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OFFICE OF THE STATE COMPTROLLER

October 16, 2001

Ms. Evonne W. Jennings Tolbert
Acting Commissioner
New York State Division of Human Rights
1 Fordham Plaza, 4th Floor
Bronx, NY 10450

Re: Report 2001-F-15

Dear Ms. Jennings Tolbert:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution, and Article II, Section 8 of the State Finance Law, we have reviewed the actions taken by officials of the New York State Division of Human Rights (Division) as of May 22, 2001, to implement the recommendations contained in our report: *Complaint Processing (Report 99-S-27)*. Our report, which was issued February 11, 2000, addressed whether the Division processed employment discrimination complaints in a timely manner in accordance with its policies and procedures, and with applicable laws.

A. Background

The mission of the Division of Human Rights is to enforce the State's Human Rights Law (Law), thereby ensuring that every person in the State has a right to unrestricted access to employment, housing, public accommodation, and credit. The Division's primary functions are the investigation and adjudication of complaints about employment, housing, and other forms of alleged discrimination. The Division received 5,682 new cases in fiscal year 1999-2000. As of June 30, 2001, the total active caseload was 9,631.

The Division has nine regional offices throughout the State, with administrative offices located in New York City. Complaints are received at the Division's regional offices. Cases are then assigned to a Human Rights Specialist who initiates an investigation. At the conclusion of the investigation, the investigator summarizes the information in a written report and indicates whether there is probable cause to proceed to a formal hearing. The Law directs that the Division complete its investigations of complaints within 180 days of receipt and, where the complaint is found to have probable cause, requires the respondent to appear at a hearing within 270 days after the complaint was filed.

B. Summary Conclusions

Our prior audit found that as of June 30, 1999, the Division had 10,623 active cases. We found that delays were pervasive in the Division's handling of complaints, from their assignment to their resolution. For example, our prior audit found that the Division routinely exceeded both the 180-day and 270-day time frames stated in the Law. We estimated it would take the Division six years to clear its case backlog if processing times remained the same. We identified a need to provide additional staffing and improve procedures to reduce the backlog of cases. The Division of the Budget had hired an outside consultant to examine the complaint procedures and provide information as to the potential cost of eliminating the backlog of complaints.

Our follow-up review found that the Division has taken steps to implement most of our recommendations, and has developed specifications for an automated case management system. While the Division has made some progress in reducing its backlog of cases as a result of improved procedures, more needs to be done.

C. Summary of Status of Prior Recommendations

Of our seven prior audit report recommendations, the Division has implemented five recommendations and has partially implemented two recommendations

Follow-up Observations

Recommendation 1

Develop a strategic plan and implement specific strategies and activities to eliminate the backlog in investigations and hearings as soon as possible and to ensure that future complaints are resolved in a timely manner.

Status – Partially Implemented

Agency Action – The Division has not developed a strategic plan, but did provide us with a list of seven specific initiatives that it indicated it has implemented to improve operations. For example, it has increased the number of hearing rooms at Division headquarters from 2 to 4. In addition, the Division is in the process of acquiring a case management system, which it expects will improve the timeliness and efficiency of claim processing.

To date, Division statistics show a 9 percent reduction in total active caseload from 10,623 in June 1999 to 9,631 in June 2001. Division statistics also show that the number of cases that exceeded processing time frames has actually increased during this period. According to the Division's Monthly Report for June 2001, the percentage of regional office active caseload that is older than 359 days has increased from 36 percent in June 1999 to 49 percent in June 2001.

We asked Division officials why its efforts had not resulted in a more significant reduction in its backlog. Division officials indicated that it recently suffered a disruption in operations when it relocated its Central Office and installed new executive leadership. The Division believes that its backlog will decline further as improved procedures and the case management system are fully implemented. The installation process is expected to begin in December 2001. We suggest that in the interim, the Division closely monitor case processing time frames at each of its regional offices and, as appropriate, initiate actions to reduce those time frames.

