

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

RESOLUTION #13/28-002: Final Determination pursuant to the audit and analysis of the Office of the Mayor's Equal Employment Opportunity Program from July 1, 2009 through June 31, 2012.

Whereas, pursuant to Chapter 36, Section 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 ensure 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 Chapter 36, Section 831(d)(2), this Commission has adopted *Uniform Standards for EEPC Audits* and *Minimum Equal Employment Opportunity Standards for Community Boards* to assess agencies' EEO programs and policies for compliance with federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination in employment within municipal government; and

Whereas, pursuant to its audit and analysis of the Office of the Mayor's (OTM) EEO Program, the Equal Employment Practices Commission (EEPC) issued a preliminary determination letter, dated October 15, 2013, setting forth the following findings and required corrective actions:

1. Include in the complaint file a *Discrimination Complaint Form* or a *complaint* that captures: the facts (including pertinent dates) that identify the respondent(s) with reasonable specificity and provide the essence of the circumstances which gave rise to the alleged discrimination.
2. Issue/maintain written confirmation when a complaint is withdrawn or resolved by agreement of the parties.
3. [Ensure that] the principal EEO Professional, HR Professional and General Counsel, review the agency's statistical information (i.e., workforce, hires, promotions, and separations by race/ethnicity and gender), the annual number of EEO complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to correct deficiencies (e.g. underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.
4. 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. To the extent that adverse impact is discovered, determine whether the selection criteria being utilized are job-related. Discontinue using criteria that are not job-related, and adopt methods which diminish adverse impact

5. If women, minorities, or other protected groups are underrepresented in titles where there is discretion in hiring, advertise in minority- or female-oriented publications, contact organizations serving women, minorities, and other protected groups; participate in career fairs/open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.
6. Ensure that human resources professionals, managers, supervisors, and other personnel involved in the recruitment and hiring process are trained in EEO and interviewing, selection, and hiring skills to enable such individuals to correctly identify the most capable candidates (i.e., structured interview training or guide).
7. Use and maintain an applicant/candidate log or tracking system which, at minimum, includes the position, applicants'/candidates' *names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition), and recruitment source*. Ensure that the process is nondiscriminatory, by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.
8. Ensure that the Human Resources Professional distributes the identity of the agency Career Counselor and ensures that all employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings; ensures that all new employees are advised of the EEO policies, their rights and responsibilities under such policies and the discrimination complaint procedures; informs the principal EEO Professional of the number of 55-a program participants and efforts the agency has made to employ, promote or accommodate qualified individuals with disabilities; involves the principal EEO Professional in EEO-related matters; and promptly consults with the principal EEO Professional if informed of, or suspects that a violation of the EEO Policy has occurred.
9. Since agencies are responsible for ensuring compliance with all federal, state, and local laws pertaining to persons with disabilities, develop and implement a plan to demonstrate accessibility for facilities where accessibility is undetermined: identify the number of locations that are accessible/non-accessible; the distribution of the agency's accessible facilities throughout the City; the distribution of job titles among accessible/non-accessible facilities; barriers in non-accessible facilities and the efforts the agency has taken to determine whether removal of barriers is readily achievable, and if so, to remove them; and the agency responsible for rendering non-accessible facilities accessible. State whether the agency has applied to [the] Department of Buildings for a waiver of the requirements for the alteration of existing facilities or if facilities are exempt.

10. Indicate the reporting relationship between the principal EEO Professional and agency head (or a direct report other than the Agency Counsel) in the agency's organizational chart, EEO Policy and Annual EEO Plan.
11. Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the Agency Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.
12. Develop and implement [a] plan, which includes a timetable, to conduct annual performance evaluations to all managerial and non-managerial employees.
- [13.] Ensure that the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner), and that managers are informed that this is an expectation or performance standard upon which they would be evaluated.

Whereas, the OTM submitted its response to the EEPC's preliminary determination letter, on November 8, 2013 with documentation of its actions to rectify required corrective actions nos. 1, 2, 7, 8 and 10; and

Whereas, in accordance with Chapter 36, Section 832(c) of the New York City Charter, the EEPC considered the agency's response and issued a Final Determination on November 14, 2013 which agreed and accepted documentation for implementation of the aforementioned corrective actions, and indicated that corrective action(s) nos. 3, 4, 5, 6, 9, 11, 12 and 13 require compliance monitoring; and

Whereas, in accordance with Chapter 36, Section 832 (c) of the City Charter, the EEPC is required to monitor OTM for a period not to exceed six months, from January 2014 through June 2014, to determine whether it implemented remaining required corrective actions; and

Whereas, in accordance with Chapter 36, Section 832 (c) of the City Charter, the agency is required to respond in 30 days and make monthly reports thereafter to the Commission on the progress of implementation of such corrective actions; and

Whereas, all of the EEPC's corrective actions are required by, or are consistent with, federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination in employment within municipal government; Now Therefore,

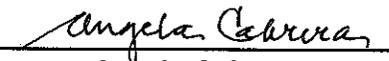
Be It Resolved,

that the Commission authorizes Commissioner Angela Cabrera to forward its Final Determination to Honorable Patricia E. Harris, Deputy Mayor for Administration of the Office of the Mayor.

