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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

**NEW YORK STATE
DIVISION OF PAROLE**

RECYCLING PROGRAM

Report 2008-S-136

AUDIT OBJECTIVE

Our objective was to determine whether the Division of Parole (Division) operates a recycling program that is in compliance with applicable State laws, and Executive Orders.

AUDIT RESULTS - SUMMARY

The Division is responsible for establishing a recycling program for its offices as outlined in the Solid Waste Management Act of 1988 (Act) and Executive Orders (EO) 4 and 142. We found the Division does not have a recycling program in compliance with applicable governance. Division records show that 10 of 26 leased offices had recycling programs in effect in July 2008. The extent of recycling practices at the Division's leased offices is based on whether or not the landlord instituted a recycling program. In September 2008, we observed the Division's Central Office in Albany and contacted eight other Division leased offices including all six offices with more than 100 employees each. We found that four offices complied with recycling requirements, and three offices did not recycle all waste materials as required. The remaining two offices told us the waste hauler hired by the landlord recycles waste materials after they are collected. Also, Division officials informed us there has been no formal training provided to its employees on recycling at its offices.

Under EO 4 and EO 142 the Division is required to prepare and submit annual reports on its recycling efforts. These reports should contain a comprehensive collection of data reflecting source reduction, recycling, and procurement initiatives, including information on the Division's current recycling efforts and the total amount of waste recycled. We found the Division has not submitted an annual report since fiscal year 1995-96.

Additionally, the Division does not have a process in place to collect recycling activity data from each office.

Our audit report contains five recommendations directed toward improving the Division's compliance with the State's recycling program. Division officials generally concurred with our recommendations and indicated the steps they have taken and will be taking to implement them.

This report, dated February 12, 2009, is available on our website at <http://www.osc.state.ny.us>. Add or update your mailing list address by contacting us at: (518) 474-3271 or Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

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

In January 1991, the Governor issued Executive Order 142 (9 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. (State public authorities were "urged" to undertake programs consistent with the Order.) Source separation programs were to be enhanced through a combination of employee education and installation of equipment. EO 142 also required State agencies to submit an annual report to the Office of General Services (OGS) in August of each year detailing their waste reduction and recycling 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 (DOT), and Economic Development (DED) 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 the Environmental Facilities Corporation (EFC) and the New York State Energy Research and Development Authority (NYSERDA). 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.

The Division has approximately 2,200 employees. The Division has offices in four State office buildings operated by the Office of General Services, and 63 correctional facilities operated by the Department of Correctional Services. Host agencies such as the Office of General Services and the Department of Correctional Services are responsible for implementing recycling programs and reporting on recycling activities in their buildings. The Division leases space in 26 privately owned buildings. The owners of the leased buildings are responsible for recycling waste materials generated in their buildings. Twelve of the Division's leases are for less than 50 percent of the building, and three leases are for less than 20 percent of the building.

AUDIT FINDINGS AND RECOMMENDATIONS

Recycling Program

The Division is responsible for establishing a recycling program as outlined in the Act and EOs 4 and 142, for its 26 leased offices throughout the State. Division officials told us they do not have a recycling program as outlined in the Solid Waste Management Act of 1988 or the EOs. Rather, the extent of recycling practices at leased offices is based on whether or not the landlord instituted a program. Division records show that 10 of the 26 leased offices recycled as of July 2008.

In September 2008, we observed the Division's Central Office in Albany, and called eight other leased offices. We called or visited all seven offices with more than 100 employees. We found that three offices have a recycling process that complies with applicable laws and the EOs. Of the remaining five offices, one office does not recycle any wastes, one office only recycles cardboard, one office only recycles refundable beverage containers and three offices told us their waste products are separated and recycled after collection by the waste hauler hired by the landlord. We visited the waste hauler for one of the three offices and determined that the hauler has facilities to separate and recycle materials after collection. Therefore, we conclude the office complies with recycling requirements.

The Division's lease agreements contain a clause stating that the Division is to source separate wastepaper and other rubbish generated within its buildings, and the landlord is to remove all source separated wastes and dispose of them for recycling and materials recovery according to all laws, rules, orders, ordinances, and regulations issued or in force in the localities they are

located. Based on this clause, the Division should be source separating waste materials at each of its leased office locations, except when the waste hauler separates and recycles wastes after collection. Therefore, the Division should work with the landlords at the locations that do not currently recycle to implement a program that complies with applicable requirements.

Under both EO 4 and 142, the Division has a responsibility to educate staff on recycling efforts and expectations. Division officials told us there has been no formal employee training on recycling because the Division has not had a centrally coordinated recycling program. In addition, the Division has not requested or received technical assistance from any of the designated agencies. However, the Division has posted signs on the bulletin boards in the Central Office encouraging employees to recycle refundable beverage containers. The Division has also included a green savings initiative in its financial plan for 2009-10. The Division's goal is to save \$100,000 through green initiatives such as double sided printing to save paper. The Division designated two employees as its Sustainability and Green Procurement Coordinators by September 1, 2008, as required by EO 4. However, the Division has not received direction from the Interagency Committee on Sustainability and Green Procurement on how to develop and implement training and outreach programs in accordance with applicable State laws and Executive Orders.

