

DEPARTMENT OF INVESTIGATION

- Letter of Preliminary Determination July 31, 2008
- Agency Response November 20, 2008
- Letter of Final Determination February 17, 2009



EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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July 31, 2008

Rose G. Hearn
Commissioner
Department of Investigation
80 Maiden Lane
New York, NY 10038

Re: Resolution #08/25-032/Preliminary Determination Pursuant to the Audit of the Department of Investigation (DOI) and its Compliance with the City's Equal Employment Opportunity Policy from July 1, 2005 through June 30, 2007.

Dear Commissioner Hearn:

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 Investigation (DOI) during the twenty-four month period commencing July 1, 2005 through June 30, 2007. Requests for corrective actions and/or recommendations are included where the EEPC has determined that the DOI has failed to comply in whole or in part with the City's EEO Policy.

All recommendations for corrective actions are consistent with both the audit's findings and the parameters set forth in the EEO Policy, which, in accordance with section 815 of the City Charter, holds agency heads responsible for the effective implementation of Equal Employment Opportunity in their agency. Therefore, the Department of Investigation should incorporate these recommendations in its agency-specific EEO Plan. The relevant sections of the City's EEO Policy are cited in parenthesis at the end of each recommendation. In addition, 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 plans for minority group members and women.

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 DOI's Agency Specific Plans, quarterly EEO reports, and responses to an EEPC Document and Information Request Form. EEPC staff also analyzed City-wide Equal Employment Database System (CEEDS) data by which DOI 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 DOI workforce, the auditors determined whether the agency had undertaken reasonable measures to correct those underutilizations. (Appendix 5) EEPC auditors also conducted in-depth, on-site interviews with DOI's EEO officers, career counselor and two EEO counselors.

A survey of 243 people employed by DOI during the audit period was distributed. Sixty-six people (27%) responded. Significant survey findings are attached and discussed in the proceeding pages. (Appendix 1)

Description of the Agency

The Department of Investigation's major functions include investigating and referring for prosecution cases of fraud, corruption and unethical conduct by City employees, contractors and others who receive City money. The DOI is also charged with studying agency procedures to identify corruption hazards and recommending improvements in order to reduce the City's vulnerability to fraud, waste and corruption. The DOI investigates the backgrounds of persons selected to work in decision-making or sensitive City jobs, and those who do business with the City, to determine if they are suited to serve the public trust.

Personnel Activity During the Audit Period

According to data provided by the DOI, during the audit period, 61 people were hired: 39 Caucasians, 10 African-Americans, 5 Hispanics, and 7 Asians. Of the individuals hired, 35 were female. Forty-nine individuals were promoted: 25 Caucasians, 13 African Americans, 6 Hispanics, and 5 Asians. Of the employees promoted, 33 were female. (Appendix 4)

The DOI reports that 4 employees were involuntarily separated during the audit period: one African-American male, 2 Caucasian males, and 1 Caucasian female. The DOI also reported 58 voluntary separations during the audit period: 30 Caucasians, 15 African-Americans, 5 Hispanics, and 8 Asians. Of these employees, 38 were female.

Between July 2005 and June 2007, the total number of employees remained unchanged at 243. There were one percent decreases for African-Americans (going from 34% to 33%) and Asians (going from 9% to 8%), and a one percent increase for Hispanics (going from 13% to 14%). (Appendix 3) There was no change in the percentage of female employees at the beginning and end of the audit period. (Appendix 2)

Discrimination Complaint Activity During the Audit Period

No internal or 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 DOI is in compliance with the following requirements:

1. The DOI distributes the Citywide EEO Policy once annually to all employees; that document is accompanied by the Mayor's EEO policy statement and the Commissioner's EEO policy statement. The policies are also distributed at new employee orientation and EEO training sessions. In addition 82% of the employees surveyed indicated they have received a copy of the Citywide EEO Policy.
2. According to the agency's EEO counselors and 76% of the employees surveyed, the DOI's EEO Policies are posted on agency bulletin boards and intranet. The EEO Counselors continually check and maintain the boards to ensure the EEO information is clearly posted and current.
3. According to the DOI's EEO officer The EEO Policy Handbook (*About EEO: What You May Not Know*) is distributed to current and new employees. In addition, 89% of survey respondents indicated they had received a copy.

Plan Dissemination – Externally

The DOI is in compliance with the following requirement:

The DOI submitted copies of 5 job advertisements and 49 internal vacancy notices that were posted during the period in review. All indicated that the DOI is an equal opportunity employer.

EEO and Reasonable Accommodation for Persons with Disabilities

The DOI is in compliance with the following requirements:

1. The DOI's EEO training session includes a section on the 55-A Program. The DOI also distributes the Section 55-A Program brochure annually. In addition, the agency includes a paragraph on the 55-A program in its EEO Policy handbook. Currently there are no employees participating in the program.
2. The DOI's EEO officer is aware that the citywide EEOP is available in alternate formats for persons with disabilities.
3. The DOI's director of human resources serves as the agencies disability rights coordinator, and an email was sent to DOI employees informing them of his appointment.
4. The DOI has provided accommodations for employees with disabilities, such as larger computer monitors, and special ergonomic chairs.
5. The DOI response to the EEPC's accessibility for persons with disabilities checklist indicates that all DOI facilities throughout the five boroughs are accessible to, and usable by persons with disabilities.
6. According to the DOI's EEO officer the DOI's EEO policy statement is available in alternate formats for persons with disabilities.

