

EQUAL EMPLOYMENT PRACTICES COMMISSION

CITY OF NEW YORK

RESOLUTION#: 04/15-850 Preliminary Determination Pursuant to the Audit of the Department of Design and Construction (DDC) Equal Employment Opportunity Program from July 1, 2001 through December 31, 2003.

Whereas, pursuant to Chapter 36, Section 831(d)(2) of the New York City Charter, the Equal Employment Practices Commission (EEPC) is authorized to audit and evaluate the employment practices, programs, policies and procedures of city agencies and their efforts to insure fair and effective equal employment opportunity for minority group members and women and to make recommendations to city agencies to insure equal employment opportunity for minority group members and women; and

Whereas, the Equal Employment Practices Commission audited the Department of Design and Construction's Equal Employment Opportunity Program; and

Whereas, in accordance with Chapter 36, Section 832(c) of the City Charter, the EEPC may make a preliminary determination pursuant to Section 831(d) that any plan, program, procedure, approach, measure or standard adopted or utilized by any city agency does not provide equal employment opportunity. Now, Therefore,

Be It Resolved,

that pursuant to the audit of Department of Design and Construction's compliance with its Equal Employment Opportunity Policy, as well as Commission policies and EEO standards expressed in City guidelines, the Equal Employment Practices Commission hereby affirms and adopts the following preliminary findings:

1. DDC's General EEO Policy did not reflect the three recent amendments to the New York City Human Rights Law.
2. Several complaint files did not contain a Complaint of Discrimination form to record when an internal complaint was filed. (Sect. 12 (a), DCPIG)
3. Several complaint files did not contain a Notice of Discrimination Complaint form to notify the respondent of the allegations being made. (Sect. 12 (b), DCPIG)
4. Two complaint investigations were not completed within 90 days of the receipt of the complaint. (DCPIG; April 1996 Amendment)
5. In circumstances where the investigation was not completed within a 90-day timeframe, a notification delay letter, stating the reason for the delay, was not sent to the parties of the investigation. (DCPIG; April 1996 Amendment)

6. Several reports were not signed by the agency head to indicate whether they had been reviewed and the recommendations adopted. (Sect. 12 (b), DCPIG)
7. The EEO Officer did not submit confidential written reports to the agency head consisting of the 3 sections outlined in the DCPIG: (1) Findings of Facts, (2) Discussion and Conclusion and (3) Recommendations. (Sect. 12 (b), DCPIG)
8. DDC did not secure the necessary training to conduct adverse impact studies. (Section VI A 1 and 2).
9. DDC has not separated its EEO Office and its Disciplinary Unit to encourage unimpeded access to the EEO Officer.
10. Sixty-five percent of the managers interviewed indicated that their evaluation form does not contain a rating for Equal Employment Opportunity.
11. Seventy-seven percent of survey respondents did not know the identity, location and telephone number of the career counselor to all agency employees. (Section VI, Citywide EEO Policy)

Be It Finally Resolved,

that the Commission authorizes the Vice-Chairman to forward a letter to the Commissioner of the Department of Design and Construction, David J. Burney, formally informing him of the findings with appropriate explanations and recommendations and requesting, pursuant to Chapter 36 of the City Charter, his response to these findings within thirty days of receipts of the letter indicating what corrective actions the Department of Design and Construction will take to bring it into compliance with the aforementioned policies and standards on equal employment opportunity.

Approved unanimously on December 13, 2004.

Chereé Buggs, Esq.
Commissioner

Veronica Villanueva, Esq.
Commissioner


Manuel A. Méndez
Vice-Chair

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

RESOLUTION #05/11-850C: Determination of implementation by the Department of Design and Construction of the recommended corrective actions made by the Equal Employment Practices Commission pursuant to its audit of the Department of Design and Construction's Charter-mandated Equal Employment Opportunity Program from July 1, 2001 to December 31, 2003.