Recommendation 2

Develop reasonable benchmarks for the time required for the various complaint-processing requirements and identify areas where the processes need to be re-engineered. To the extent that additional workload analysis may be required to identify long-term solutions, retain the services of a qualified consultant.

Status – Implemented

Agency Action – The Division has developed a comprehensive set of benchmarks for each phase of the complaint resolution process. For example, once a complaint is filed with one of its regional offices, the respondent must be served with the complaint within five business days. Also, the Division's compliance investigation unit must initiate a compliance review within five business days of receiving a complaint file.

Our previous audit noted that the Division of the Budget had hired a consultant to provide information pertinent to the potential cost of eliminating the Division's backlog of complaints. However, at the time of our follow-up review, the Division did not have the results of the consultant's work. The Division needs to obtain these results, and consider them, as appropriate, in its further efforts to improve operations in order to process cases within required time frames and reduce the backlog of cases.

Recommendation 3

Develop an automated system to monitor the timeliness of investigation activity and to highlight individual cases for supervisory follow up where gaps in time between investigative actions exceed Division benchmarks and guidelines.

Status – Partially Implemented

Agency Action – As cited in Recommendation 1, the Division is developing and implementing a case management system to monitor the timeliness of investigations and identify exceptions. The system requires "ticklers" which are time sensitive notations, which will remind users of established benchmarks. Ticklers that are overdue will be displayed for each user. Management will be able to generate reports of all overdue ticklers which will flag the need for supervisory follow-up of investigative activities.

Recommendation 4

Identify those regional offices that employ practices that enable them to be more productive than others, and determine whether these practices can be replicated statewide to improve efficiency and effectiveness. For example, consider using mediation services, like those used in the Rochester office, in other regional offices.

Status – Implemented

Agency Action – The Division surveyed its regional offices and identified ten best practices that are currently being considered for expansion into all regional offices. For example, the Lower Manhattan office recruits law students for summer internships; the Long Island office uses Agency Program Aides to resolve “less complicated” cases, saving investigators’ efforts for more complex complaints; and the Binghamton office uses support staff to track overdue answers to complaints and flag any answers that indicate a desire to conciliate; these cases are then followed-up for possible early intervention.

Recommendation 5

Ensure that regional office staffs that take complaints from the public are properly trained both in obtaining complete documentation and in initiating procedures that can facilitate early resolution of cases where appropriate. Make other staff with more specialized knowledge and skills available as a resource to assist these employees as needed. For example, consider having an attorney available to assist regional staff as is done in the Buffalo office.

Status – Implemented

Agency Action – The Division provided comprehensive training to its agency program aides in April 2000. The training included intake procedures and stressed procedures for early resolution of complaints. Division officials stated that attorneys are assigned geographically and are available as a resource to assist regional office staff, as needed.

Recommendation 6

Require that each regional office routinely contact the respondent and request appropriate information immediately upon receipt of a complaint to facilitate the investigators' work as the case moves through the process.

Status – Implemented

Agency Action – The Division’s training manual, which was issued subsequent to our prior report, requires prompt contact with the respondent to request information needed to process the complaint. The Division also provided us with copies of letters, which request respondents to reply within specified timeframes, usually 5 to 15 days.

Recommendation 7

Review the extent to which certain staff are assigned to other functions which significantly limit their ability to perform their primary duties. Seek additional resources, as appropriate, for these functions.

Status – Implemented

Agency Action – The Division reviewed the extent to which staff were assigned to other than their primary function. The results showed that staff were not spending a significant amount of time at these duties. In addition, the new case management system that the Division is acquiring will include technical support from the vendor, which should reduce the time that Division employees spend providing technical assistance.

Major contributors to this report were Richard Sturm, Barry Mordowitz and Emma Wohlberg.

We would appreciate your response to this report within 30 days, indicating any actions planned or taken to address any unresolved matters discussed in this report. We also thank the management and staff of the Division of Human Rights for the courtesies and cooperation extended to us during this review.

Very truly yours,

William P. Challice
Audit Director

cc: M. Greason
D. Taylor