New York City Department of Small Business Services
NOTICE OF ADOPTION

Pursuant to section 1301 of the New York City Charter (the "Charter"), the New York City Department of Small Business Services ("DSBS") is adopting amendments to chapter 10 of Title 66 of the Rules of the City of New York. This rule amends the process by which the City monitors and enforces contractor compliance with applicable equal employment opportunity requirements, including those in the appendix to chapter 10 ("Appendix") of Title 66 of the Rules of the City of New York.

Statement of Basis and Purpose

The City's program for the promotion of equal employment opportunity in contracts awarded by the City was established to ensure that City contractors comply with equal employment opportunity requirements of city, state, and federal law. The program requires that contractors doing business with the City submit an Employment Report to the Division of Labor Services (the "Division"), a division of DSBS. An Employment Report is a report that outlines the contractor's employment practices and related information, so the City can ensure the contractor is promoting equal employment opportunity. Contractors are required to submit an Employment Report for each covered contract awarded to them. After review of an Employment Report and any other required documentation, the Division issues a certificate of compliance to contractors found in compliance with equal employment opportunity requirements.

In April 2022, Mayor Eric Adams convened the Capital Process Reform Task Force (the "Task Force") to develop recommendations to reform capital project delivery. The Task Force released a set of recommendations ("New York City Capital Process Reform Task Force, 2022 Year-end Report") aimed at streamlining capital project delivery, including a recommendation to revise the Division's Employment Report review process by creating a certification that lasts three years. The Division will adopt this recommendation by extending the time for which valid certifications of Employment Reports are accepted for covered supply and service contracts from one year to three years. This change will remove unnecessary burdens on contractors and shorten the approval process for covered contracts. The amendments are aimed at reducing administrative burdens and shortening the contractor approval process, including by allowing for electronic notices to contractors, and providing the Division discretion with regard to holding pre-award conferences and payroll audits. Pre-award conferences are meetings between the Division and a prospective contractor to review the Employment Report in detail, and payroll audits are audits conducted to ensure the contractor has complied with training requirements.

In summary, this rule amendment will:

- Amend section 10-03 to extend the time, from 12 months to 36 months, that a valid certificate of compliance for a covered supply and service contract may be used to exempt the contractor from the requirement to submit an Employment Report. The purpose of this amendment is to minimize the number of reviews conducted of the same contractor,

thereby reducing redundancy and administrative burdens. This will also resolve a conflict between section 10-03 and section 10-05, which provides that a certificate of compliance issued by the Division is valid for 36 months.

- Amend section 10-05 to authorize the Division to hold a pre-award conference for construction contracts for which an Employment Report is required pursuant to chapter 10 when the Division deems necessary, rather than requiring such a conference for any such contract with a value in excess of $1,000,000. The purpose of this amendment is to reduce administrative burdens on the Division by not requiring the holding of unnecessary pre-award conferences.

- Amend section 10-07 to provide that the Division, when providing notice to a contractor that it has failed to file or complete an Employment Report or has filed an Employment Report with substantial misrepresentations, may provide such notice by email. The existing rule requires that such notice be sent by certified mail, which poses an unnecessary burden on the Division with no discernible benefit. The purpose of this amendment is to increase the speed and ease of the Division's frequent communication with contractors.

- Amend various sections of chapter 10 to update cross-references to Executive Order No. 50, dated April 25, 1980, as amended by subsequent Executive Orders ("E.O. 50"), which is included in the Appendix; E.O. 50 was previously set forth in section 10-14, which was repealed in 2012.

- Amend the Appendix to reflect amendments made to E.O. 50 by Executive Order No. 159 of the year 2011, prior to the inclusion of E.O. 50 in the Appendix.

DSBS published a proposed version of this rule in the City Record on August 24, 2023. DSBS held a public hearing for the proposed rule on September 28, 2023. DSBS received no comments concerning the proposed rule. Following the public hearing, DSBS determined that additional amendments to paragraph (1) of subdivision (c) of section 10-05 were necessary to clarify that pre-award conferences are required for construction contracts only when the Division deems necessary. DSBS also determined after the hearing to amend the Appendix to reflect earlier amendments to E.O. 50.

New material is underlined.
[Deleted material is in brackets.]

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. The definitions of "compliance" and "noncompliance" set forth in section 10-02 of Title 66 of the Rules of the City of New York are amended to read as follows:

Compliance. "Compliance" means a contractor having acted in accordance with the requirements of E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and these regulations.

