



Metropolitan Transportation Authority Long Island Rail Road

Recycling Program

Report 2009-S-91



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of State Government Accountability

August 26, 2010

Mr. Jay Walder
Chairman and Chief Executive Officer
Metropolitan Transportation Authority
347 Madison Avenue
New York, NY 10017

Dear Chairman Walder:

The Office of the State Comptroller is committed to helping State agencies, public authorities and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit of *MTA-Long Island Rail Road, Recycling Program*. This audit was performed pursuant to the State Comptroller's authority under Article X, Section 5 of the State Constitution and Section 2803 of the Public Authorities Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller
Division of State Government Accountability*



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

Audit Objective

The objective of this audit was to determine whether the Metropolitan Transportation Authority (MTA) Long Island Rail Road (LIRR) operates a recycling program that is in compliance with applicable State and local laws and Executive Orders.

Audit Results - Summary

The MTA is responsible for establishing a recycling program as outlined in section 2878-b of the Public Authorities Law as amended by the Solid Waste Management Act of 1988 (Act), and Executive Order 4 (EO 4). Additionally, public authorities were encouraged to undertake waste reduction and recycling efforts by Executive Order 142 (EO 142). We found MTA's LIRR does not have a recycling program in full compliance with applicable requirements.

The LIRR does not source separate recyclables at its stations, and recyclable items left on trains are placed in the trash by cleaning personnel. Recycling at about ten percent of its stations is done by the municipalities. Four vendors that serve LIRR's facilities only sort and recycle materials post collection. At one building leased for LIRR Headquarters, paper and cardboard are recycled but all other materials are disposed of by a private carter.

At Penn Station (LIRR's main terminal), newspaper and cardboard are source separated and the vendor separates and recycles glass, plastic, cans and paper post collection. At its repair facilities, the LIRR also recycles other materials including metal, waste oil, industrial batteries and florescent bulbs. Scrap metal from LIRR locations is collected centrally at the Hillside facility and weighed before removal by a vendor. The LIRR receives payment for scrap metal, but not for the other items. The LIRR also has a contract to recycle electronic waste such as computers.

The MTA has assigned a Coordinator and two assistants to serve as the Sustainability and Green Procurement Coordinator (Coordinator) in compliance with EO 4. Additionally, in September 2007 the MTA established a Blue Ribbon Commission on Sustainability and the MTA (Commission). The final report was issued in February 2009. As the MTA formalizes its recycling program it should ensure that the program and training materials include the requirements of applicable laws, the Act and EO 4. In the meantime, the LIRR should take steps to improve its recycling efforts, and provide its employees with information on revised recycling procedures.

EO 4 requires the MTA to begin reporting its recycling efforts by August 31, 2009. MTA provided a copy of its EO 4 report subsequent to the end of our audit fieldwork.

Our audit report contains four recommendations directed toward improving the MTA-LIRR's recycling program. MTA officials replied to our draft report that they have taken action to implement the recommendations.

This report, dated August 26, 2010, 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 Accountability

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Introduction

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 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, plastics, 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 source separation of solid waste, whether it is left out for collection or delivered to a solid waste management facility. Consequently, public benefit corporations located within these municipalities are required to comply with their recycling laws.

In January 1991, the Governor issued Executive Order 142 (EO 142) (9 NYCRR 4.142) 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. Public authorities were “urged” to undertake programs consistent with EO 142.

In April 2008, the Governor issued Executive Order 4 (EO 4) (9 NYCRR 7.4) 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 to the extent practicable provide for source separation of its waste to maximize the amount of paper,

metal, glass and plastic that is recycled. Technical assistance for agencies is available from the New York State Office of General Services, the New York State Department of Environmental Conservation, the Environmental Facilities Corporation and the New York State Energy Research and Development Authority. Beginning August 31, 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 MTA is a public-benefit corporation chartered by the New York State Legislature in 1965. The MTA is North America's largest mass transit network, serving 14.7 million people across a 5,000 square mile region. The MTA provides over 8.5 million passenger trips daily. The MTA is governed by a 17-member Board nominated by the Governor of New York and confirmed by the New York State Senate. The MTA consists of seven subsidiary operating agencies including Capital Construction Company, Bridges and Tunnels, Metro-North Railroad, New York City Transit, MTA Bus, Long Island Bus, and Long Island Rail Road.

