

# AUDIT REPORT



CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER  
BUREAU OF MANAGEMENT AUDIT  
**WILLIAM C. THOMPSON, JR., COMPTROLLER**

## **Audit Report on the Operating Procedures of the Equal Employment Practices Commission**

*MD04-078A*

**June 22, 2004**



THE CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER  
1 CENTRE STREET  
NEW YORK, N.Y. 10007-2341

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WILLIAM C. THOMPSON, JR.  
COMPTROLLER

**To the Citizens of the City of New York**

Ladies and Gentlemen:

In accordance with the Comptroller's responsibilities contained in Chapter 5, §93, of the New York City Charter, my office has audited the Equal Employment Practices Commission (EEPC) to determine whether EEPC met its City Charter mandate to audit the equal employment practices and procedures of each City agency at least once every four years and whether EEPC complied with its own procedures regarding timekeeping for employees and payment of commissioners' compensation.

The results of our audit, which are presented in this report, have been discussed with EEPC officials, and their comments have been considered in the preparation of this report.

Audits such as this provide a means of ensuring that City resources are used effectively, efficiently, and in the best interest of the public.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please e-mail my audit bureau at [audit@comptroller.nyc.gov](mailto:audit@comptroller.nyc.gov) or telephone my office at 212-669-3747.

Very truly yours,

A handwritten signature in cursive script that reads 'William C. Thompson, Jr.'.

William C. Thompson, Jr.  
WCT/fh

**Report: MD04-078A**  
**Filed: June 22, 2004**

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*The City of New York  
Office of the Comptroller  
Bureau of Management Audit*

**Audit Report on the Operating Procedures of the  
Equal Employment Practices Commission**

**MD04-078A**

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**AUDIT REPORT IN BRIEF**

This audit determined whether the Equal Employment Practices Commission (EEPC) met its City Charter mandate to audit the equal employment practices and procedures of each City agency at least once every four years and whether EEPC complied with its own procedures regarding timekeeping for employees and payment of commissioners' compensation.

**Audit Findings and Conclusions**

EEPC has complied with its procedures regarding timekeeping for employees and payment of commissioners' compensation. The employee timesheets are properly processed. All meetings attended by the commissioners were for EEPC-related activities; and the commissioners were compensated the correct amount for attending the meetings.

However, EEPC has not met its New York City Charter mandate to audit every City agency once every four years. In addition, EEPC does not maintain a four-year plan under which agencies are to be audited within each cycle.

To address these issues, we recommend that EEPC officials should:

- Request funds from the Mayor's Office for the additional staff members needed to meet the Charter mandate.
- Develop a comprehensive four-year plan that takes into consideration auditing larger agencies or those with a prior history of EEPC issues.
- Review all complaints filed against City agencies when deciding which agencies to audit.

## **EEPC Response**

The matters covered in this report were discussed with EEPC officials during and at the conclusion of this audit. A preliminary draft report was sent to EEPC officials and discussed at an exit conference held on May 11, 2004. On May 18, 2004, we submitted a draft report to EEPC officials with a request for comments. We received a written response from EEPC on June 8, 2004. Although EEPC officials agreed with the audit's finding that they are not meeting their Charter mandate, they stated, "We will never be able to audit every city agency at least once every four years until and unless we have the necessary staff."

The full text of the EEPC response is included as an addendum to this report.

## INTRODUCTION

### **Background**

The EEPC was created in 1990 as an independent City agency responsible for reviewing, evaluating, and monitoring the equal employment practices, programs, policies, and procedures of all City agencies. The New York City Charter mandates that the EEPC audit and evaluate the employment practices and procedures of each City agency at least once every four years and whenever requested by the City Civil Service Commission or the Human Rights Commission. In addition, the EEPC is authorized:

- To review and audit at least once every four years the standards, procedures, and programs of every City agency's affirmative employment plan to provide equal opportunity for minority group members and women employed by, or seeking employment with, the City.
- To recommend procedures, approaches, measures, standards, and programs to be used by all City agencies to ensure a uniform, fair, and effective affirmative employment program of equal employment opportunity for minority group members and women.
- To hold public and private hearings, to compel the attendance of witnesses, and to administer oaths.
- To establish appropriate advisory committees.
- To publish an annual report for submission to the Mayor and the City Council.