Noncompliance. "Noncompliance" means a contractor having failed to act in accordance with E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and these regulations.

§ 2. Paragraph (2) of subdivision (a) of section 10-03 of Title 66 of the Rules of the City of New York is amended to read as follows:

(2) Contractors whose contracts are funded in whole or in part by federal or state funds must also meet the standards and applicable legal requirements of the funding source. To the extent that federal or state requirements are different from the requirements of E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and these regulations, the requirements of E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and these regulations shall apply, except in those circumstances where application of the City's requirements would make it impossible for the contractor to meet the program requirements of the funding source.

§ 3. Paragraph (4) of subdivision (b) of section 10-03 of Title 66 of the Rules of the City of New York is amended to read as follows:

(4) Unless otherwise required by law, an Employment Report shall not be required for a covered supply and service contract with a contractor who has received a valid certificate of compliance with the equal employment requirement of applicable law as follows:

(i) where a contractor has received a Certificate of Equal Employment Compliance issued after a desk audit by an appropriate federal or state agency in the preceding [12] 36 months, the proposed contractor shall [complete and] submit [the general information section of the Employment Report with] a copy of such certificate of compliance to the Division;

(ii) where a contractor has been desk audited by an appropriate government agency and found to have deficiencies with respect to equal employment compliance and has agreed, within the preceding [12] 36 months, to correct these deficiencies, the contractor may submit [the general information section of the Employment Report with] documentation regarding the finding of deficiencies and corrective measures taken. The Division may thereafter, in its discretion, require the submission of all reports concerning implementation of corrective measures or a completed Employment Report; and

(iii) where a contractor has been reviewed by the Division and issued a certificate of compliance in the preceding [12] 36 months, the contractor shall [complete and] submit [the general information section of the Employment Report with] a copy of such certificate of compliance to the Division.

§ 4. Paragraphs (8) and (9) of subdivision (b) of section 10-03 of Title 66 of the Rules of the City of New York are amended to read as follows:

(8) The Director may, on the written request of the contracting agency head, waive the submission requirements of E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and these regulations where the agency head certifies that:

(i) the contracting agency has been unable to secure the submission of an employment report after making diligent efforts; and

(ii) the proposed contractor is the sole provider of a unique service, supply or labor; or

(iii) because of the unique circumstances of the contract it would not be in the public interest to require submission of an Employment Report prior to the award of the contract.

(9) Failure to file timely, complete and accurate reports as required by E.O. 50 [(§10-14)] (Appendix to Chapter 10) and these regulations constitutes noncompliance with E.O. 50 [(§10-

14)] (Appendix to Chapter 10) and these regulations. The Director may direct the contracting agency head to impose sanctions authorized by E.O. 50 [(§10-14)] (Appendix to Chapter 10) and these regulations in connection with such noncompliance. The Division shall notify the contracting agency in writing of any such failure as soon as practicable.

§ 5. Subdivisions (a) and (b) of section 10-04 of Title 66 of the Rules of the City of New York are amended to read as follows:

(a) *Contract language – all contracts*. Each contracting agency shall incorporate into every contract in excess of the small purchase limit established by rule of the Procurement Policy Board to which it becomes a party the following language:

"This contract is subject to the requirements of Executive Order No. 50 (April 25, 1980) [(§ 10-14)] (Appendix to Chapter 10) ("E.O. 50") and the Rules and Regulations promulgated thereunder. No contract will be awarded unless and until these requirements have been complied with in their entirety. By signing this contract, the contractor agrees that it:

(1) will not discriminate unlawfully against any employee or applicant for employment because of race, creed, color, national origin, sex, age, handicap, marital status, sexual orientation or citizenship status with respect to all employment decisions including, but not limited to recruitment, hiring, upgrading, demotion, downgrading, transfer, training, rates of pay or other forms of compensation, layoff, termination, and all other terms and conditions of employment;

(2) will not discriminate in the selection of subcontractors on the basis of the owner's, partners' or shareholders' race, color, creed, national origin, sex, age, handicap, marital status, sexual orientation or citizenship status;

(3) will state in all solicitations or advertisements for employees placed by or on behalf of

the contractor that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, sex, age, handicap, marital status, sexual orientation or citizenship status or is an equal employment opportunity employer;

(4) will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or memorandum of understanding, written notification of its equal employment opportunity commitments under E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and the rules and regulations promulgated thereunder;

(5) will furnish before the contract is awarded all information and reports including an Employment Report which are required by E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) the rules and regulations promulgated thereunder, and orders of the Director of the Office of Labor Services ("Division"). Copies of all required reports are available upon request from the contracting agency; and

