strategic planning for their borough.

Personnel Activity During the Audit Period

During the audit period, 27 people were hired: 11 Caucasians, 10 African Americans, 3 Hispanics, 1 Asian, 1 Native American, and 1 "Other." Seventeen of the hires were female. Seven people were promoted during the audit period: 4 Caucasians, 2 Hispanics, and 1 Asian. Three of those promoted were female. (Appendix 4)

The BBPO also reports that during the audit period, 3 employees were involuntarily separated: 2 Caucasians, 1 African American. Two of the individuals were female.

Between January 1, 2005 and December 31, 2005, the total number of BBPO employees increased by 5%, going from 75 to 79. There were small percentage decreases for Blacks (28% to 27%) and Asians (5% to 4%). The percentage for females increased slightly (57% to 59%). (Appendices 2 and 3)

Discrimination Complaint Activity during the Audit Period

The agency reports that 1 internal complaint was filed during the audit period. The complainant alleged age and religion discrimination and it received a no probable cause determination. No complaints were pending at the end of the audit period. No external discrimination complaints were filed during the audit period.

PRELIMINARY DETERMINATION

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

Plan Dissemination – Internally

The BBPO is in compliance with the following requirements:

1. The BBPO adopted and distributes the Citywide EEO Policy to all employees annually. The BBPO provided a copy of the EEO Policy that was dated February 2006. In addition, 96% of the survey respondents said that they have a copy of the EEO Policy.

2. The BBPO re-issued its EEO Policy Statement along with its EEO Policy in February 2007. Included in the Statement was information directing employees how to access the DCAS website to download the EEO Policy Handbook "*About EEO: What You May Not Know.*" In addition, 81% of the survey respondents said that they have a copy of the EEO Policy Handbook.

3. The BBPO's EEO Policy is included in the new hire package and is distributed at new employee orientation sessions and EEO training sessions.

4. The BBPO's EEO Policy is posted on the bulletin boards. In addition, the EEO Officer periodically checks the board to insure posting of the Policy.

Plan Dissemination – Externally

The BBPO is in compliance with the following requirements:

1. The five job vacancy notices submitted by the BBPO (Administrative Assistant, Community Coordinator, Borough Planner, Community Liaison Worker, and Capital Budget and Economic Development Associate) included the EEO tag line.

2. The five job advertisements submitted by the BBPO (Writer, Purchaser Executive Secretary, Communications Associate, and Press Secretary) were advertised in *City Limits.org*, *The Chief-Leader*, *The New York Times*, *Mediabistro.com*, respectively, and included the EEO tag line.

EEO and Reasonable Accommodation for Persons with Disabilities

The BBPO is in compliance with the following requirements:

1. The BBPO's EEO Policy includes a "Reasonable Accommodation Procedure."
2. The EEO Officer told EEPC auditors that there were no reasonable accommodation requests during the audit period. However, 8% of the survey respondents said they asked for, and received, an accommodation.
3. The BBPO's EEO Policy is available in large print for use by people with disabilities.
4. The EEO Officer told EEPC auditors that the Section 55-A program brochures were distributed in December 2001 by memorandum and after that it was included in the new hire packet. No employees are enrolled.
5. According to the EEO Officer, Brooklyn Borough Hall is maintained by DCAS, but she is unsure if DCAS has conducted an accessibility survey. The BBPO submitted an accessibility checklist that indicates the Brooklyn Borough Hall is accessible to, and usable by, persons with disabilities. The BBPO has two street accessible entrances, several curb ramps, two wheelchair accessible elevators, bell and Braille in elevators, wide restroom stalls, grab bars in the restroom, and low sink or bathroom fixtures. In addition, 92% of the survey respondents said that the agency's facilities are accessible for persons with disabilities. The other 8% "did not know."

The BBPO is in partial compliance with the following requirement:

The EEO Officer told EEPC auditors that the BBPO has a Disability Liaison who answers questions pertaining to disabilities, but it has not officially appointed a Disability Rights Coordinator. Corrective action is required.