EEO Complaint and Investigation System

The DOI is in compliance with the following requirements:

1. The EEO officer maintains and updates a monthly log of discrimination complaints filed against the agency.
2. The DOI's EEO officer and EEO counselors have all attended the basic training course for EEO professionals at the Department of Citywide Administrative Services (DCAS).
3. The agency has identified its EEO staff by posting their names and numbers in the EEO Policy handbook, on bulletin boards and on the agency's intranet.

4. The DOI has ensured that persons of different genders (male EEO officer and female EEO counselor) are available for complaint intake and investigation.
5. According to the DOI's EEO officer, he meets with his EEO personnel four times a calendar year and on an ad hoc basis to ensure they are carrying out their EEO functions satisfactorily and are kept abreast of internal and external EEO developments.

EEO Training

The DOI is in compliance with the following requirement:

The DOI provides EEO training on an ongoing basis. During the audit period, 185 employees attended EEO training; the last EEO training session was held on September 7, 2006. The DOI'S training curriculum is based on DCAS's standards. EEO training for DOI managers and supervisors are conducted by Assistant Commissioner of OCEEEO, and all other DOI employees are trained by DOI's Deputy Commissioner, and Deputy Inspector General (Both have attended DCAS EEO training). In addition, 77% of survey respondents indicated they had received EEO training.

Underutilization

The DOI CEEDS data indicated persistent underutilization of at least one "protected" class in one job group, and less persistent underutilization in two job groups. (See Appendix 5 for underutilization at the beginning and end of the audit period.)

Following is an analysis of personnel activity in these jobs groups.

EEO Job Groups/Hires and Promotions:

Administrators (001): African-Americans and Hispanics were underutilized in this job group throughout the audit period. Three individuals were hired into this job group: 2 Caucasian males, and 1 Caucasian female. Fourteen individuals were promoted into this job group: 2 African American males, 2 African-American females, 3 Caucasian males, 6 Caucasian females, and 1 Hispanic male.

Managers (002): Hispanics were underutilized in this job group for some of the audit period. Six individuals were hired into this job group: 5 Caucasian females, and 1 Caucasian male. Three individuals were promoted into this job group: 1Caucasian female, and two Caucasian males.

Police (018): Hispanics were underutilized in this job group for some of the audit period. Forty-one individuals were hired into this job group: 12 Caucasian females, 14 Caucasian males, 5 African-American females, 1 African-American male, 2 Hispanic males, 1 Hispanic female, 3 Asian females, and 3 Asian males. Nineteen individuals were promoted into this job group: 4 Caucasian females, 3 Caucasian males, 3 African-American females, 2 African-American males, 4 Hispanic females, 1 Hispanic male, and 2 Asian females.

Addressing Underutilization

The DOI is in partial compliance with the following requirement:

According to DOI's EEO officer, agency representatives attended a job fair. However, the DOI does not advertise in minority-based periodicals. Corrective action is required

Recommendation: Since DOI's workforce continues to show underutilization in certain protected groups, it should further expand its recruitment efforts to address underutilization by acquiring and using "Making the Most of New York City's Recruitment Resources," 2004, http://extranet.dcas.nycnet/eo/pdf/apomasterclass_recruitment.pdf, a list of recruitment sources compiled by DCAS. This publication provides agencies with additional recruitment resources to address the underutilization of protected groups. (Sect. IV, EEOP)

Selection

The DOI is in compliance with the following requirement:

According to DOI's EEO officer, the agency's hiring personnel have received DCAS's structured interview training guide, and they attended the DCAS structured interview training in 2006.

The DOI is not in compliance with the following requirement:

According to DOI's EEO officer, the agency did not conduct adverse impact studies during the audit period, and he did not attend DCAS's adverse impact training in 2004. Corrective action is required

Recommendation: Since the EEOP requires that city agencies assess the manner in which candidates are selected for employment to determine whether there is any adverse impact upon any particular racial, ethnic, disability, or gender group, the DOI should conduct adverse impact studies. (Section IV, EEOP)

Promotional Opportunities

The DOI is in compliance with the following requirements:

1. The DOI has appointed an individual familiar with civil service and provisional jobs (the director of personnel) to serve as career counselor. The DOI employees were informed of the appointment by memorandum.
2. The DOI utilizes the citywide employee managerial form, which includes a rating for EEO.

The DOI is in partial compliance with the following requirement:

Although the DOI has appointed an individual familiar with civil service and provisional jobs to serve as career counselor, 71% of respondents to an EEPC survey indicated they did not know who is responsible for providing career counseling. Corrective action is required.

Recommendation: The HR director should re-distribute information about the identity, location and telephone number of the career counselor to all employees. (Sect. IV, EEOP)

Supervisory Responsibility in EEO Plan Implementation

The DOI is in partial compliance with the following requirement:

Managers and supervisors have been directed to conduct meetings with their staffs, at least once a year, to reaffirm their commitment to the Citywide EEOP and discuss the right of employees to file discrimination complaints with the EEO office. No documentation of those meetings, however, was kept. Corrective action is required.

Recommendation: It is the position of the DCAS (“Model Agency EEO Commitment Memo,” http://extranet.dcas.nycnet/eoo/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. These meetings should be documented.

EEO Officer Reporting Arrangement

DOI is in compliance with the following requirement:

The DOI’s organization chart shows that the EEO officer reports directly to the agency head.

DOI is in partial compliance with the following requirement:

Although the EEO officer has monthly meetings with the commissioner, agendas and notes of those meetings are not maintained. 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 regarding EEO program operational decisions should be maintained.