EEPC, which began operations in April 1992, has four commissioners, each serving a four-year term. Two commissioners are appointed by the Mayor, and two are appointed by the City Council. In addition, the Mayor and City Council Speaker jointly appoint the Commission Chairperson, who acts as an independent advocate on behalf of EEPC. EEPC has been without a Chairperson since 1999. The Chairperson and the commissioners are paid for actual time worked, based on per-diem rates of \$275 and \$250 respectively.

In addition to its commissioners, EEPC is currently authorized to fill nine full-time permanent staff positions; these positions were filled during our audit period.

EEPC administrative personnel handle certain aspects of its payroll and purchasing processes, such as maintaining records of staff time and obtaining bids from vendors for purchases. The Department of Citywide Administrative Services (DCAS) is responsible for providing additional administrative support to EEPC, such as processing timesheets and invoices for payment.

EEPC's actual expenditures for Fiscal Year 2003 totaled \$429,524 for Personal Services and \$45,142 for Other Than Personal Services.

### **Objectives**

The objectives of this audit were to determine whether EEPC:

- 1) Met its City Charter mandate to audit the equal employment practices and procedures of each City agency at least once every four years.
- 2) Complied with its own procedures regarding timekeeping for employees and payment of commissioners' compensation.

### **Scope and Methodology**

The period covered by our audit was Fiscal Year 2003. However, to determine whether EEPC had met its City Charter mandate to audit the equal employment practices and procedures of each City agency at least once every four years, we reviewed the lists of audits it had conducted since its inception in 1992. In addition, our review of EEPC financial practices was limited to the work performed by EEPC personnel. We did not review the administrative functions handled by DCAS for EEPC.

To obtain an understanding of EEPC efforts to meet its Charter mandate and its own procedures for timekeeping and payment of commissioners' compensation, we met with the Executive Director, Deputy Director, and EEPC Counsel. We also reviewed the EEPC policy and procedures manual, timekeeping manual, list of agencies required to be audited and list of agencies that had been audited. In addition, we reviewed prior audit reports issued by the City Comptroller's Office on EEPC operations (*Audit Report on Certain Practices of the Equal Employment Practices Commission*, issued March 6, 1997, and *Follow-up Audit on Certain Practices of the Equal Employment Practices Commission*, issued May 12, 1999).

To determine the completeness of the list of City agencies required to be audited, we compared it to the Comptroller's Office list of City agencies. We also reviewed the audits issued by EEPC since its inception to determine whether it was meeting its Charter mandate.

To ascertain whether EEPC complied with its own timekeeping procedures that required all employees to record their daily attendance, we reviewed the Weekly Time Reports for the randomly selected quarter of January through March 2003. We checked whether the employees signed in and out each day, whether use of the various types of leave was noted on the reports, and whether a supervisor signed the reports.

To determine whether the hours charged for the time worked by EEPC commissioners were valid, reasonable, and for EEPC-related meetings, we reviewed all commissioners' Attendance and Work Records submitted for payment to DCAS during Fiscal Year 2003.

This audit was conducted in accordance with generally accepted government auditing standards (GAGAS) and included tests of the records and other auditing procedures considered necessary. This audit was performed in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

### **EEPC Response**

The matters covered in this report were discussed with EEPC officials during and at the conclusion of this audit. A preliminary draft report was sent to EEPC officials and discussed at an exit conference held on May 11, 2004. On May 18, 2004, we submitted a draft report to EEPC officials with a request for comments. We received a written response from EEPC on June 8, 2004. Although EEPC officials agreed with the audit's finding that they are not meeting their Charter mandate, they stated, "We will never be able to audit every city agency at least once every four years until and unless we have the necessary staff."

The full text of the EEPC response is included as an addendum to this report.