Recommendation: The BBPO should officially appoint a Disability Rights Coordinator and notify staff about that individual. (Sect. VB, Citywide EEOP)

EEO Complaint and Investigation Procedures

The BBPO is in compliance with the following requirements:

1. The BBPO has appointed two individuals, not of the same gender (a female EEO Officer and a male EEO Counselor), to receive and investigate discrimination complaints. The EEO Officer and the EEO Counselor have attended the Department of Citywide Administrative Services' EEO training course.
2. The BBPO identifies its EEO personnel in its EEO Policy. In addition, EEO personnel are reintroduced during staff meetings.
3. The EEO Officer maintains and updates a monthly discrimination complaint log.
4. The BBPO investigates complaints according to the DCAS guidelines.

The BBPO is not in compliance with the following requirement:

The agency head did not sign-off on the "Confidential Written Report" (complaint #320050407-001). Corrective action is required.

Recommendation: In keeping with the EEOP's Discrimination Complaint Procedures Implementation Guidelines, the agency head should sign all confidential reports, which contain the agency's findings and recommendations. (DCAS, Discrimination Complaint Procedures Implementation Guidelines, 1993, Sect. 12(b))

EEO Training

The BBPO is in partial compliance with the following requirement:

Although the Department of Citywide Administrative Services provided EEO training (including a component on preventing sexual harassment) to all the BBPO employees (which included members of the Brooklyn Community Boards) in June 2002, no such training has been conducted since that date. In addition, 38% of the survey respondents said that they did not receive EEO training. The EEO Officer told EEPC auditors that the BBPO plans to conduct EEO training in either 2007 or 2008. Corrective action is required.

Recommendation: BBPO should follow Section IV of its EEO Policy ("Training Standards and Plans") and develop a plan, which includes a timeframe, to train all existing and new employees who have not received EEO training.

EEO Officer Reporting Arrangement

The BBPO is not in compliance with the following requirement:

Although the EEO Officer reports to the Chief of Staff (a direct report to the Borough President) on EEO matters "only when things come up", she did not prepare an agenda for or keep notes of those sessions. Corrective action is required.

Recommendation: It is the Commission's position that appropriate documentation of meetings and other communications between the EEO Officer and the agency head or direct report to the agency head regarding EEO decisions should be maintained.

EEO Officer Responsibilities

The BBPO is not in compliance with the following requirement:

The EEO Officer told EEPC auditors that she is not involved in developing job recruitment strategies or selecting recruitment media; those are the sole responsibilities of the Chief of Staff and the Human Resources Director. Corrective action is required.

Recommendation: The EEO Officer should be involved in developing recruitment strategies and selecting recruitment media, including newspapers and other publications. (Sect. V, Citywide EEO Policy)

Selection and Recruitment

The BBPO is in compliance with the following requirement:

The EEO Officer told EEPC auditors that she analyzed the 2005 agency's workforce data to determine if women and/or minorities are underrepresented in particular job categories. She found no underrepresentation of women or minorities.

The BBPO is in partial compliance with the following requirement:

The BBPO provided structured interview training in April 1997 to personnel involved in the recruitment and hiring process. However, no such training was provided since that date. The BBPO's personnel data indicated that 27 people were hired during the audit period. Corrective action is required.

Recommendation: The BBPO should develop a plan to provide structured interview training to personnel involved in the recruitment and hiring process. (Sect. IV, Citywide EEO Policy)

Job Performance/Advancement

The BBPO is not in compliance with the following requirement:

Thirty-eight percent of the survey respondents said that they did not see the agency's job vacancy postings on agency bulletin boards prior to the application deadline. Corrective action is required.