DOI is in compliance with the following requirements:

The DOI’s EEO officer is involved in the agency’s recruitment process; he helps select recruitment media such as the *New York Law Journal* and *The New York Times*.

SUMMARY OF RECOMMENDED CORRECTIVE ACTIONS

1. Since the DOI's workforce continues to show underutilization in certain protected groups, it should further expand its recruitment efforts to address underutilization by acquiring "Making the Most of New York City's Recruitment Resources," 2004, http://extranet.dcas.nycnet/eo/pdf/apomasterclass_recruitment.pdf, a list of recruitment sources compiled by DCAS. This publication provides agencies with additional recruitment resources to address the underutilization of protected groups. (Sect. IV, EEOP)
2. Since the EEOP requires that city agencies 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, the DOI should conduct adverse impact studies. (Sect. IV, EEOP)
3. The HR director should re-distribute information about the identity, location and telephone number of the career counselor to all employees. (Sect. IV, EEOP)
4. It is the position of the DCAS ("Model Agency EEO Commitment Memo," http://extranet.dcas.nycet/eo/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. These meetings should be documented.
5. It is the Commission's position that appropriate documentation of meetings and other communications between the EEO officer and the agency head regarding EEO program operational decisions 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 DOI'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.

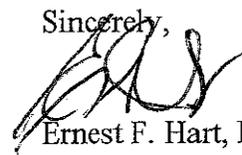
Your response should indicate what corrective actions your office will take, and which recommendations it intends to incorporate into its Equal Employment Opportunity Plan, where appropriate, to comply with the City's Equal Employment Opportunity Policy. As your staff informed us during the July 30, 2008 exit meeting, the DOI has already implemented some of our recommended corrective actions. Please specify those corrective actions in your response. Because agency heads are responsible for the implementation of their agencies' EEO Programs,

your response must be a formal letter signed by you. 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,



Ernest F. Hart, Esq.

Chair

**Department of Investigation
EMPLOYEE SURVEY RESULTS**

A. GENERAL OVERVIEW

1. Do you know who your agency's EEO Officer is?
Yes (59) No (7)
2. Is your agency's EEO Policy Statement posted on your agency's bulletin boards?
Yes (50) No (12)
3. Were you given the EEO Policy Statement?
Yes (54) No (3) Do not remember (9)
4. Were you given a copy of the EEO Policy Handbook – *About EEO: What You Need to Know*?
Yes (58) No (7)
5. Do you agree with the principles of equal employment opportunity?
Yes (63) No (1)
6. Do you believe your agency practices equal employment opportunity?
Yes (42) No (18)
7. Do you know what the City's Equal Employment Opportunity Policy (EEO) is?
Yes (56) No (7)
8. Has your supervisor emphasized his/her commitment to the agency's EEO policies at any staff meeting during the past 8 months?
Yes (26) No (26) Do not remember (12)
9. When you started working at your agency, did you attend an orientation session?
If No, please skip to question #11.
Yes (42) No (15) Do not remember (7)
10. If hired within the past 12 months, did your orientation session include information on your rights and responsibilities under the EEO Policy?
Yes (18) No (1) Do not remember (3)

B. EEO COMPLAINTS

11. Do you know how to file an EEO complaint?
Yes (53) No (13)
12. If you had an EEO complaint, would you bring it to your agency's EEO Office?
Yes (30) No (24) Undecided (12)

DOI SURVEY RESULTS CONTINUED

13. Would you prefer to file an EEO complaint with an office outside your agency?
Yes (36) No (19) Undecided (11)

14. Did you ever file an EEO complaint with your agency's EEO Office?
If No, please skip to question #18.
Yes (2) No (61)

15. What was the basis of the complaint?
Age (0) 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,
Marital Status (0) Stalking, and Sex Offenses (0)
Military Status (0) Other (1)
National Origin (0)

16. Were you satisfied with the manner in which your complaint was managed?
Yes (0) No (1)

17. Was your manager or supervisor supportive of your right to file a complaint?
Yes (0) No (0) Not Applicable (3)

C. EEO TRAINING

18. Did you receive EEO training? If No, please skip to question #20.
Yes (50) No (15)

19. Did you find this training helpful?
Very (19) Somewhat (23)
Not really (7) Waste of time (1)

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 (51) No (9) Do not remember (5)

21. If you were employed at your agency for over one year, did you receive annual evaluations?
If No, skip to question #24.
Yes (42) No (13) Not employed for >1 year (0)

22. Did your evaluation contain recommendations for improving your job performance?
Yes (32) No (16)

DOI SURVEY RESULTS CONTINUED

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

Yes (14) No (35)

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

Yes (19) No (46)

E. AFFIRMATIVE ACTION FOR PERSONS WITH DISABILITIES

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

Yes (39) No (3) Don't Know (20)

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

If No, skip to question #28.

