
**Thomas P. DiNapoli
COMPTROLLER**



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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

**OFFICE OF GENERAL
SERVICES**

RECYCLING PROGRAM

Report 2008-S-134

AUDIT OBJECTIVES

The objectives of this audit were to determine whether the Office of General Services (OGS) operates a recycling program that is in compliance with applicable State laws and Executive Orders; and whether OGS has taken appropriate action to assist other State agencies in developing and implementing their recycling programs.

AUDIT RESULTS - SUMMARY

OGS is responsible for establishing a recycling program for its facilities as outlined in the Solid Waste Management Act of 1988 (Act) and Executive Orders (EO) 4 and 142. Because OGS owns and operates a number of State office buildings, it is responsible for implementing a recycling program that covers both its own employees and employees of other State agencies. To this end, OGS has developed the "3R's" Program (reduce, reuse and recycle), which is currently in its 20th year. Based on a survey of tenants in OGS-operated buildings, a review of vendor contracts and other agreements, and a visit to the recycling center operated by OGS at the Empire State Plaza, we determined that the "3R's" Program is in general compliance with the Act and EOs. We did note, however, that some State employees are not fully informed of the "3R's" Program. OGS needs to provide employees at OGS-owned and -operated buildings with information and training on its recycling program.

OGS prepares and submits an annual report under EO 142 and will continue submitting the required report under EO 4. However, because OGS must obtain and include information about the recycling efforts of other State agencies in its report, the report is delayed. At the time of our audit, OGS was working on the reports for 2006-07 and 2007-08, which it expected to issue by December

2008. These reports were to be submitted by August 1, 2007 and August 1, 2008, respectively. OGS needs to improve the timeliness of its annual report so the progress of the State as a whole can be monitored more effectively.

OGS is required to assist other State agencies because of its unique role in providing support services to those agencies. We found that OGS has provided recycling program assistance to State agencies located in buildings that it owns and operates, as well as those located in leased space.

Our audit report contains three recommendations directed toward improving OGS' compliance with the State's recycling program. OGS officials generally concurred with our recommendations.

This report, dated February 27, 2009, is available on our website at: <http://www.osc.state.ny.us>.

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BACKGROUND

New York State has a long history of encouraging the reduction and recycling of solid waste materials. Two decades ago, the State enacted the Solid Waste Management Act of 1988 (L 1988, ch 70) (Act), which laid out the priorities of the State's solid waste management policy:

- Reducing the amount of waste generated;
- Maximizing the amount of waste that is reused or recycled;

- Recovering as much energy as possible from what cannot be reused or recycled; and
- Disposing of the remaining solid waste appropriately.

The Act required most State agencies and public authorities to separate their solid waste at the point where it is discarded (source separation) by putting recyclable items like paper, metal, glass, and plastic into one container, and other non-recyclable items such as food and soiled items into another container. In addition, municipalities throughout the State were required to pass their own local ordinances or legislation requiring source separation of solid waste, whether it is left out for collection or delivered to a solid waste facility.

In January 1991, the Governor issued Executive Order 142 (NYCRR 4.142) (EO 142) on *Establishing New Waste Reduction and Recycling Initiatives for State Agencies*, thereby reaffirming the State's commitment to reduce and recycle waste. Under EO 142, State agencies were required to source separate paper and other products from their waste stream. Source separation programs were to be enhanced through a combination of employee education and the installation of equipment. EO 142 also required State agencies to submit an annual report in August of each year detailing their waste reduction activities and any recommendations for additional measures that needed to be taken. EO 142 also directed OGS and the Departments of Environmental Conservation (DEC), Transportation, and Economic Development to provide State agencies with technical assistance in developing and implementing their source separation programs.

In April 2008, the Governor issued Executive Order 4 (9 NYCRR 7.4) (EO 4) on *Establishing a State Green Procurement and Agency Sustainability Program*. EO 4 created the Interagency Committee on Sustainability and Green Procurement (Committee), comprised of the heads of 12 State agencies and public authorities. EO 4 requires each State agency and public authority to designate a Sustainability and Green Procurement Coordinator and develop a comprehensive Sustainability and Environmental Stewardship Program (Program). EO 4 builds upon the requirements of EO 142 (which it superseded), in that each agency's Program must provide for source separation of its waste to maximize the amount of paper, metal, glass, and plastic that is recycled. Technical assistance for agencies continues to be available from OGS and DEC, as well as from the Environmental Facilities Corporation and the New York State Energy Research and Development Authority. Beginning March 1, 2009, State agencies and public authorities are required to submit an annual report to the Committee that will, in turn, provide a summary report to the Governor.