Recommendation: The BBPO should post its job vacancy notices on bulletin boards or keep a binder with postings in a central location. (DCAS, Personnel Services Bulletin No. 200-9, June 30, 1998)

SUMMARY OF RECOMMENDED CORRECTIVE ACTIONS

1. The BBPO should officially appoint a Disability Rights Coordinator and notify staff about that individual. (Sect. VB, Citywide EEO Policy)
2. In keeping with the EEOP's Discrimination Complaint Procedure Guidelines, the agency head should sign all confidential reports, which contain the agency's findings and recommendations. (DCAS, DCPIG, 1993, Sect. 12(b))
3. The BBPO should follow Section IV of its EEO Policy (Training Standards and Plans") and develop a plan to train all existing and new employees who have not already received EEO training.
4. It is the Commission's position that appropriate documentation of meetings and other communications between the EEO Officer and the agency head or direct report to the agency head regarding EEO decisions should be maintained.

5. The EEO Officer should be involved in developing recruitment strategies and selecting recruitment media, including newspapers and other publications. (Sect. V, Citywide EEO Policy)
6. The BBPO should develop a plan to provide structured interview training to personnel involved in the recruitment and hiring process. (Sect. IV, Citywide EEO Policy)
7. The BBPO should post its job vacancy notices on bulletin boards or keep a binder with postings in a central location. (DCAS, Personnel Services Bulletin No. 200-9, June 30, 1998)

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

Conclusion

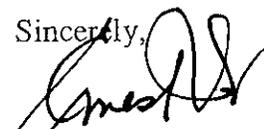
Pursuant to Chapter 36 of the New York City Charter and the previously cited preliminary determinations relating to EEPC's audit of the BBPO's compliance with its Equal Employment Opportunity Policy, as well as Commission policies and EEO standards expressed in the Citywide EEO Policy, we respectfully 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 indicated by your staff during the audit exit meeting of April 19, 2007, some of our recommended corrective actions have already been implemented. Please specify these 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, 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 auditors during the course of this audit. If you have any questions regarding these preliminary determinations, please let us know.

Sincerely,



Ernest F. Hart, Esq.
Chair

BROOKLYN BOROUGH PRESIDENT'S OFFICE EMPLOYEE SURVEY RESULTS

A. GENERAL OVERVIEW

1. Do you know who your agency's EEO Officer is?
Yes (24) No (2)
2. Is your agency's EEO Policy Statement or the Citywide EEO Policy Statement posted on your agency's bulletin boards?
Yes (13) No (9)
3. Were you given the EEO Policy Statement or the Citywide EEO Policy Statement?
Yes (25) No (0) Do not remember (1)
4. Were you given a copy of the EEO Policy Handbook – *About EEO: What You Need to Know*?
Yes (21) No (3)
5. Do you agree with the principles of equal employment opportunity?
Yes (22) No (2)
6. Do you believe your agency practices equal employment opportunity?
Yes (16) No (6)