## FINDINGS AND RECOMMENDATIONS

EEPC has complied with its procedures for timekeeping for employees and payment of commissioners' compensation. The employee timesheets are processed in a timely manner, with proper leave slips attached to the timesheets. The Director reviews and authorizes all of the timesheets. In addition, all meetings attended by the commissioners were for EEPC-related activities. The commissioners signed the attendance sheets for each meeting, and they were compensated the correct amount for attending the meetings. However, EEPC has not met its New York City Charter mandate to audit every City agency once every four years. This is discussed in greater detail below.

### EEPC Is Not Meeting Its Charter Mandate

EEPC has not met its Charter mandate to audit every City agency once every four years.

For the current four-year cycle (calendar years 2001–2004), as of March 2004, EEPC had audited only 34 of the 98<sup>1</sup> agencies required to be audited by December 31, 2004. EEPC also did not meet its mandate during the two prior four-year cycles. For the cycle covering calendar years 1997–2000, EEPC audited 30 of the required agencies,<sup>2</sup> and for the cycle covering calendar years 1993–1996, EEPC audited only seven of the required agencies. Moreover, since its inception in 1992, EEPC has never audited 39 agencies, including all the District Attorneys' Offices, the Mayor's Office, and the City Clerk's Office.

According to §831 of Chapter 36 of the City Charter, "The Commission shall . . . audit and evaluate the employment practices and procedures of each city agency and their efforts to ensure fair and effective equal employment opportunity for minority group members and women at least once every four years."

The concern that EEPC is not meeting its Charter mandate has been cited in the last two audits of the City Comptroller. The initial 1997 audit recommended that EEPC management develop a comprehensive plan, describing the steps to be taken to achieve its Charter mandate. The 1999 follow-up audit noted that EEPC had implemented this recommendation. However, because of staff shortages, EEPC did not complete its planned number of audits, leaving open the possibility that it would not fulfill its Charter mandate into the future. The follow-up audit recommended that EEPC continue to attempt to resolve its staffing problems.

According to EEPC management, a proposed work plan is presented to the Commission in December or January each year. The plan lists the agencies to be audited during the upcoming

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<sup>1</sup> EEPC has jurisdiction to audit the City's 59 Community Boards; however, the Community Boards are not included in these numbers.

<sup>2</sup> Over the years, EEPC has lost jurisdiction over some agencies and obtained jurisdiction over others, with the result that the total number of agencies required to be audited has remained the same.

calendar year. However, each year the EEPC has fallen short of meeting its auditing goals, as illustrated in Table I below.

**TABLE I**  
History of EEPC Audits

Four-Year Audit Cycle	Calendar Year	Number of Planned Audits	Number of Completed Audits	Percentage of Planned Audits Completed
1 <sup>st</sup> Cycle	1993	6	0	0%
	1994	8	1	13%
	1995	6	2	33%
	1996	14	4	29%
2 <sup>nd</sup> Cycle	1997	27	10	37%
	1998	31	6	19%
	1999	28	7	25%
	2000 (a)	28	7	25%
3 <sup>rd</sup> Cycle	2001 (b)	28	10	36%
	2002	28	8	29%
	2003	28	14	50%
	2004 (c)	28	2	7%

- (a) This does not include 27 Community Boards audited that year
- (b) This does not include 32 Community Boards audited that year.
- (c) The number of audits completed as of March 2004

EEPC officials continue to attribute the lack of audits to insufficient staffing. EEPC currently employs seven individuals<sup>3</sup>—two auditors and an audit supervisor. EEPC officials state that they would require 15 individuals (eight auditors) to meet their mandate of auditing each City agency every four years. EEPC officials raised the same staffing issue in response to the prior two audits as well. EEPC needs to resolve this issue—and its effect on its Charter mandate—by seeking additional funds for staff from the Mayor’s Office. Until staffing is resolved, EEPC officials should implement alternative strategies to compensate for their inability to audit each City agency once within a four-year cycle.

Currently EEPC does not maintain a four-year plan under which agencies are to be audited within each cycle. Without an audit plan, EEPC faces the risk of not auditing large agencies, where problems may be more likely to occur or may be more material in nature. EEPC should create an audit plan to use its scarce resources as effectively as possible. If all the required agencies cannot be audited within the planned cycle, EEPC should assess its workload to ensure that the larger agencies are given more attention. During the current four-year cycle, such agencies as the Department of Environmental Protection, the Police Department, and the Department of Sanitation, have not been audited. These agencies were last audited in 1997.