Yes (0) No (61)

27. Did the agency accommodate you?

Yes (1) No (1)

OPTIONAL

28. What is your race/ethnicity?

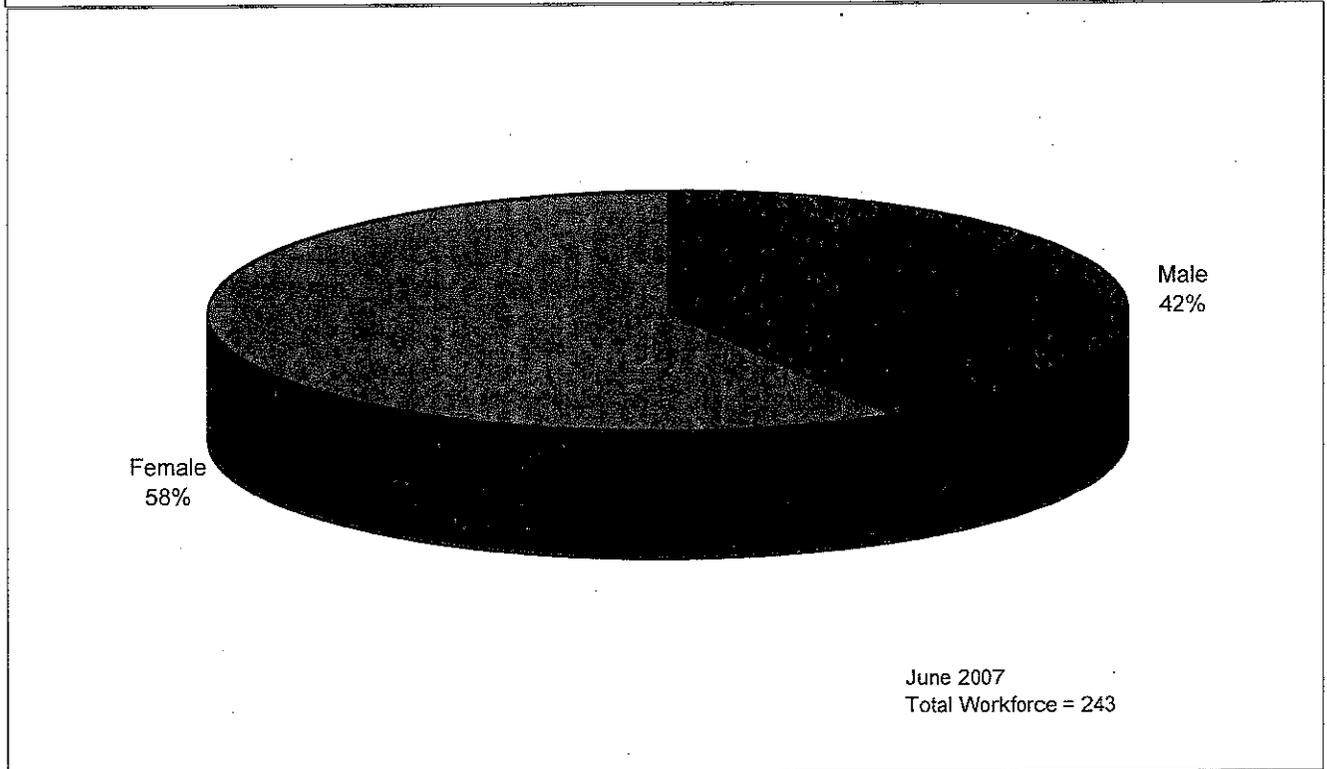
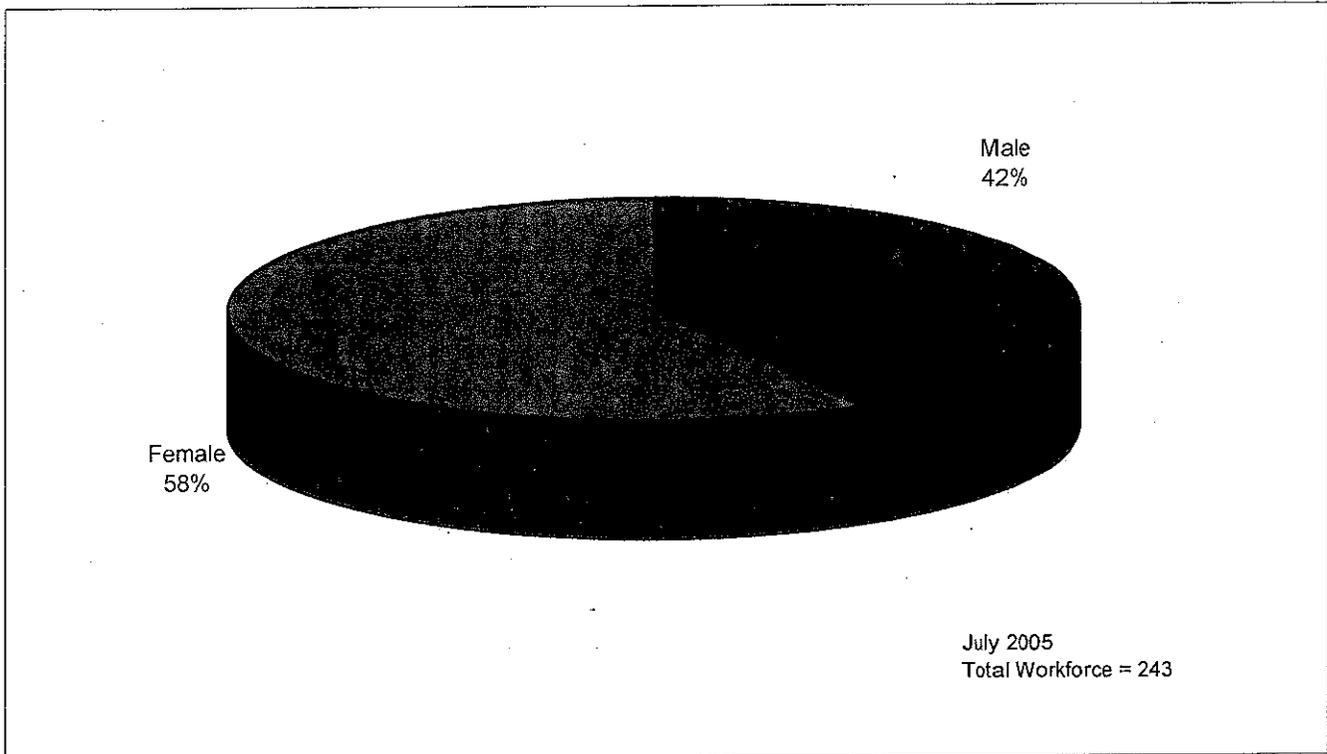
Asian (5)	Native American (0)
Black (12)	White (27)
Hispanic (7)	Other (3)