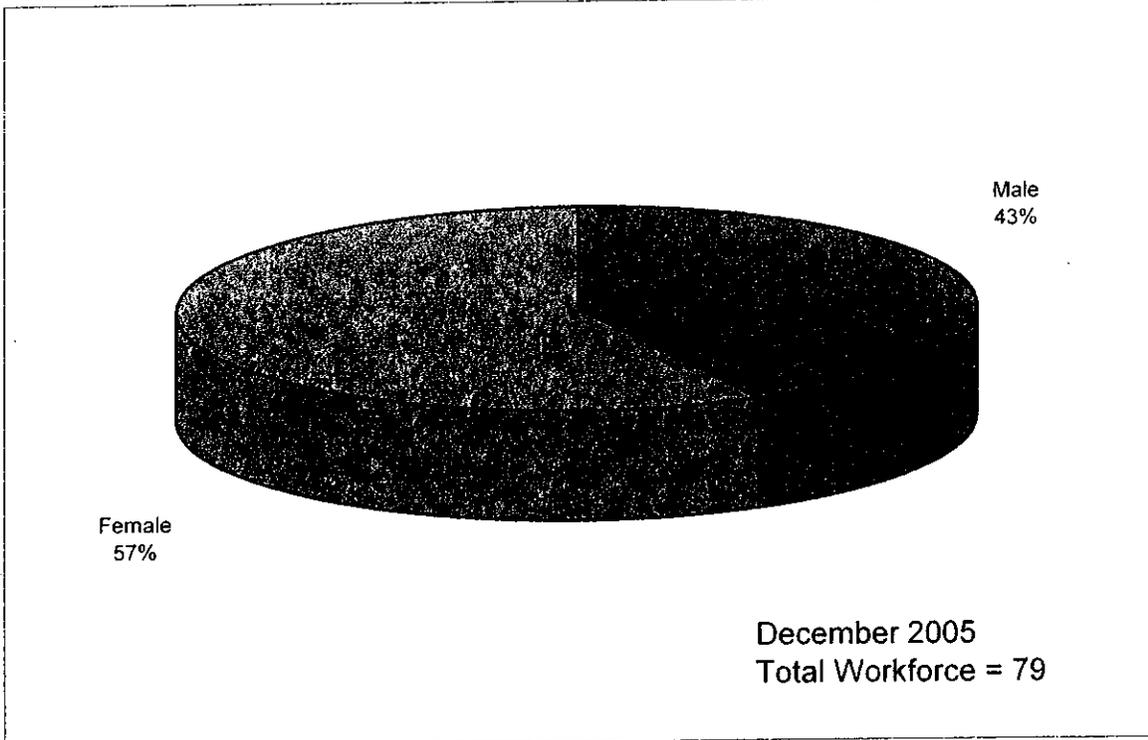
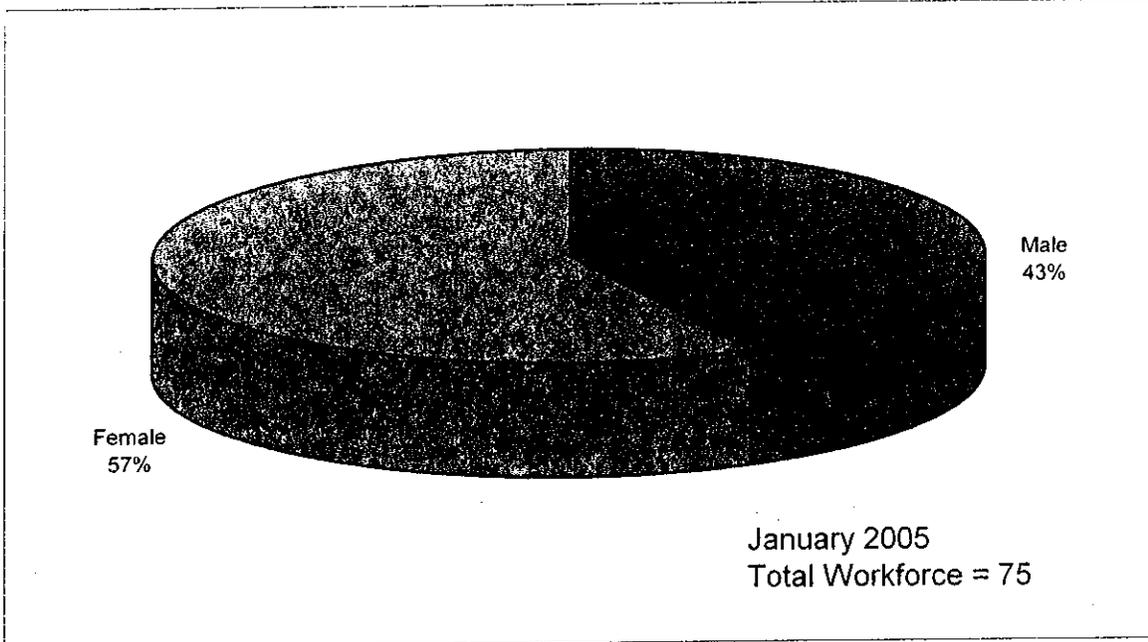
B. EEO COMPLAINTS