Approved unanimously on November 14, 2013.

Elaine S. Reiss, Esq.
Commissioner

Arva R. Rice
Commissioner



Angela Cabrera
Commissioner

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

RESOLUTION #2014/002C-27: Determination of Compliance (Monitoring Period Required) by the Office of the Mayor with the Equal Employment Practices Commission's required corrective actions pursuant to the audit and analysis of its Equal Employment Opportunity Program from July 1, 2009 through June 30, 2012.

Whereas, pursuant to Chapter 36, Section 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 ensure 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 Chapter 36, Section 831(d)(2), this Commission has adopted *Uniform Standards for EEPC Audits* and *Minimum Equal Employment Opportunity Standards for Community Boards* to assess agencies' EEO programs and policies for compliance with federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination in employment within municipal government; and

Whereas, pursuant to its audit and analysis of the Office of the Mayor's (OTM) EEO Program, the Equal Employment Practices Commission (EEPC) issued a preliminary determination letter, dated October 15, 2013, setting forth findings and the following required corrective actions:

1. Include in the complaint file a *Discrimination Complaint Form* or a *complaint* that captures the facts (including pertinent dates) that identify the respondent(s) with reasonable specificity and provide the essence of the circumstances which gave rise to the alleged discrimination.
2. Issue/maintain written confirmation when a complaint is withdrawn or resolved by agreement of the parties.
3. Ensure the principal EEO Professional, HR Professional and General Counsel, review the agency's statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender), the annual number of EEO complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to correct deficiencies (e.g. underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.
4. Assess the manner in which candidates are selected for employment, to determine

whether there is adverse impact upon any particular racial, ethnic, disability, or gender group. To the extent that adverse impact is discovered, determine whether the selection criteria being utilized are job-related. Discontinue using criteria that are not job-related, and adopt methods which diminish adverse impact.

5. If women, minorities, or other protected groups are underrepresented in titles where there is discretion in hiring, advertise in minority- or female-oriented publications; contact organizations serving women, minorities, and other protected groups; participate in career fairs/open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.
6. Ensure that human resources professionals, managers, supervisors, and other personnel involved in the recruitment and hiring process are trained in EEO, and interviewing, selection, and hiring skills to enable such individuals to correctly identify the most capable candidates (i.e. structured interview training or guide).
7. Use and maintain an applicant/candidate log or tracking system which, at minimum, includes the position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition), and recruitment source. Ensure that the process is nondiscriminatory, by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.
8. Ensure that the Human Resources Professional distributes the identity of the agency Career Counselor and ensures that all employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings; ensures that all new employees are advised of the EEO policies, their rights and responsibilities under such policies and the discrimination complaint procedures; informs the principal EEO Professional of the number of 55-a program participants and efforts the agency has made to employ, promote or accommodate qualified individuals with disabilities; involves the principal EEO Professional in EEO-related matters; and promptly consults with the principal EEO Professional if informed of, or suspects that a violation of the EEO Policy has occurred.
9. Since agencies are responsible for ensuring compliance with all federal, state, and local laws pertaining to persons with disabilities, develop and implement a plan to demonstrate accessibility for facilities where accessibility is undetermined: identify the number of locations that are accessible/non-accessible; the distribution of the agency's accessible facilities throughout the City; the distribution of job titles among accessible/non-accessible facilities; barriers in non-accessible facilities and the efforts the agency has taken to determine whether removal of barriers is readily achievable, and if so, to remove them; and the agency responsible for rendering non-accessible facilities accessible. State whether the agency has applied to Department of Buildings for a waiver of the requirements for the alteration of existing facilities or if facilities are exempt.

10. Indicate the reporting relationship between the principal EEO Professional and agency head (or a direct report other than the Agency Counsel) in the agency's organizational chart, EEO Policy and Annual EEO Plan.
11. Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the Agency Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.
12. Develop and implement a plan, which includes a timetable, to conduct annual performance evaluations for all managerial and non-managerial employees.
13. Ensure that the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner), and that managers are informed that this is an expectation or performance standard upon which they would be evaluated.