OGS provides a wide array of support services to State agencies, local governments, and nonprofit agencies. These services include management and leasing of real property, designing and building facilities, and contracting for goods and services. OGS is headed by a Commissioner, who is appointed by the Governor, and is organized by business function. For fiscal year 2008-09, OGS - through its Real Property and Management Development unit - owned and operated 130 buildings throughout the State with a total of 17 million square feet. In addition, State agencies leased another 590 locations for which OGS had helped make the arrangements. Those tenant agencies are responsible for ensuring that the landlord

complies with the terms of the lease, including compliance with all applicable laws and EOs.

The Real Property and Management Development unit of OGS operates the “3R’s” Program to minimize the amount of solid waste generated in the buildings OGS owns and operates. Through this program, OGS encourages State agencies to reduce, reuse, and recycle as much as possible. During the 2006-07 fiscal year, OGS reported that 5,795 tons of material were recycled, generating nearly \$174,000 in revenues and avoiding \$405,000 in landfill fees charged for the unloading or dumping of solid wastes, as well as saving 17,385 cubic yards of landfill space.

AUDIT FINDINGS AND RECOMMENDATIONS

Recycling Program

OGS is responsible for establishing a recycling program, as outlined in the Act and EOs 4 and 142, not only for its own employees, but also for employees of other State agencies that occupy space in a State-owned office building. We found OGS’ recycling program is in general compliance with the Act and EOs. OGS has designated its Sustainability and Green Procurement Coordinator and is waiting for the final guidance from the Committee before developing a formal written Program, but has the components of the Program in place.

To meet its recycling program responsibility, OGS developed the “3R’s” Program, which is currently in its 20th year. This program requires employees of State agencies in OGS-owned and -operated buildings throughout the State to recycle a variety of materials, including paper, cardboard, plastic, glass, and metal. OGS also recycles tires, wet-cell

batteries, wood, scrap and precious metals, electronic equipment, and construction debris.

OGS reports on the recycling efforts at 39 State office buildings in three regions: 26 in Albany at the Empire State Plaza and Harriman State Campus; 7 upstate; and 6 downstate. In total, OGS operates buildings in 13 different localities, where it must comply not only with State laws, but also with municipal (city and county) laws in effect in those localities. For each location, we identified the items a commercial establishment is required to recycle and then compared those items with the items recycled through the “3R’s” Program. We found that OGS is in compliance with nearly all the local laws in effect wherever it operates buildings. The only exception was dry-cell batteries, which are currently not part of the “3R’s” Program. However, OGS has recently completed a pilot recycling program for dry-cell batteries and plans to implement it Statewide in the near future. By having an extensive list of items recycled under the “3R’s” Program, OGS ensures that it complies with both State and local laws regarding recycling.

The “3R’s” Program operates the same way in all three regions: employees working at a State office building dispose of each category of material separately and then a vendor carts that source-separated material away. To the extent practicable, OGS arranges for a different vendor for each different category of material. The State office buildings at the Empire State Plaza and Harriman State Campus (which generate about 90 percent of the recyclable materials reported by OGS) are located so close to each other that OGS can pool the recyclable materials generated by these buildings. The volume of this pooled material is so large that OGS can sell it to the vendors instead of paying them to cart it away. The State office buildings in the other

two regions are generally more spread out, with only a single building in a city. As a result, it is more likely that OGS will have to pay a vendor to cart away the recyclable waste from those locations.

Based on a survey of tenants in OGS-operated buildings, a review of vendor contracts and other agreements, and a visit to the recycling center operated by OGS at the Empire State Plaza, we have concluded that this program is working as intended. We did note, however, that some State employees are not aware that it covers more than just paper. Under both EO 4 and EO 142, OGS has a responsibility to educate staff on recycling efforts and expectations. The quarterly newsletter issued by OGS, *Delivering the Green*, may be one avenue by which employees can be made more aware of the variety of materials covered by the “3R’s” Program. In addition, some tenants reported to us that an insufficient number of bins have been provided for recyclables other than paper. As a result, items such as plastic bottles are being discarded with the solid waste stream instead of being removed for recycling.

Recommendations

1. Provide employees at OGS-owned and -operated buildings with information and training on the “3R’s” Program on a regular basis.
2. Provide bins for recyclable items other than paper, where needed.

Reporting

EO 142 required OGS to submit annual reports to DEC by August 1st of each year. These reports were to contain a description of OGS’ recycling efforts, including a description of the activities it has undertaken, the quantities of solid waste recycled,

incentives and disincentives to waste recycling, and recommendations for additional measures required. EO 4 requires OGS to begin reporting its recycling efforts again by March 1, 2009. Accurate and timely data collection and reporting can help ensure the success of waste prevention and recycling efforts, and can also identify areas that need improvement at the same time it fulfills annual reporting obligations.