7. Do you know how to file an EEO complaint?
Yes (21) No (5)
8. If you had an EEO complaint, would you bring it to your agency's EEO Office?
Yes (18) No (4) Undecided (4)
9. Would you prefer to file an EEO complaint with an office outside your agency?
Yes (9) No (11) Undecided (6)
10. Did you ever file an EEO complaint with your agency's EEO Office? If No, please skip to question #14.
Yes (3) No (0)
11. 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 (0)
Color (0)	Sexual Harassment (0)
Creed (0)	Sexual Orientation (0)
Disability (0)	Veteran's Status (0)
Gender (incl. gender identity) (0)	Victim of Domestic Violence, Stalking, and Sex Offenses (0)
Marital Status (0)	Other (0)
Military Status (0)	
National Origin (0)	

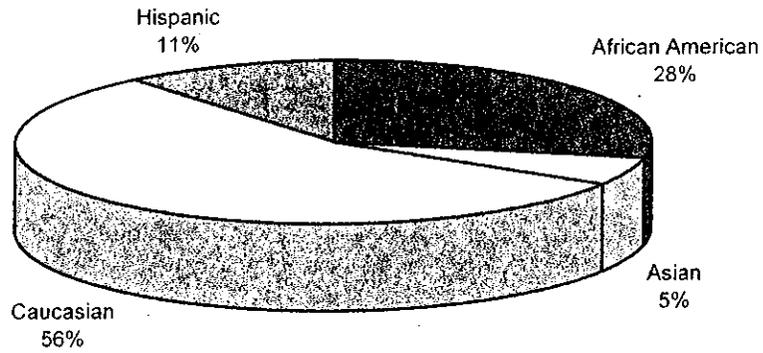
Appendix - 3

Brooklyn Borough President Workforce by Sex

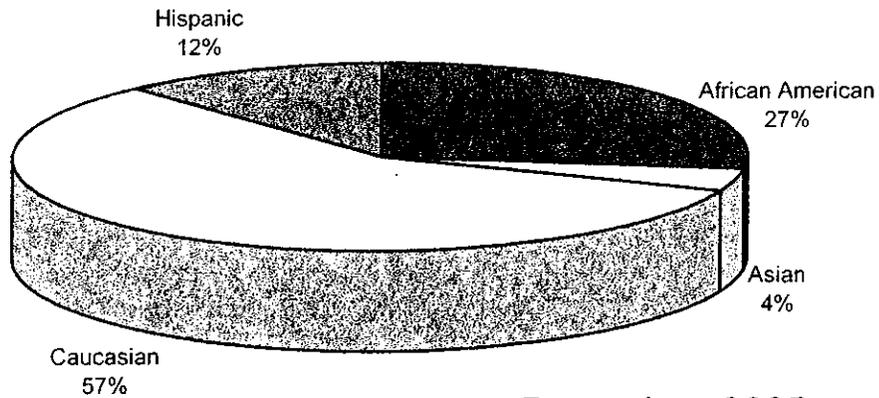


Appendix - 2

Brooklyn Borough President Workforce by Ethnicity



January 2005
Total Workforce = 75



December 2005
Total Workforce = 79

APPENDIX - 4

The following table indicates personnel activity during the audit period, January 1, 2005 to June 30, 2006.