While we recognize the Division's recycling efforts thus far, a more comprehensive recycling program is needed to fully comply with the governance contained in applicable State laws and Executive Orders.

Recommendations

1. Establish a recycling program in compliance with applicable State laws and Executive Orders and work with landlords of leased offices to implement the program.
2. Provide employees with information and training on the recycling program and its requirements.
3. Monitor recycling programs for assurance they are being implemented effectively.

Reporting

EO 142 required State agencies to submit annual reports to OGS, with copies to DEC and DED, by August 1st of each year. These reports were to contain a comprehensive collection of data, reflecting the source reduction, recycling, and procurement initiatives taken by the central and other offices. We found the Division has not submitted a report since 1995-96. Current Division managers stated they were unaware the annual report needed to be completed and submitted.

EO 4 requires the Division to begin reporting on its recycling efforts by March 1, 2009. In order to complete the annual report, the Division will need to implement a process to collect recycling activity data from each of its leased offices. The Division can use the data collected to monitor the success of waste prevention and recycling efforts as well as identify areas for improvement, while fulfilling annual reporting obligations.

Recommendations

4. Implement a process to collect recycling activity data needed for annual reports from each office.

5. Ensure that annual reports are prepared and submitted timely and are based on complete and accurate information.

AUDIT SCOPE AND METHODOLOGY

We audited the Division's recycling program from April 1, 2005 through October 31, 2008 to determine whether it is in compliance with applicable State laws and local laws, as well as Executive Orders. To accomplish our objectives, we reviewed the Act, EO 142, EO 4, and laws for the cities of Albany, Rochester, and New York; met with Division officials to confirm and enhance our understanding of the Division's recycling programs; and observed recycling efforts at the Division's Central Office in Albany. We also called Division officials at eight judgmentally selected offices to determine the extent of recycling efforts at the offices. Our selection included three offices in Albany, four in New York City and one in Rochester. We called or visited all seven offices with more than 100 employees. We reviewed the Division's most recent annual report. Our objective excluded requirements of the EOs to procure commodities made from recycled materials.

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 including: 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 who 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 management 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

We provided a draft copy of this report to Division officials for their review and formal comment. Their comments have been considered in the preparation of this report and are included as Appendix A. Division officials generally concurred with our report's recommendations, and officials indicated the steps that they have taken and will be taking to implement them.

Within 90 days after the final release of this report, as required by Section 170 of the Executive Law, the Chairman of the Board of Parole 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 include Brian Mason, Steve Goss, Theresa Podagrosi and Emily Wood.

APPENDIX A - AUDITEE RESPONSE



STATE OF NEW YORK
EXECUTIVE DEPARTMENT
DIVISION OF PAROLE
97 CENTRAL AVENUE
ALBANY, NY 12206

DAVID A. PATERSON
GOVERNOR

January 20, 2009

Mr. Brian E. Mason
Audit Manager
Office of the State Comptroller
Division of State Government Accountability
110 State Street – 11th Floor
Albany, N.Y. 12236

Dear Mr. Mason:

Thank you for the opportunity to review and respond to the findings and recommendations detailed in your draft audit report (2008-S-136) entitled "Recycling Program". Specific comments concerning the audit recommendations are included below.

1. Establish a recycling program in compliance with applicable State laws and Executive Orders and work with landlords of leased offices to implement the program.

The Division concurs with this recommendation. The Division will continue its efforts to expand its recycling program in compliance with all applicable State laws and Executive Orders. The Division is already working with the landlords of its leased offices to establish recycling programs that are in accordance with all local laws, rules, orders, ordinances and regulations.

2. Provide Employees with information and training on the recycling program and its requirements.

Consistent with the "Training and Staff" requirements of Executive Order # 4 (EO 4), the Division has designated two employees to serve as Sustainability and Green Procurement Coordinators. Both Coordinators are registered to attend the Interagency Committee's "EO 4" training conference that is scheduled for later this month. Information obtained at this conference will be disseminated to all Parole staff state-wide. It is the responsibility of the Coordinators to continually inform and train Parole staff on the requirements of our recycling program.

3. Monitor recycling programs for assurance they are being implemented effectively.

The Division concurs with this recommendation. The Division is considering the use of the Internal Audit Unit to ensure that recycling programs are implemented effectively.

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4. Implement a process to collect recycling activity data needed for annual reports from each office.

The Division has reviewed the EO 4 / EO 142 reporting guidance promulgated by the New York State Department of Environmental Conservation on December 15, 2008, and is making the necessary modifications to collect the recycling activity data that is required for the annual report.

5. Ensure that annual reports are prepared and submitted timely and are based on complete and accurate information.

The Division is committed to submitting the required annual report by the established due date.

In closing, the Division remains committed to expanding its recycling program in compliance with all applicable State laws and Executive Orders. In addition, we greatly appreciate the efforts of the Office of the State Comptroller's auditors in assisting the Division to identify ways of improving our recycling program.

Sincerely,



Felix Rosa
Executive Director

c: J. Nesich
M. McLaughlin
M. Ostermann
B. Farley
A. Steinhilber

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