As of October 2008, the most current report submitted by OGS covered the 2005-06 fiscal year. The report is available on the OGS website, and covers OGS’ efforts, as well as those undertaken by other State agencies that participate in the “3R’s” Program. It describes the amounts of recycled waste by type, and lists specific actions undertaken to date in compliance with EO 142, as well as goals for the following year. At the time of our audit, OGS officials were working on the reports for 2006-07 and 2007-08, which were to be submitted by August 1, 2007 and August 1, 2008, respectively. They expected to issue those reports by December 2008.

OGS officials stated that their annual report is routinely delayed, because it has to include information about efforts by other State agencies that participate in the “3R’s” Program, along with data from the Department of Education regarding waste paper disposed of under the State Archives and Records Act.

The annual report serves two purposes: to allow each covered agency to demonstrate its compliance with the relevant Executive Orders and to assist DEC (for EO 142) and the Committee (for EO 4) in determining the progress made by the State as a whole. Without the report, OGS management cannot demonstrate its compliance with the two Executive Orders, and neither its progress nor

the progress of the State as a whole can be monitored.

OGS reported that it earned total revenues of \$173,918 in 2006-07 from the sale of recyclable materials generated at the Empire State Plaza and Harriman State Campus. Based on our review of the records maintained by OGS, the actual revenue received was \$165,149, which is \$8,769 less than reported, a difference of about 5 percent. According to OGS officials, the system used to track revenues from recyclable materials is cumbersome and does not always capture all revenues. As a result, the amounts reported require manual adjustments so that the annual report is accurate. OGS officials are instituting a new system that they believe will result in more accurate reporting.

Recommendation

3. Develop a methodology for improving the timeliness and accuracy of the annual report, and communicate that methodology to State agencies.

Assistance Provided to Other State Agencies

One of OGS' core missions is to help State agencies function optimally. It does this by providing support services, such as managing State-owned buildings and assisting with lease agreements. As a result, both EO 142 and EO 4 direct OGS to provide assistance to State agencies in developing and implementing recycling programs. We found that OGS has worked with and provided such assistance to State agencies located in buildings that it owns and operates, as well as those located in space leased from private companies.

State agencies located in OGS-owned and -operated buildings participate in the "3R's" Program, and their efforts are included in the OGS annual report. OGS has included information about the "3R's" Program in a manual given to all building facility managers, and has also provided information directly to the employees in the form of regular tenant bulletins and a desk reference card that describes how to dispose of various items properly. In addition, the OGS website offers information about both the "3R's" Program and EO 4, including meeting minutes and other reports of Committee activities. OGS also conducts inspections of its facilities, to ensure that the State agencies in those locations are complying with the program.

State agencies located in leased locations do not participate in the "3R's" Program. However, OGS has updated the standard State lease agreement to make specific reference both to EO 4 and to source separation of waste generated within the leased location. This boilerplate will be used for all new leases entered into by State agencies. Existing lease agreements have not been revised, though they do include language requiring compliance with all applicable State laws. Once a lease agreement is signed, it is the responsibility of the State agency who is the tenant to ensure compliance with EO 4, as well as any applicable local laws. OGS is not a signatory of the lease agreement and is not responsible for monitoring landlord compliance with the lease terms. However, OGS does conduct waste audits at these locations, to quantify the amount of recycled materials and identify areas of improvement. In addition, the information on the OGS website about the "3R's" Program and EO 4 is available to all State agencies.

AUDIT SCOPE AND METHODOLOGY

We audited the OGS recycling program to determine whether it is in compliance with applicable State laws and Executive Orders, as well as to determine whether OGS provided recycling-related assistance to State agencies, from April 1, 2005 through October 22, 2008. To accomplish our objectives, we reviewed the Act, EO 142, and EO 4; met with OGS officials to gain an understanding of the “3R’s” Program and other recycling efforts; visited the recycling center that OGS operates at the Empire State Plaza; reviewed annual reports and related supporting documentation; and surveyed tenants at State office buildings owned and operated by OGS.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State’s accounting system; preparing the State’s financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority

voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

AUTHORITY

The audit was performed 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.

REPORTING REQUIREMENTS

A draft copy of this report was provided to OGS officials for their review and comment. Their comments were considered in preparing this report, and are included as Appendix A.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Office of General Services shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

CONTRIBUTORS TO THE REPORT

Major contributors to this report were Frank Houston, John Buyce, Bob Mainello, Jennifer Paperman, Sally Perry, and Jill McGraw.