(6) will permit the Division to have access to all relevant books, records and accounts by the Division for the purposes of investigation to ascertain compliance with such rules, regulations, and orders. The contractor understands that in the event of its noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, such noncompliance shall constitute a material breach of the contract and noncompliance with E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and the rules and regulations promulgated thereunder. After a hearing held pursuant to the rules of the Division, the Director may direct the imposition by the contracting agency head of any or all of the following sanctions:

(i) disapproval of the contractor;

(ii) suspension or termination of the contract;

(iii) declaring the contractor in default; or

(iv) in lieu of any of the foregoing sanctions, the Director may impose an employment program.

The Director of the Division may recommend to the contracting agency head that a contractor who has repeatedly failed to comply with E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and the rules and regulations promulgated thereunder be determined to be nonresponsible.

The contractor agrees to include the provisions of the foregoing paragraphs in every subcontract or purchase order in excess of the small purchase limit established by rule of the Procurement Policy Board to which it becomes a party unless exempted by E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and the rules and regulations promulgated thereunder, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Director of the Division of Labor Services as a means of enforcing such provisions including sanctions for noncompliance.

The contractor further agrees that it will refrain from entering into any contract or contract modification subject to E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and the rules and regulations promulgated thereunder with a subcontractor who is not in compliance with the requirements of E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and the rules and regulations promulgated thereunder."

(b) *Special provisions for construction contracts.* In addition to the contractual provisions required in § l0-04(a), each contracting agency shall incorporate into every contract for a construction project in excess of $125,000 to which it becomes a party the following language:

"The contractor further agrees that it shall employ trainees for training level jobs and it shall participate in on-the-job training programs other than apprenticeship programs which are

approved by the Division and where required by law, the U.S. Department of Labor, Bureau of Apprenticeship Training or the New York State Department of Labor.

The contractor shall make a good faith effort to achieve the ratio of one (1) trainee to four (4) journey-level employees of each trade on each construction project; provided, that the trainee requirement shall not apply to contracts in the amount of $125,000 or less.

"Trainee" means an economically disadvantaged person who qualifies for and receives training in one of the construction trades pursuant to a program, other than an apprenticeship program, approved by the Division and, where required by law, the New York State Department of Labor and the United States Department of Labor, Bureau of Apprenticeship and Training.

The contractor shall be considered to employ 4 journey-level employees in a particular trade when he or she employs any number of journey-level employees in that craft whose aggregate work hours equal the number of hours 4 full-time journey-level employees would have worked in a work week as defined by the prevailing practice in the industry for the particular craft, i.e., 40 hours, 37 1/2 hours, 35 hours, etc. For example, in a craft where there is a forty-hour work week, the employment of 4 journey-level employees results in 160 hours of employment (4 × 40). Hence, any number of journey-level employees which results in 160 hours of work is considered for purposes of the training program to equal 4 journey-level employees, i.e., 3 journey-level employees who work 53 1/3 hours (3 × 53 1/3 = 160).

The training requirement shall not apply to any trade in which the employment of four or more journey-level employees and the trainee shall be for less than 4 consecutive weeks; provided, that 4 weeks shall mean 4 weeks of full-time work as defined by the prevailing practice in the industry for the particular craft, i.e., 160 hours (4 weeks × 40 hours), 150 hours (4 weeks × 37 1/2 hours), 140 hours (4 weeks × 35 hours), etc.

The contractor shall attempt to provide continuous employment for trainees after the completion of the contract to enable them to complete their course of training.

Union contractors shall refer, recommend and sponsor for union membership any of their trainees who can perform the duties of a qualified journey-level employee or who have satisfactorily completed the training program. Such former trainee shall be paid full journey-level wages and fringe benefits, whether or not union membership is granted after such referral, recommendation or sponsorship, and the contractor shall attempt to continue the employment of such persons.

In the event of a failure to provide training to the required number of trainees for the required number of weeks, the contractor's compensation shall be decreased by an amount equal to the difference between the wages and fringe benefits paid by the contractor to the trainees and the wages and fringe benefits which would have been paid to the trainees had the number and duration of the positions been as required unless the contractor can demonstrate that it made a good faith effort to provide training and was unsuccessful. The wages and fringes deducted will be whatever a first term trainee would have received under the prevailing wage schedule in effect at the time the trainees should have been employed.