Whereas, pursuant to Chapter 36, Sections 831(d)(2) and (5) of the New York City Charter, the Equal Employment Practices Commission is authorized to audit and evaluate the employment practices, programs, policies, and procedures of city agencies and their efforts to insure fair and effective equal employment opportunity for minority group members and women, and to make recommendations to city agencies to insure equal employment opportunity for minority group members and women; and

Whereas, pursuant to its audit of the Department of Design and Construction (DDC), the Equal Employment Practices Commission (EEPC) issued a preliminary determination letter, dated December 13, 2004, setting forth its findings and recommended corrective actions; and

Whereas, DDC submitted its response to EEPC's preliminary determination letter, on January 6, 2005; and

Whereas, in accordance with Chapter 36, Section 832(c) of the New York City Charter, the EEPC issued its response on January 25, 2005; and

Whereas, in accordance with Chapter 36, Section 832 (c) of the City Charter, the EEPC was required to monitor DDC for a period not to exceed six months, from March 2005 through August 2005, to determine whether it implemented the aforementioned recommended corrective actions; and

Whereas, the Department of Design and Construction submitted its Final Compliance Report on September 15, 2005; and

Whereas, all of the aforementioned recommended corrective actions are required by, or are consistent with, the City's Equal Employment Opportunity Policy; and

Whereas, the members of this Commission have reviewed a Compliance Summary Report, prepared by EEPC staff, affirming that the aforementioned recommendations have been implemented to the Commission's satisfaction. Now Therefore,

Be It Resolved,
that the Department of Design and Construction has implemented the recommended corrective actions deemed necessary to ensure compliance with equal employment opportunity pursuant to the requirements of Chapter 35 and 36 of the City Charter.

Be It Finally Resolved,

that the Commission authorizes the Chair, Ernest Hart, Esq., to forward a letter to the Commissioner of the Department of Design and Construction, Mr. David J. Burney, formally informing him that DDC has implemented the recommended corrective actions to the Commission's satisfaction.

Approved unanimously on October 26, 2005.

Chereé A. Buggs, Esq.
Commissioner

Angela Cabrera
Commissioner

Manuel A. Méndez
Vice-Chair

Veronica Villanueva, Esq.
Commissioner



Ernest F. Hart, Esq.
Chair



NEW YORK CITY DEPARTMENT OF
DESIGN + CONSTRUCTION

MEMO

DATE: September 13, 2005
TO: DDC Staff
FROM: David J. Burney, AIA, Commissioner
SUBJECT: 2005 Equal Employment Opportunity Audit

In January 2005, the Equal Employment Practices Commission began auditing DDC's Equal Employment Opportunity Program (EEO). At the conclusion of the audit, the Commission made the following recommendations that DDC has incorporated into its practices and procedures:

Recommendation: The agency head should issue a General EEO Policy Statement or Memorandum reiterating his commitment to EEO. This document should be sent to all employees as a payroll distribution, and posted on agency bulletin boards and intranets. **Action Taken:** Commissioner Burney's EEO Policy Statement was disseminated to DDC employees in a payroll distribution on April 8, 2005. In addition, this Statement was posted on the EEO website on DDC's intranet as well as bulletin boards throughout the agency.

Recommendation: The *Citywide EEO Policy* (including any addendum) and the *Mayor's January 31, 2005 Memo to Agency Heads* are to be distributed to the agency's EEO representatives, general counsel, personnel officer, managers and supervisors. These documents may be distributed electronically (via link to the DCAS website) or in print format. **Action Taken:** The Office of Equal Employment Opportunity at DCAS sent the Mayor's memorandum of January 31, 2005 along with a copy of the revised EEO Policy to All Agency Heads, General Counsels, Personnel Officers and EEO Officers. The Citywide EEO Policy and Mayor's memorandum are accessible to all DDC employees through the EEO web page on DDC's intranet.