29. What is your gender?

Male (19) Female (38)

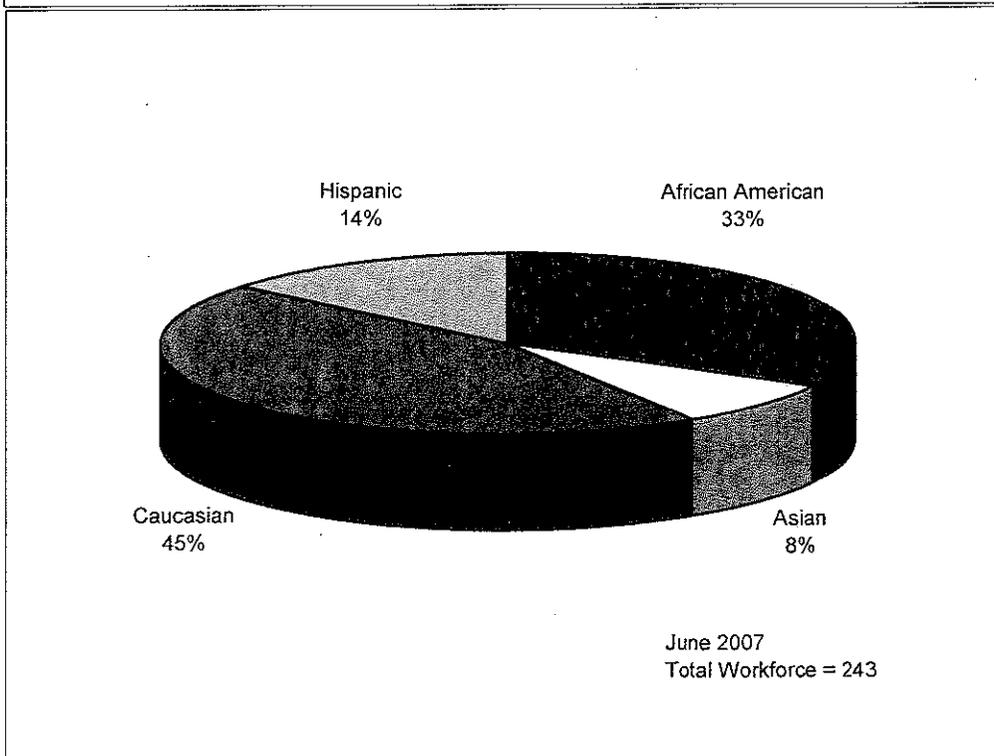
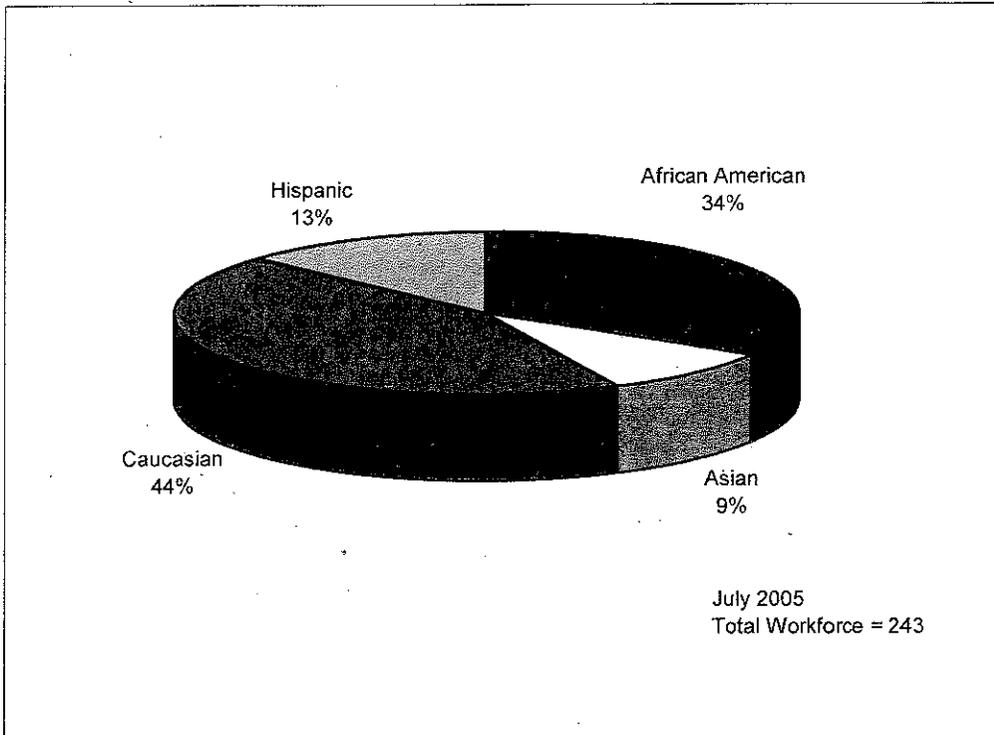
Appendix - 2