A good faith effort includes at least:

(i) documented efforts to secure trainees from approved training programs; and

(ii) documented outreach efforts to New York State Employment Service, Department of Employment, TAP Centers, community and civil rights groups to identify candidates for training positions and sponsorship of those persons by the contractor for entrance into an approved training program; and

(iii) written notification to the Division that the contractor has been unable to secure

trainees pursuant to paragraphs [(1) and (2)] (i) and (ii) above and requesting the Division's assistance in securing trainees; provided, that neither the provisions of any collective bargaining agreement nor the refusal by a union with whom the contractor has a collective bargaining agreement to recognize the validity of the training program shall excuse the contractor's obligation to provide training pursuant to E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and these regulations.

To demonstrate its good faith effort, the contractor may at its option supply documentation concerning its employment of trainees on all its construction sites, both City and non-City funded. The Division will review this documentation as part of its analysis to determine whether the contractor made a good faith effort.

The contractor will also include the training provisions of this section in every subcontract in excess of $125,000 to which it becomes a party unless exempted by E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and the rules and regulations promulgated thereunder so that such provisions will be binding upon each subcontractor. The contractor will take such action with respect to any subcontract as the Division may direct as a means of enforcing such provisions, including sanctions for noncompliance.

The contractor further agrees that it will assist and cooperate with the Division in obtaining the compliance of subcontractors with the requirements of E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and the rules and regulations promulgated thereunder, and it will furnish the Division with information necessary for supervision of such compliance."

§ 6. Subparagraph (ii) of paragraph (4) of subdivision (d) of section 10-04 of Title 66 of the Rules of the City of New York is amended to read as follows:

(ii) If the Division notifies the contracting agency and the contractor within fifteen business days of the receipt by the Division of the completed Employment Report that the Division's

analysis of the contractor's workforce indicates underutilization and therefore the Division has reason to believe that the contractor is not in substantial compliance with applicable legal requirements and the provisions of E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and these regulations, the Division shall promptly take such action as may be necessary to remedy the contractor's noncompliance. These time limits shall apply to the review of all Employment Reports submitted by subcontractors or contractors who are a party to a requirements contract or an open market purchase agreement.

§ 7. Paragraph (1) of subdivision (a) of section 10-05 of Title 66 of the Rules of the City of New York is amended to read as follows:

(1) It shall be the responsibility of the Division to implement, monitor compliance with, and enforce E.O. 50 [(§ 10-14)] (Appendix to Chapter 10), these regulations and programs established pursuant to City, State and Federal law requiring contractors to provide equal employment opportunity.

§ 8. Subparagraphs (ii) and (iii) of paragraph (3) of subdivision (a) of section 10-05 of Title 66 of the Rules of the City of New York are amended to read as follows:

(ii) If the Division deems it appropriate as part of its compliance review, or if the Office finds that the material submitted is incomplete or raises questions concerning the contractor's efforts to meet the requirements of E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and these regulations, the Division may:

(A) hold a conference with the contractor to gain information necessary to complete the compliance review and, where necessary, to develop an Employment Program; and

(B) perform an on site review of those matters which were not fully or satisfactorily addressed in the Employment Report or at the conference.

(iii) The Division will take into consideration consent decrees, court and administrative orders and conciliation agreements when analyzing a contractor's compliance with E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and these regulations. The Division will not impose requirements which are inconsistent with the foregoing.

§ 9. Subdivisions (b) and (c) of section 10-05 of Title 66 of the Rules of the City of New York is amended to read as follows:

(b) *Division review – supply and services contracts*.

(1) After the Division has completed its preaward compliance review and has determined that a proposed covered contractor is in compliance with the requirements of E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and these regulations, it shall issue a certificate of compliance which shall be valid for 36 months.

(2) After the Division has completed its preaward compliance review and has identified underutilization or employment policies and practices which mitigate against equal employment opportunity, it may negotiate an Employment Program or approve the proposed covered contractor with reservations and monitor the compliance of the contractor with E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and these regulations during the term of the contract. The monitoring shall consist of:

(i) an analysis of Employment Update Reports which the contractor is required to submit on a periodic basis; and

(ii) where necessary, conferences and on site reviews.

(c) *Division review – construction contracts.*

(1) During the preaward compliance review, the Division [shall] may when it deems necessary hold a preaward conference for contracts [in excess of $1,000,000] for which an

Employment Report is required pursuant to this chapter. At the conference, the Division will review the contents of the Employment Report in detail with the contractor to [insure] ensure compliance with applicable Federal, State, and City equal employment opportunity and training requirements. The Division shall, thereafter, issue a certificate of compliance which shall be valid for [thirty-six] 36 months.