BROOKLYN BOROUGH PRESIDENT'S OFFICE

Hires by Sex and Ethnicity

Total Hires: 27

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Native American	Other	Total
10	17	27	11	10	3	1	1	1	27

Promotions by Sex and Ethnicity

Total Promotions: 7

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Native American	Total
4	3	7	4	0	2	1	0	7

Source: Audit data supplied by BBPO



6/4/31
5/30/07

OFFICE OF THE BROOKLYN BOROUGH PRESIDENT

May 25, 2007

Mr. Ernest F. Hart, Esq.
Chair
Equal Employment Practices Commission
40 Rector Street, 14th Floor
New York, New York 10007

Re: Resolution # 07/07-012

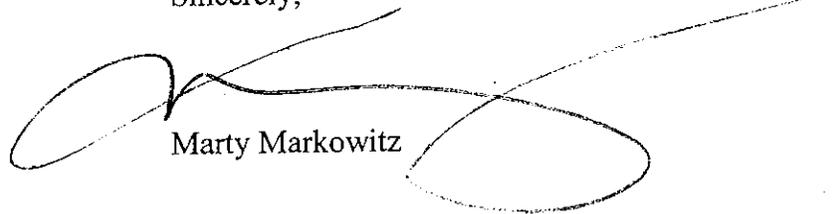
Dear Mr. Hart:

I received the preliminary determination pursuant to the audit of the Equal Employment Opportunity (EEO) Program of the Brooklyn Borough President's Office from January 1, 2005 to June 30, 2006.

Enclosed is my response to the Equal Employment Practices Commission's recommendations of this agency's EEO program. Also enclosed is a copy of a memo sent to staff informing them of the audit and the steps the agency is taking to comply. Ms. Sandra Chapman, my EEO Officer will work with the Commission to provide appropriate documentation that indicates the compliance of this office with the resolution. If you require additional information, do not hesitate to contact Ms. Chapman at (718) 802-3884.

I look forward to working with you to ensure that my office's employment practices and programs remain in compliance with the citywide EEO standards.

Sincerely,



Marty Markowitz

Enc.

cc: Mr. Abraham May, Jr., Executive Director

MM/sc

Office of the Brooklyn Borough President
Audit Period: January 1, 2007 to June 30, 2006
Corrective Actions

EEO and Reasonable Accommodations for Person's with Disabilities:

- **Recommendation:**
The Brooklyn Borough President's Office should appoint a Disability Rights Coordinator.
- **Steps to Comply:**
The Brooklyn Borough President sent a memo to staff informing them that Sandra, EEO Officer, is their Disability Rights Coordinator.

EEO Complaint and Investigation Procedures

- **Recommendation:**
The head of the Brooklyn Borough President's Office should sign-off on the "Confidential Written Report"
- **Steps to Comply:**
The Agency head will sign all future confidential reports, which contain the agency's findings and recommendations.

EEO Training

- **Recommendation:**
The Brooklyn Borough President's Office should develop a plan to train existing and new employees.
- **Steps to Comply:**
Training is scheduled for May 23, 2007, June 6, 7, and 8, 2007.

EEO Officer Reporting

- **Recommendation:**
The Equal Employment Opportunity Officer of the Brooklyn Borough President's Office should prepare an agenda for or keep notes of meetings with the Chief of Staff.
- **Steps to Comply:**
The Equal Employment Opportunity Officer will begin to prepare agendas prior to meetings and has started to include EEO reports in the agency's biweekly report to the agency head.

Handwritten notes:
1
2007-06-08

EEO Officer Responsibilities

- **Recommendation:**
The Equal Employment Opportunity Officer Brooklyn Borough President's Office should be involved in developing job recruitment strategies.
- **Steps to Comply:**
The agency's Director of Human Resources was directed by the Brooklyn Borough President to provide the Equal Employment Officer, starting FY 08, with a memo of updates and changes in the agency's selection of recruitment media.

Selection and Recruitment

- **Recommendation:**
The Brooklyn Borough President's Office develop a plan to provide structured interview training to personnel involved in recruitment and hiring process.
- **Steps to Comply:**
The Brooklyn Borough President's Office has received the Department of Citywide Administrative Services' PowerPoint presentation on structured interview training and will schedule presentations for staff involved in interviewing process.