Department of Investigation Workforce by Sex



Appendix - 3

Department of Investigation Workforce by Ethnicity



APPENDIX – 4

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

Department of Investigation

Hires by Sex and Ethnicity

Total Hires: 61

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Unknown	Total
26	35	61	39	10	5	7	0	61

Promotions by Sex and Ethnicity

Total Promotions: 49

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Unknown	Total
16	33	49	25	13	6	5	0	49

Separations by Sex and Ethnicity

Total Separations: 62

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Unknown	Total
23	39	62	33	16	5	8	0	62

Source: Audit data supplied by Dept. of Citywide Administrative Services

Appendix - 5
Department of Investigation
CEEDS UNDERUTILIZATION CHART
July 1, 2005 - June 30, 2007

		Quarter:	4Q/2005	1Q/2006	2Q/2006	3Q/2006	4Q/2006	1Q/2007	2Q/2007
			(Oct-Dec)	(Jan-Mar)	(Apr-Jun)	(Jul-Sep)	(Oct-Dec)	(Jan-Mar)	(Apr-Jun)
Job	Group	Protected Class							
001	Admins	Afr. Am.	X	X	X	X	X	X	X
		Asian							
		Hisp.	X	X	X	X	X		X
		Nat. Am.							
		Female							
002	Managers	Afr. Am.							
		Asian							
		Hisp.						X	X
		Nat. Am.							
		Female							
003	Man Specs	Afr. Am.							
		Asian							
		Hisp.							
		Nat. Am.							
		Female							
004	Science Pros	Afr. Am.							
		Asian							
		Hisp.							
		Nat. Am.							
		Female							
010	Techs	Afr. Am.							
		Asian							
		Hisp.							
		Nat. Am.							
		Female							

Appendix - 5
Department of Investigation
CEEDS UNDERUTILIZATION CHART
July 1, 2005 - June 30, 2007

	Quarter:	4Q/2005	1Q/2006	2Q/2006	3Q/2006	4Q/2006	1Q/2007	2Q/2007
		(Oct-Dec)	(Jan-Mar)	(Apr-Jun)	(Jul-Sep)	(Oct-Dec)	(Jan-Mar)	(Apr-Jun)
0012 Clerical Sups	Afr. Am.							
	Asian							
	Hisp.							
	Nat. Am.							
	Female							
0018 Police	Afr. Am.					X	X	X
	Asian							
	Hisp.	X	X	X				
	Nat. Am.							
	Female							
0031 Para Pros	Afr. Am.							
	Asian							
	Hisp.							
	Nat. Am.							
	Female							



The City of New York
Department of Investigation

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November 20, 2008

Ernest F. Hart, Esq., Chair
Equal Employment Practices Commission
40 Rector Street, 14th Floor
New York, New York 10006

Re: EEPC Audit of DOI for July 1, 2005 through June 30, 2007 Response

Dear Chairman Hart:

The Department of Investigation (DOI) has reviewed the preliminary determination of the Audit of DOI (the "Audit") and our compliance with the City's Equal Employment Opportunity Policy from July 1, 2005 through June 30, 2007 (the "Audit Period"). The following is DOI's response to those findings.

Underutilization

Overview

According to your findings, the Citywide Equal Employment Database System (CEEDS) data provided to you by the Department of Citywide Administrative Services (DCAS) indicated that DOI had persistent underutilization of at least one "protected" class in one job group, and less persistent underutilization in two job groups. DOI disagrees with those findings based on the fact that the CEEDS data provided to you is inaccurate. In addition, DOI disagrees with your analysis because it does not take into account personnel working at DOI pursuant to several Memoranda of Understanding (MOUs) and other similar agreements, where various City agencies, such as the Housing Authority, the Department of Corrections, the Department of Probation, the Department of Finance and the Department of Housing Preservation and Development, provide lines and funding for staff assigned to work at DOI. DOI recruits, hires and supervises these individuals, several of whom are members of protected classes. However, because they are on the payroll of the lending agency and not DOI, the Audit did not take them into account in its analysis of DOI's utilization.

Specific Findings

EEPC Finding: African-Americans and Hispanics were underutilized as Administrators (001) during the Audit Period.

DOI Response: The CEEDS data provided to the EEPC does not properly identify and categorize all of the titles utilized in DOI and, therefore, the data reviewed by the EEPC for the Audit does not properly reflect DOI's utilization in the Administrator group. Specifically, the CEEDS data erroneously includes the title of Inspector General as an Administrator and does not include the title of Deputy Commissioner. Thus, the CEEDS data analyzed by the Audit asserts that there were sixteen individuals who were Administrators during the Audit Period. However, in actuality, during the Audit Period, DOI's Administrators consisted of five titles, occupied by the following six individuals:

1. Commissioner: Rose Gill Hearn
2. Deputy Commissioners: Vincent Green, Marjorie Landa
3. Special Deputy Commissioner: Kim Berger
4. Chief of Staff: Michael Vitiello
5. First Deputy Commissioner: Walter Arsenault

Utilization in this group therefore was as follows: three females (White), two males (White) and one male (Black). Thus, with regard to Administrators at DOI for the Audit Period, 60% were female and 20% were African-Americans.