(2) During the term of the contract, the Division shall monitor the compliance of the contractor with the requirements of E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and these regulations. The monitoring [shall] may consist of:

(i) an analysis of the payroll records or other workforce data tables on City and non-City funded sites which the contractor is required to submit on a periodic basis; and

(ii) field visits to City and non-City funded construction sites of the contractor within the City.

(3) Upon completion of the contract and prior to final payment, the Division [shall complete the] may perform an audit of the contractor's payroll records and any other information submitted concerning compliance with the training requirements of E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and these regulations to determine whether the contractor has made a good faith effort to comply with these requirements and whether the contractor's compensation should be reduced for failure to provide the required training. The contractor and the contracting agency shall be given notice if the Division's audit reveals that the contractor failed to provide training for the required number of trainees for the required number of weeks, or that the contractor has acted to circumvent the training requirements. In such case, unless the contractor can demonstrate that it made a good faith effort to provide the training, the contractor's compensation will be reduced. The Division shall evaluate all information submitted by the contractor concerning its good faith

effort and consult with the contracting agency before a decision is made as to whether a training violation has occurred. The Division shall notify the contractor and contracting agency of its determination.

§ 10. The opening paragraph, subparagraph (ii) of paragraph (3) of subdivision (a), subparagraph (ii) of paragraph (3) of subdivision (b), and subdivision (d) of section 10-06 of Title 66 of the Rules of the City of New York are amended to read as follows:

The Division shall determine the contractor's compliance status after analysis of the composition of its work force and its employment policies and practices using the criteria enumerated in this section. In the event the analysis reveals that the contractor has not met the requirements of E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and these regulations, the Division may with the contractor develop an Employment Program to correct any underutilization or employment policies and practices which mitigate against equal employment-opportunity. The Employment Program shall consist of mandated actions based upon the criteria set forth in this section.

(ii) Incorporate the equal employment opportunity policy into all purchase orders, contracts, etc., covered by E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and these regulations; and

(ii) consider the anticipated expansion, contraction and turnover in the workforce before developing with the contractor an Employment Program or determining if it has reasonable cause to believe that the contractor is not in compliance with E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and these regulations.

(d) *Special provisions concerning compliance.*

(1) A contractor shall not be in violation of E.O. 50 [(§ 10-14)] (Appendix to Chapter 10)

and these regulations if the contractor hires, employs, trains employees or otherwise discriminates on the basis of employees' creed, sex or national origin in those certain instances where creed, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor's business. The contractor shall have the burden of demonstrating that it has complied with the requirements of this paragraph.

(2) A contractor shall not be in violation of E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and these regulations with respect to age discrimination where it terminates the employment of any person who is physically unable to perform his or her duties or acts pursuant to a retirement policy or system where such policy or system is not merely a subterfuge to evade the purposes of E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and these regulations. The contractor shall have the burden of demonstrating that it has complied with the requirements of this paragraph.

(3) Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the contractor has a collective bargaining agreement, to refer employees without regard to their race, creed, color, national origin, sex, age, handicap, marital status, sexual orientation or citizenship status shall excuse the contractor's obligations under E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and these regulations.

(4) A contractor shall not be in violation of E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and these regulations if it applies different standards of compensation or different terms, conditions or privileges of employment pursuant to a bona fide seniority system.

§ 11. Paragraph (1) of subdivision (a) of section 10-07 of Title 66 of the Rules of the City of New York is amended to read as follows:

(1) Whenever the Director finds that a covered contractor has failed to file an Employment Report or a complete Employment Report, or has filed an Employment Report with substantial

misrepresentations, the Director shall send a notice in writing by [certified mail, return receipt requested,] email or other electronic means to the contractor with a copy to the contracting agency describing:

(i) the noncompliance;

(ii) the corrective action necessary to remedy the noncompliance; and

(iii) a suggested date for a conciliation conference before sanctions will be imposed.

§ 12. Paragraph (2) of subdivision (b) of section 10-07 of Title 66 of the Rules of the City of New York is amended to read as follows:

(2) The contractor shall have seven business days to show cause why it should not be found in noncompliance with E.O. 50 [(§ 10-14)] (Appendix to Chapter 10), and these regulations.

§ 13. Paragraphs (1) and (4) of subdivision (f) of section 10-07 of Title 66 of the Rules of the City of New York are amended to read as follows:

(1) The Director shall, based upon the findings of fact and recommendations of the hearing officer and the record as a whole, determine whether the contractor is complying with applicable legal requirements and the provisions of E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and these regulations.