Recommendation: The agency head should distribute a copy of the *EEO Policy Handbook* ("About EEO: What You May Not Know") --including any addenda--to all employees and ensure that a copy is available via the agency's website. **Action Taken:** On June 25, 2003 EEO Officers received an e-mail from the Office of Equal Employment Opportunity at DCAS informing them that an EEO Policy Handbook



(About EEO: What You May Not Know) would be delivered. On July 2, 2003 EEO Officers were instructed to distribute the handbook and confirm that every employee received it along with the memo from the Mayor and list of agency EEO representatives. DDC complied with this directive. Receipts from each location with the name and signature of each employee receiving the booklet are available for your perusal. On May 6, 2004, the addendum to the Handbook was sent to DDC employees in an e-mail that included the cover of the Handbook for employees who may not recognize it by the title. Since May 2004, the Handbook and addendum have been included among the EEO information/literature given to new employees at New Employee Orientation sessions. The EEO Office has hard copies of the Handbook available for staff as requested. As of April 8, 2005, DDC employees can download a copy of the Handbook from the EEO web page of DDC's intranet.

Recommendation: A "*Complaint of Discrimination*" intake form should be given to all respondents and used when an internal complaint is filed. **Action Taken:** When required, employees filing internal EEO complaints are given a copy of the Complaint of Discrimination form and asked to complete it.

Recommendation: Each complaint filed should contain a written Notice of Discrimination Complaint to notify the respondent of the allegations being made. **Action Taken:** When required, a Notice of Complaint is sent to a respondent notifying him/her that an EO complaint has been filed.

Recommendation: Whenever possible, the investigation of complaints should be completed within 90 days of the receipt of the complaint. **Action Taken:** When possible, complaints are completed within 90 days of receipt of the complaint.

Recommendation: In circumstances where the investigation cannot be completed within the 90-day timeframe, a notification delay letter, stating the reason for the delay, should be sent to the parties of the investigation. **Action Taken:** A notification delay letter stating the reason for the delay will be sent to the parties of the investigation when appropriate.

Recommendation: The agency head should sign each report to indicate that it has been reviewed and whether the recommendation, if any, is approved and adopted. **Action Taken:** As required, the agency head signs EEO investigative reports.

Recommendation: The EEO Officer should submit a confidential written report to the agency head labeled "Confidential". The report should consist of the 3 sections outlined in the DCPIG: (1)



Findings of Facts, (2) Discussion and Conclusion and (3) Recommendations. **Action Taken:** Future reports will limit its sections to the three outlined in the DCPIG: (1) Finding of Facts, (2) Discussion and Conclusion and (3) Recommendations.

Recommendation: DDC should secure the necessary training to conduct adverse impact studies, either from DCAS or another appropriate source. **Action Taken:** Georgia Pespana, Chief of Labor and Employment, NYC Law Department, conducted adverse impact training as part of the EEO Agency Personnel Officers Master Class Training in October 2004. EEO Officers citywide were invited to attend this training by the Assistant Commissioner, OEEEO at DCAS. The EEO Director at DDC attended that session. At that time we were given access to on-line internet based application software for use in conducting a disparate impact analysis.

Recommendation: To ensure employees' right to privacy and to eliminate any possible perception of intimidation, DDC should relocate either the EEO Office or the Disciplinary Unit. **Action Taken:** To ensure employees' rights to privacy and to eliminate any possible perception of intimidation, the EEO Office has been relocated to other space. On January 10, 2005 an e-mail was sent to DDC employees informing them that the office has been relocated.

Recommendation: DDC should remind all managers that their evaluation form does contain rating for Equal Employment Opportunity. **Action Taken:** On July 11, 2005 an e-mail memorandum was sent to all DDC managers informing them of the accountability standards indicated in the EEO Policy for the City of New York and of the fact that they will be rated on their EEO performance.

Recommendation: DDC should re-distribute information about the identity, location and telephone number of the career counselor to all agency employees. **Action Taken:** On July 11, 2005 the EEO Officer sent an e-mail to all DDC employees reintroducing the career counselor for the agency. His name, location and telephone number were included in the notice.

Recommendation: DDC's Commissioner should disseminate any agency-wide memorandum to discuss audit findings. **Action Taken:** On September 13, 2005 an agency-wide e-mail memorandum was sent to DDC staff sharing the audit findings and our response to each item.

This concluded the audit recommendations.