EEPC Finding: Hispanics were underutilized as Managers (002) during the Audit Period.

DOI Response: With respect to the finding that Hispanics were underutilized in the group of (002) Managers, the CEEDS data is inaccurate in that it did not properly identify everyone who should have been included in this title. Moreover, your analysis did not take into account staff members in this group whose salaries were paid for by another agency pursuant to a MOU or other similar intra-City agreement, so that those staff members remained on the other agency's payroll. As a result, the Audit did not count the following Hispanic managers:

- | | | | |
|-------------------|-------|-----------------------|--------|
| • Karen Cohen | NYCHA | General Counsel | female |
| • Ivette Morales | DOI | Deputy Inspector | female |
| • Abraham Rivera | DOI | Executive Director/IT | male |
| • Julio Rodriguez | DOI | Inspector General | male |

EEPC Finding: Hispanics were underutilized as Police (018) during the Audit Period.

DOI Response: The CEEDS data relied on in the Audit is inaccurate with regard to its identification of which individuals working at DOI should be considered Police. DOI does not have any police officers on its budget.¹ However, DOI does employ investigative staff holding Peace Officer status in the titles of Special Investigator and Confidential Investigator. The CEEDS data that forms the basis of the Audit places our Special Investigators and Confidential Investigators in separate groups: technicians and police. Neither group is appropriate for these staff members.

In addition, the Audit's analysis failed to include personnel who work at DOI pursuant to an MOU or other similar agreement. The following staff members are Peace Officers working at DOI who are Hispanic and whose positions remain on the budgets of the agencies identified that are paying for these staff lines. However, each of these individuals works at DOI alongside and doing the same work as DOI-funded employees and is supervised day-to-day by DOI managers:

- New York City Housing Authority-funded positions:

Ivonne Alvarado DeJesus	Chief Investigator	female
Raul Cordero	Special Investigator	male
Nancy Roa	Investigative Auditor	female
Louis Vega	Special Investigator	male

- Department of Housing Preservation and Development-funded positions:

Ghenaida Slack	Investigator	female
Louis Matos	Investigative Inspector	male
Diego Fonseca	Investigative Inspector	male
Joseph Morante	Investigative Inspector	male

¹ There is a Squad of Detectives from the New York City Police Department assigned to work at DOI. However, unlike the MOU personnel who should properly be counted in the Audit, the members of the NYPD Detective Squad are not recruited, hired or supervised by DOI, but rather are members of the City's Police Department and are recruited, hired and supervised by other police officers, on assignment to DOI.

- Department of Correction and Department of Probation funded positions:²

Tomas Diaz	Correction Officer	male
John Morales	Probation Officer	male
Migdalia Figueroa	Correction Officer	female
Jeffrey Ortiz	Probation Officer	male

EEPC Finding: With regard to recruitment efforts, the Audit found DOI in partial compliance based on DOI's EEO officer and other agency representatives attending certain job fairs. However, the Audit noted that DOI does not advertise in minority-based periodicals and recommended that, since, according to the Audit, DOI's workforce shows underutilization in certain protected groups, DOI should further expand its recruitment efforts to address underutilization by using "Making the Most of New York City's Recruitment Resources," 2004, http://extranet.dcas.nycnet/eoo/pdf/apomasterclass_recruitment.pdf, a list of recruitment sources compiled by DCAS. This publication provides agencies with additional recruitment resources to address the underutilization of protected groups.

DOI Response: While DOI believes that it has fairly documented that the Agency does not have a problem with underutilization, DOI is always interested in improving recruitment efforts. Accordingly, DOI's Human Resources Division will make further use of all available recruitment resources (including "Making the Most of New York City's Recruitment Resources," 2004, http://extranet.dcas.nycnet/eoo/pdf/apomasterclass_recruitment.pdf) and the DOI Director of Human Resources has been so instructed.

EEPC Finding: With regard to recruitment efforts, the Audit found that DOI failed to conduct adverse impact studies during the Audit Period, and that DOI's EEO Officer did not attend DCAS's adverse impact training in 2004. Accordingly, the Audit recommended that, since the EEOP requires that City agencies 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, DOI should conduct adverse impact studies.

DOI Response: At this point in time, DCAS has not issued directions on how impact studies should be conducted and DOI understands that this matter is being discussed between the EEPC and DCAS. Since there is currently no established procedure within the City on how to conduct an adverse impact study, DOI disagrees with the finding that it is not in compliance with a requirement to conduct adverse impact studies.

² Unlike the NYPD Detective Squad members, the Corrections Officers and Probation Officers working at DOI are recruited, hired and supervised by DOI and do the same work as and alongside DOI-funded staff members.

Promotional Opportunities

EEPC Finding: The Audit found that DOI is in partial compliance with the requirement that DOI appoint an individual familiar with civil service and provisional jobs to serve as career counselor because, although DOI has made such an appointment, 71% of respondents to an EEPC survey indicated they did not know who is responsible for providing career counseling. Based on this survey response, the Audit recommended that DOI's Director of Human Resources re-distribute information about the identity, location and telephone number of the career counselor to all employees.

DOI Response: DOI has always posted the identity, location and telephone number of the career counselor on its intranet site. In addition, that information is provided to all new employees and provided in the package that DOI distributes in its annual EEO policy dissemination. It should also be noted that the response rate to the survey by DOI staff was extremely low and DOI believes that it is not a fair representation of the staff. Accordingly, DOI does not agree that it is not in compliance as the Audit's findings state. However, DOI fully supports any suggestions that will help us improve current efforts to increase DOI's EEO visibility. Accordingly, DOI's Director of Human Resources has been directed to re-distribute information about the identity, location and telephone number of DOI's career counselor to all employees.