APPENDIX A - AUDITEE RESPONSE



DAVID A. PATERSON
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STATE OF NEW YORK
EXECUTIVE DEPARTMENT
OFFICE OF GENERAL SERVICES
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THE GOVERNOR NELSON A. ROCKEFELLER EMPIRE STATE PLAZA
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JOHN C. EGAN
COMMISSIONER

January 30, 2009

Mr. Frank J. Houston
Audit Director
Office of the State Comptroller
Division of State Government Accountability
123 William Street - 21st Floor
New York, NY 10038

Dear Mr. Houston:

I am writing in response to your draft audit of the Office of General Services' (OGS) Recycling Program, Report number 2008-S-134. OGS is pleased that the audit found the agency in compliance with the Solid Waste Management Act of 1988. OGS has a longstanding commitment to recycling and sustainability in state operations. OGS established its "3Rs" Program over 20 years ago. In cooperation with employees from our tenant agencies, OGS now recycles nearly 60% of its total solid waste. Your audit found that these efforts generated \$165,149 in fiscal year 2006-07. Additionally, by diverting 5794 tons of recyclable materials from the waste stream, OGS avoided \$405,639 in tipping fees.

The audit identified three areas in which OGS could further improve its recycling program. The first involved improving the awareness and knowledge of tenant agency staff about the recycling programs. OGS has devoted a section of its website to Waste and Recycling Management. The information on the site is user-friendly and geared toward the average agency employee occupant. It provides frequently-asked questions and answers, and contact information for 3Rs staff in the event further information is required. In addition to the website, OGS periodically issues tenant bulletins providing detailed recycling information. For example, in December 2008, OGS issued a bulletin to publicize its new battery recycling program. The bulletins are e-mailed to agency contacts in our buildings with instructions to forward to all staff, and copies are also posted in the elevator bays. Additionally, OGS publishes and distributes desktop reference cards to remind state employees of the many commodities that can be reused and recycled, rather than disposed of in the trash. The reference cards and information bulletins are also posted on the OGS website.



OGS annually distributes a tenant questionnaire to all employees in its buildings. One question surveys tenants about recycling. The most recent responses show that 80% say recycling is important to them, and 83% report that they are satisfied with OGS' recycling program. There is also space to fill in comments, which management reads and distributes as additional action items to the appropriate staff. OGS will continue to work on outreach and training efforts to improve the effectiveness of its recycling program.

The report also recommended that placing recycling bins for products other than paper in an increased number of locations in buildings might improve awareness of our recycling programs and lead to increased participation. OGS agrees with this recommendation. The agency placed additional recycling containers in high traffic areas in our buildings and surrounding parks and outdoors during the summer of 2008. This gives people more convenient opportunities to recycle at work or while visiting OGS facilities. Every floor in OGS buildings continues to have receptacles dedicated to recycling an array of commodities in addition to the paper receptacles located at employee workstations and in central copy and printing areas. OGS also conducts building inspections and detailed waste audits focused on the effectiveness of recycling efforts. In these audits, 3Rs staff examines a building's garbage contents to determine what recyclable materials are being thrown away as a means to identify ways to improve our recycling programs. OGS will continue to assess whether and where additional recycling bins are needed, and will work with tenants to ensure they are utilized effectively.

The report notes that OGS collects information about agency waste, recycling and recycled product purchasing from other agencies and produces an annual report as required by the law but that we were behind schedule in producing the reports largely because we agencies did not provide the necessary data in a timely manner. OGS has completed the report for 2006-07 and are close to completing the report for 2007-08. The auditors also observed that there was a difference between the revenue figures reported from the sale of recycled materials and the actual revenues received. OGS is now using a module in its computerized facility maintenance system to record recycling revenue. This should eliminate the need for manual adjustment to revenue reporting and make reporting more accurate.

The audit found that OGS provided state agencies in leased space or their own facilities with the support necessary for them to comply with the recycling requirements of the State. OGS leases require recycling and the agency reviews the waste processing at leased locations to ensure that recycling objectives are adhered to.

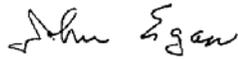
Mr. Frank Houston

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January 30, 2009

OGS is pleased that the audit recognized the efforts of its staff in implementing a successful recycling program. OGS welcomes the auditors' recommendations and the opportunity to refine its processes and further improve its services. I would like to thank the auditors for their efforts and for working with OGS to help ensure a more sustainable government.

Sincerely,



John C. Egan

cc: Robert Curtin
Martin Gilroy
William Hill