Whereas, the OTM submitted its response to the EEPC's preliminary determination letter, on November 8, 2013, with documentation of its actions to rectify required corrective actions #1, #2, #7, #8, and #10; and

Whereas, in accordance with Chapter 36, Section 832(c) of the New York City Charter, the EEPC considered the agency's response and issued a Final Determination on November 21, 2013, which agreed and accepted documentation for implementation of the aforementioned corrective actions, with corrective actions #3, #4, #5, #6, #9, #11, #12, and #13 remaining;

Whereas, the OTM submitted its response to the EEPC's final determination letter, on December 20, 2013; and

Whereas, in accordance with Chapter 36, Section 832(c) of the New York City Charter, the EEPC monitored the agency's implementation of the remaining corrective actions from January 2014 through June 2014 with an informal extension of the monitoring period until September 2014;

Whereas, at the EEPC's request pursuant to Section 815.a.(15) of the New York City Charter, the OTM submitted a copy of the agency head's memorandum to staff, which outlined the corrective actions implemented in response to the EEPC's audit and reiterated her commitment to the agency's EEO Program; and

Whereas, all of the EEPC's corrective actions are required by, or are consistent with, federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination in employment within municipal

government; Now Therefore,

Be It Resolved,

that the Office of the Mayor has implemented the required corrective actions deemed necessary to ensure compliance with the equal employment opportunity standards of this Commission and requirements of Chapters 35 and 36 of the City Charter.

Be It Finally Resolved,

that the Commission authorizes Chair Cesar A. Perez, Esq., to forward this Determination to Laura Santucci, Chief of Staff and administrative agency head of the Office of the Mayor.

Approved unanimously on September 18, 2014.

Angela Cabrera
Commissioner

Malini Cadambi Daniel
Commissioner

Elaine S. Reiss, Esq.
Commissioner


Cesar A. Perez, Esq.
Chair



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N. Y. 10007

MEMORANDUM

TO: City Hall Supervisors

FROM: Laura Santucci, Chief of Staff *LS*

DATE: September 18, 2014

RE: Equal Employment Practices Commission (EEPC) Audit & Performance Evaluations

The Equal Employment Practices Commission recently conducted an audit of the Office of the Mayor's Equal Employment Opportunity (EEO) Program during the Bloomberg Administration. As a result of that audit, they have asked us to inform agency staff of corrective actions that have been implemented.

The most important of these actions include that we are taking steps to ensure that agency staff who are involved in the hiring process are trained in the principles of EEO and interviewing skills. To meet this goal we provide, and will continue to provide, EEO Computer Based Training to all new staff. In addition, our HR office is conducting training in Structured Interviewing techniques for those staff who are involved in recruitment.

I also want to take this opportunity to address the use of and provide guidance on staff performance evaluations, which are critical in order to ensure that staff are performing their jobs to the utmost ability and that we are providing them with appropriate feedback about how to best serve the Mayor and the City.

All City Hall managers are expected to provide regular feedback to their staff in order to let staff know what they are doing well and, importantly, opportunities to improve their performance and grow in their positions. Staff benefit from knowing their strengths, as well as their opportunities to do their jobs better. Open dialogue between managers and supervisees supports a positive work environment, as well as staff effectiveness and retention.

While regular feedback is an important management tool, managers should sit down with all staff for in-person annual performance reviews. This memorandum provides some general suggestions for how to perform effective reviews:

- Reviews should be conducted orally and face to face;
- Unit heads should choose who is most appropriate to include in an employee's review (considerations may include who the employee reports directly to as well as who else is in that employee's direct chain of command);
- Managers may wish to use these reviews to share observations of employee's strengths, citing specific examples, and also to identify areas for improvement (also using specific examples) – remember: even exceptional employees have areas for improvement;
- Managers should seek feedback from employees about supports that would help improve performance where necessary and develop with employees specific strategies or work plans for improving in the areas identified for improvement;
- Managers may wish to ask employees to prepare thoughts on these topics in advance of any review in order to maximize the value of the review time;
- Managers may also wish to be aware of employees' long-term plans so we can strive to retain talented staff.

Lastly, it is critical that we always keep in mind this Administration's commitment to diversity and fostering an inclusive and respectful workplace. Towards that end, it is important to avoid assumptions about an employee based on her or his background or to give feedback on performance or communication issues based upon such assumptions and/or stereotypes. Such inappropriate actions violate our EEO policy and may be perceived as biased and/or discriminatory by employees. Review discussions with staff are to be objective, focused on the development and retention of employees. The City's HR and EEO Office can provide assistance on how to ensure objective, consistent, and equitable practices during your performance reviews. Learn how to avoid common pitfalls that can lead to biased reviews of individual employees. It is also mandatory that all managers take the on-line EEO and diversity and inclusion training offered by the City's HR & EEO Office. Additionally, exploring the opportunities for live classroom training in these areas and/or in areas such as effective supervisory performance discussions is encouraged.