Supervisory Responsibility in EEO Plan Implementation

EEPC Finding: The Audit found that DOI is in partial compliance with the requirement that managers and supervisors be directed to conduct meetings with their staffs, at least once a year, to reaffirm their commitment to the Citywide EEOP and discuss the right of employees to file discrimination complaints with the EEO office because no documentation of such meetings was kept.

Recommendation: It is the position of the EEPC and of DCAS, as set forth in the "Model Agency EEO Commitment Memo," http://extranet.dcas.nycnet/eoo/pdf/model_memo.pdf, 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. These meetings should be documented.

DOI Response: DOI has taken corrective action in this area and issued notice to all supervisory staff that they are to conduct these meetings with staff and document such meetings. The DOI EEO Officer will monitor these activities and ensure that proper documentation is provided.

EEPC Finding: The Audit found that DOI is in partial compliance with the requirement that the EEO officer have monthly meetings with the Commissioner

and that agendas and notes of such meetings are maintained because while such meetings were held, notes were not routinely maintained.

DOI Response: DOI has taken corrective action in this area. The DOI EEO Officer has been directed to ensure that the multiple meetings that take place between the Commissioner and the EEO Officer be properly documented going forward.

In closing, DOI would like to thank you and your staff for your understanding and professionalism during the course of the Audit. If you have any further questions, please do not hesitate to contact me.

Sincerely,

Vincent E. Green

Vincent E. Green

Deputy Commissioner



EQUAL EMPLOYMENT PRACTICES COMMISSION

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February 17, 2009

Rose Gill Hearn

Commissioner

Department of Investigation

80 Maiden Lane, 17th Floor

New York, NY 10038

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

Dear Commissioner Hearn:

Thank you for your November 20, 2008 response, prepared by Deputy Commissioner Vincent Green, to the EEPC's July 31, 2008 Letter of Preliminary Determination pursuant to the Referenced Audit. After reviewing your response, our Final Determination is as follows:

Agree

We agree with your responses to the following EEPC recommendations pending documentation that can be provided during the City Charter-mandated audit compliance procedure.

Recommendation #1

Since the DOI's workforce continues to show underutilization in certain protected groups, it should further expand its recruitment efforts to address underutilization by acquiring "Making the Most of New York City's Recruitment Resources," 2004, http://extranet.dcas.nycnet/eo/pdf/apomasterclass_recruitment.pdf, a list of recruitment sources compiled by DCAS. This publication provides agencies with additional recruitment resources to address the underutilization of protected groups. (Sect. IV, EEOP)

Recommendation #3

The HR director should re-distribute information about the identity, location and telephone number of the career counselor to all employees. (Sect. IV, EEOP)

Recommendation #4

It is the position of the DCAS ("Model Agency EEO Commitment Memo," http://extranet.dcas.nycnet/eoo/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. These meetings should be documented.

Recommendation # 5

It is the Commission's position that appropriate documentation of meetings and other communications between the EEO officer and the agency head regarding EEO program operational decisions should be maintained.

Disagree

For the following reasons, hereafter identified as "EEPC Rationale" we respectfully disagree with your response to the following recommendation.

Recommendation # 2

Since the EEOP requires that city agencies 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, the DOI should conduct adverse impact studies. (Sect. IV, EEOP)

Your Response

At this point in time, DCAS has not issued directions on how impact studies should be conducted and DOI understands that this matter is being discussed between the EEPC and DCAS. Since there is currently no established procedure within the City on how to conduct an adverse impact study, DOI disagrees with the finding that it is not in compliance with a requirement to conduct adverse impact studies.

EEPC Rationale

To assist all city agencies in addressing this requirement, the Department of Citywide Administrative Services (DCAS), through its Division of Citywide Equal Employment Opportunity, (DCEEO) provides technical assistance to EEO Officers for conducting adverse impact studies on the manner in which candidates are selected for employment. To address this EEOP requirement, the DOI's EEO Officer should request technical assistance from the DCEEO at DCAS.

Overview Re: Underutilization

The detailed presentation of your the concerns about the accuracy of the CEEDS data provided by the Department of Citywide Administrative Services clearly indicates your disagreement with some of the assigned job titles in the CEEDS reports as well as the failure to include employees from other agencies that are supervised by the DOI. You also said the inclusion of these employees in your workforce would eliminate some of the underutilization findings in the audit.

During the audit exit meeting on July 30th we recommended that the DOI meet with the Division of Citywide Equal Employment Opportunity to discuss your concerns with the CEEDS data for your agency. On August 4, 2008 the EEPC forwarded a letter to the DCEEO suggesting a meeting between your respective offices to address and hopefully resolve this issue. A copy of that letter was

forwarded to Deputy Commissioner Vincent Green. Your response suggests these issues were not resolved. We will work closely with your office to resolve these issues during the compliance procedure.

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, we will initiate audit compliance shortly thereafter. EEPC Counsel/Compliance Director Judith Garcia 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 the cooperation extended to the Equal Employment Practices Commission auditors during the course of this audit. We look forward to a mutually satisfactory compliance procedure.

Sincerely,


per Ernest Hart, Esq.
Chair

C: Vincent A. Green, Deputy Commissioner
Judith Garcia Quiñonez, Counsel/Compliance Director