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<sup>3</sup> Two staff members left EEPC since the start of our audit.

In addition, at the start of each year, EEPC should consider contacting the City Commission on Human Rights, the State Division on Human Rights, and the Federal Equal Employment Opportunity Commission to obtain a listing of complaints filed by employees against City agencies. Though EEPC has done this in the past, because of a shortage of staff, it has not contacted these agencies since 1995. Doing so would enable EEPC officials to establish which agencies receive the greatest number of complaints or have a history of complaints and to then use that information when planning their audits. These steps would allow EEPC to focus its limited resources on those agencies that require the most attention.

By not meeting its mandate, EEPC cannot ensure that City agencies are maintaining effective affirmative employment programs that grant equal opportunity to minority groups and women.

During the exit conference, EEPC officials expressed concern over the growing cost of employment discrimination cases that the City has had to pay over the last few years. During calendar year 2003, the City paid more than \$7 million in settling and adjudicating discrimination cases—a 220 percent increase from the previous year. EEPC officials feel that if they are given proper funding and staffing, they can help decrease the cost of these cases by ensuring that all City agencies have the proper procedures and programs in place that will reduce the incidence of discrimination cases.

### **Recommendations**

EEPC officials should:

1. Request funds from the Mayor's Office for the additional staff members needed to meet the Charter mandate.

*EEPC Response:* "Since our inception in March 1992, this Commission has submitted budget requests to the Office of Management and Budget and at times the Mayor's Office. . . . We have also submitted budget requests to the City Council.

"We will continue to request funds from the Mayor and the City Council for the additional staff needed to meet our City Charter mandate."

2. Develop a comprehensive four-year plan that takes into consideration auditing larger agencies or those with a prior history of EEPC issues.

*EEPC Response:* "The Commission currently reviews and approves Annual Audit Plans by calendar year.

"Implementation of this recommendation implies that this Commission assumes that neither the Mayor nor the City Council will provide sufficient funds for this Commission to meet our City Charter Mandate.

“City employees in small city agencies are entitled to the same protection under the law as city employees in large city agencies.”

**Auditor Comment:** An annual audit plan is not a substitute for a four-year plan. EEPC should create a four-year plan to determine how it can use its resources to comply with its Charter mandate. Furthermore, implementation of this recommendation does not imply an assumption that the Commission will not receive adequate funding. Instead, it is a means by which to deal most effectively and efficiently with the current situation.

Although employees in small agencies are entitled to the same protection as employees of larger agencies, EEPC, by its own admission, is unable to audit all agencies with its present resources. EEPC officials should consider using its limited resources to focus on those agencies where problems are more likely to occur.

3. Review all complaints filed against City agencies when deciding which agencies to audit.

**EEPC Response:** “Since there is a correlation between the size of an agency and the number of complaints filed, implementation of this recommendation will compel this Commission to focus our audits on these agencies and ignore the others. This would be contrary to our City Charter mandate to audit every city agency at least once every four years.”

**Auditor Comment:** Since its inception, EEPC has not met its City Charter mandate to audit every City agency once every four years. Thus, implementation of this recommendation could not be the cause of that failure; however, it would allow EEPC to direct its resources to those agencies with the greatest need of attention.



# EQUAL EMPLOYMENT PRACTICES COMMISSION

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ADDENDUM

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Manuel A. Méndez  
Vice Chair/Commissioner

Angela Cabrera  
Veronica Villanueva, Esq.  
Commissioners

Abraham May, Jr.  
Executive Director

Eric Matusewitch, PHR, CAAP  
Deputy Director

June 8, 2004

Mr. Greg Brooks  
Deputy Comptroller  
Policy, Audits, Accountancy and Contracts  
1 Centre Street  
New York New York 10007-2341

Re: Draft Audit Report on the Operating Procedures of the Equal Employment Practices Commission/Audit # MD04-078A

Dear Mr. Brooks:

Thank you for the referenced draft and the opportunity to respond prior to its public release. The members of the Equal Employment Practices Commission and I, are indeed pleased to learn that your auditors found very little fault with the operating procedures of the Equal Employment Practices Commission. Following is the Commission's response to the three recommendations issued pursuant to the referenced audit:

- 1. EEPC officials should request funds from the Mayor's Office for the additional staff needed to meet the Charter mandate.**

Since our inception in March 1992, this Commission has submitted budget requests to the Office of Management and Budget and at times the Mayor's Office on a regular basis. Because the EEPC is not a mayoral agency, but an independent city agency with one half of our Commissioners appointed by the Mayor and one half appointed by the City Council, we have also submitted budget requests to the City Council.

As you know, this Commission needs a permanent head count of fifteen to meet our City Charter mandate to audit every city agency at least once every four years. (i. e. forty agencies per year). Budget cuts in the last two fiscal years have reduced our permanent headcount from twelve to nine. Consequently, we submitted a FY '05 Budget Request to the Office of Management and Budget and the City Council for sufficient funds to replace the three staff positions and restore our OTPS funds to the

previous level. We will continue to request funds from the Mayor and the City Council for the additional staff needed to meet our City Charter mandate.

2. **EEPC officials should develop a comprehensive four-year plan that takes into consideration auditing larger agencies or those with a prior history of EEPC issues.**

For the following reasons we respectfully disagree with this recommendation:

- The Commission currently reviews and approves Annual Audit Plans by calendar year. Additionally, staff maintains a chart of all agencies audited and the year of the audit. This chart is a guide in the development of our Annual Audit Plans.
- Implementation of this recommendation implies that this Commission assumes that neither the Mayor nor the City Council will provide sufficient funds for this Commission to meet our City Charter mandate. Since we are all mayoral or council appointees we cannot operate under that assumption.
- Furthermore, the recommendation suggests that EEPC should focus on those agencies "with a prior history of EEPC issues". This implies that the thirty-nine agencies that you noted we have yet to audit should have a lower priority than those agencies "with a prior history of EEPC issues".
- Finally and most importantly, to accept this recommendation is to willingly pursue a strategy that denies "equal protection under the law" to the very city employees that the Civil Rights Act of 1964 and subsequent state and city equal employment legislation was established to protect. City employees in small city agencies (as well as other agencies we have yet to audit) are entitled to the same protections under the law as city employees in large city agencies. This Commission must and will continue to request the funds necessary to audit every city agency at least once every four years. Anything less than that is unacceptable.

3. **EEPC officials should review all complaints filed against city agencies when deciding which agencies to audit.**

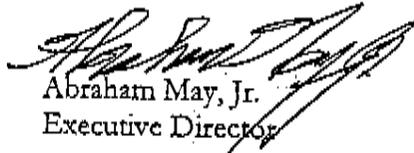
This recommendation contradicts the previous one. The previous recommendation suggests that agencies be selected for audit based on their size; this recommendation suggests that agencies be selected based on the number of complaints filed. Since there is a correlation between the size of an agency and the number of complaints filed, implementation of this recommendation will compel this Commission to focus our audits on these agencies and ignore the others. This would be contrary to our City Charter mandate to audit every city agency at least once every four years. We cannot do that.

Regarding the three large agencies cited as having been last audited in 1997, please note that two of those agencies, the Department of Sanitation and the Department of Environmental Protection, were included in our Audit Plan for Calendar Year 2003. Audits of those agencies were recently completed. The third agency, the Police Department is included in our Audit Plan for Calendar Year 2004. Since we are not adequately staffed, we may not complete this audit in the current calendar year. If not, this agency will be included in the Audit Plan for Calendar Year 2005.

We will never be able to audit every city agency at least once every four years until and unless we have the necessary staff. We sincerely hope this audit will assist us in our efforts to persuade the Mayor and the City Council to provide the funds necessary.

On behalf of the members of the Equal Employment Opportunity Commission I want to thank your auditors for their courtesy, cooperation, and professionalism in conducting this audit.

Sincerely,



Abraham May, Jr.  
Executive Director

C: Manuel A. Mendez, Vice-chair