(4) The Director of the Division may recommend to the contracting agency head that [pursuant to the rules and regulations of the Board of Estimate a board of responsibility be convened for purposes of declaring a contractor who has repeatedly failed] a contractor who has repeatedly failed to comply with E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and these regulations be determined to be nonresponsible.

§ 14. Subdivision (g) of section 10-07 of Title 66 of the Rules of the City of New York is amended to read as follows:

(g) *Complaints.*

(1) Any person who believes a violation of E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and these regulations has occurred may file a complaint, in writing, signed and dated, with the Office during the term of a contract.

(2) The complaint shall include the name, address, and telephone number of the complainant, the name and address of the contractor committing the alleged violation of E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and these regulations, a description of the acts considered to be the violation, and any other pertinent information which will assist in the investigation and resolution of the complaint. The complaint shall be signed by the complainant or his or her authorized representative. Complaints alleging class-type violations which do not identify the alleged discriminatee or discriminatees will be accepted, provided the other requirements of this paragraph are met.

(3) The Division may refer complaints to the appropriate City, State and Federal agencies for processing rather than processing under E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and these regulations. Upon referring complaints to another agency, the Division shall promptly notify the complainant and the contractor of such referral.

(4) A prompt investigation shall be made by the Division.

(5) The contractor involved shall cooperate fully with any investigation. Failure or refusal to furnish information or to cooperate in the investigation is a violation of E.O. 50 [(10-14)] (Appendix to Chapter 10) and these regulations and may result in the imposition of sanctions.

(6) Upon completion of the investigation, the complaining party and the contractor involved shall be informed of the results of the investigation in writing. If the Director has reasonable cause to believe that the contractor is in noncompliance with E.O. 50 [(§ 10-14)]

(Appendix to Chapter 10) and these regulations, then enforcement proceedings shall be commenced.

(7) It is a violation of E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and these regulations for a contractor, subcontractor, or other person to intimidate, threaten, coerce, or discriminate against any individual or business for the purpose of interfering with any right or privilege secured by E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and these regulations or because a complaint was filed, or a person testified, assisted or participated in any manner in an investigation, proceeding, or hearing under these regulations.

(8) The identity of the complaining party shall be kept confidential on request only during the conduct of an investigation under these regulations. If such confidentiality hinders the investigation, the complaining party shall be so advised for the purpose of obtaining a waiver of confidentiality. The complaining party shall be further advised that failure to waive confidentiality may result in a determination based upon information already provided.

§ 15. Section 10-09 of Title 66 of the Rules of the City of New York is amended to read as follows:

All contracts and subcontracts in effect prior to April 25, 1980 which are not subsequently modified shall be administered in accordance with the equal employment and training provisions of any prior applicable Executive Orders. Any contract or subcontract modified on or after April 25, 1980 shall be subject to E.O. 50 [(§ 10-14)] (Appendix to Chapter 10).

§ 16. Section 10-10 of Title 66 of the Rules of the City of New York is amended to read as follows:

To the extent permitted by law and consistent with the proper discharge of the Division's responsibilities under E.O. 50 [(§ 10-14)] (Appendix to Chapter 10) and these regulations, all

information provided by a contractor to the Division shall be confidential.

§ 17. Subdivision (a) of section 6 of the appendix to chapter 10 of Title 66 of the Rules of the City of New York is amended to read as follows:

(a) Submission Requirements. No contracting agency shall enter into a contract with any contractor unless such contractor's employment report is first submitted to the Bureau for its review. Unless otherwise required by law, an employment report shall not be required for the following:

(i) A construction contract in the amount of less than $1 million; a construction subcontract in the amount of less than $750,000; or a supply and service contract in the amount of $50,000 or less or of more than $50,000 in which the contractor employs fewer than 50 employees at the facility or facilities involved in the contract;

(ii) An emergency contract or other exempt contract except as the Bureau may direct by regulation; [and]

(iii) A contract with a contractor who has received a certificate of compliance with the equal employment opportunity requirements of applicable law from the Bureau within the preceding thirty-six months, or an appropriate agency of the State of New York or of the United States within the preceding thirty-six months, except as the Bureau may direct by regulation; and

(iv) A contract for client services, as defined in section three above; except that nothing in this section shall prevent the Director in the Director's sole discretion from requiring an employment report from a client services agency that has contracted with the City if the Director believes that the client services agency is in violation of the equal employment requirements of City, State or Federal law.