Job Performance/Advancement

- **Recommendation:**
The Brooklyn Borough President's Office should post its job vacancy notices on bulletin boards or keep a binder in a central location.
- **Steps to Comply:**
The Brooklyn Borough President's Office job positions are already posted on the bulletin board in the Human Resources Department. In addition, the agency's and New York City agency's job postings can be found in a binder in the Human Resources Department. The Brooklyn Borough President Office started posting its vacancy notices on the agency's website. A memo was recently sent to staff notifying them of the location of the bulletin board and the binder, and that BBPO vacancy postings are posted on agency's website.



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June 5, 2007

Honorable Marty Markowitz
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Re: Final Determination Pursuant to the Audit of the Brooklyn Borough President's Office (BBPO) and its Compliance with the City's Equal Employment Opportunity Policy from January 1, 2005 through June 30, 2006.

Dear President Markowitz:

Thank you for your May 25, 2007 response to our April 26, 2007 Letter of Preliminary Determination pursuant to the audit of the Brooklyn Borough President Office's Equal Employment Opportunity Policy from January 1, 2005 through June 30, 2006.

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

Agree

We agree with your responses to the following EEPC recommendations:

Recommendation #1

The BBPO should officially appoint a Disability Rights Coordinator and notify staff about that individual. (Sect. VB, Citywide EEO Policy)

Recommendation #2

In keeping with the EEOP's Discrimination Complaint Procedure Guidelines, the agency head should sign all confidential reports, which contain the agency's findings and recommendations. (DCAS, DCPIG, 1993, Sect. 12(b))

Recommendation #3

The BBPO should follow Section IV of its EEO Policy (Training Standards and Plans") and develop a plan to train all existing and new employees who have not already received EEO training.

Recommendation #6

The BBPO should develop a plan to provide structured interview training to personnel involved in the recruitment and hiring process. (Sect. IV, Citywide EEO Policy)

Recommendation #7

The BBPO should post its job vacancy notices on bulletin boards or keep a binder with postings in a central location. (DCAS, Personnel Services Bulletin No. 200-9, June 30, 1998)

Disagree

We disagree with your responses to the following EEPC recommendations:

Recommendation #4

It is the Commission's position that appropriate documentation of meetings and other communications between the EEO Officer and the agency head or direct report to the agency head regarding EEO decisions should be maintained.

Your Response

Your response cited the following as EEPC's recommendation: "The Equal Employment Opportunity Officer of the Brooklyn Borough President's Office should prepare an agenda for or keep notes of meetings with the Chief of Staff."

EEPC Rationale

Your response, therefore, does not address our recommendation.

Recommendation #5

The EEO Officer should be involved in developing recruitment strategies and selecting recruitment media, including newspapers and other publications. (Sect. V, Citywide EEO Policy)

Your Response

The agency's Director of Human Resources was directed by the Brooklyn Borough President to provide the Equal Employment Officer, starting FY 08, with a memo of updates and changes in the agency's selection of recruitment media.

EEPC Rationale

The EEO Officer should be proactive in developing recruitment strategies and selecting recruitment media. Providing a memo to the EEO Officer regarding “updates and changes in the agency’s selection of recruitment media” precludes involvement of the EEO Officer in the process and consequently fails to address the recommendation.

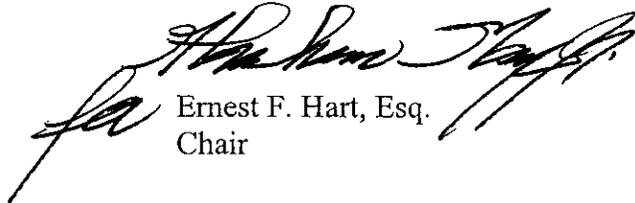
Conclusion

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

If you choose to issue a written response, please do so within thirty days. If you choose not to issue a written response, we will initiate audit compliance shortly thereafter. EEPC Counsel Lisa Badner 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,



Ernest F. Hart, Esq.
Chair