In September 2007 the MTA established a Blue Ribbon Commission on Sustainability and the MTA (Commission). The Commission was charged with developing a master plan for the MTA's sustainability goals, initiatives and practices. The Commission's mission was to expand the MTA's contribution to regional and national sustainability, while reducing and managing MTA's energy consumption, carbon emissions, waste, water use, and other elements of the MTA's ecological footprint. The Commission established sustainability work groups, including the Materials Flow Group which covered procurement, waste management and recycling efforts. In February 2009, the Commission issued its final report titled Greening Mass Transit & Metro Regions: Final Report of the Blue Ribbon Commission on Sustainability and the MTA. The report contained nearly 100 recommendations outlining tools for reducing and managing its ecological footprint, including 14 in the area of Materials Flow.

The LIRR is the busiest commuter railroad in North America, providing service to about 82 million customers in Nassau, Suffolk, Queens, Brooklyn and Manhattan each year. The LIRR system serves 124 stations on 11 different branches, from the eastern tip of Long Island to Penn Station in Manhattan. The LIRR is headquartered in Jamaica, Queens near its Jamaica Station hub. The LIRR had an operating budget of about \$1.5 billion in 2008 and about 6,470 employees.

Audit Scope and Methodology

We audited the LIRR recycling program from April 1, 2006 through December 9, 2008 to determine whether it is in compliance with applicable State laws and local laws, as well as Executive Orders. To accomplish our objective, we reviewed the Act, EO 142, EO 4, section 2878-b of the Public

Authorities Law, and local laws for New York City, Nassau and Suffolk counties, and the towns of Oyster Bay, North Hempstead, Hempstead and Long Beach, and the City of Glen Cove. We met with LIRR officials and reviewed supporting documentation to obtain an understanding of the LIRR recycling program. We visited one LIRR Headquarters administrative building at 90-27 Sutphin Boulevard which is leased, two major stations (Jamaica Station and Penn Station) and five other stations (Brentwood, Port Jefferson, Ronkonkoma, Stony Brook, and Wyandanch), three rail yards (Babylon, Ronkonkoma, and West Side), and one maintenance facility (Hillside) to observe recycling efforts. We selected the locations we visited to achieve a cross section of facility types. We also visited one waste removal vendor under contract to determine the extent of their post collection recycling. In addition, we contacted three other waste removal vendors.

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 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 X, Section 5, of the State Constitution and Section 2803 of the Public Authorities Law.

Reporting Requirements

A draft copy of this report was provided to MTA-LIRR officials for their review and comment. Their comments were considered in preparation of this final report and are included at the end of this report.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Chairman of the Metropolitan Transportation Authority 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 if not implemented, the reasons why.

**Contributors to
the Report**

Major contributors to this report include Carmen Maldonado, Robert Mehrhoff, Anthony Carbonelli, Joseph Smith, Lillian Fernandes, Slamon Sarwari, and Anna Iglanova.

Audit Findings and Recommendations

Recycling Program As a constituent agency of the MTA, LIRR is responsible for establishing a recycling program as outlined in EO 4, section 2878-b of the Public Authorities Law as amended by the Act, and local laws. We found that the LIRR partially complies with the recycling requirements, and needs to make further progress to reach full compliance. The LIRR does not have a formal program to ensure its recyclable materials are either source separated or recycled post collection by its refuse vendors.

We visited five stations on the Ronkonkama and Port Jefferson Branches, Jamaica Station, and Penn Station. We noted a lack of recycling bins to source separate common recyclables from commuters such as newspaper, bottles, and plastic containers at the six of the seven stations visited. At Penn Station, the LIRR source separates newspaper and cardboard, and other recyclable items are recycled post collection by the refuse vendor. We visited the vendor and observed employees recycling glass, plastic, cans and paper. At 12 other stations, the respective municipality recycles station waste.

We also visited three rail yards where the trains are cleaned, including one yard which also operates repair facilities. We found that recyclable items left on the trains are discarded. LIRR officials told us that their employees who clean the trains are not required to source separate recyclables according to their union contract. The LIRR contracts with four vendors to collect waste from its stations, yards and other locations. We visited one vendor and called the other three to determine if they recycle materials post collection. Two vendors that cover 67 locations (stations, yards, and buildings) told us they separate recyclables post collection. The other two vendors collect from 72 locations (stations and yards) told us that some collections are recycled and some are disposed of depending on the route, proximity to a recycling facility, and type of customers on the route. For example, routes with mostly residential waste that contaminates recyclables will not be recycled. We reviewed LIRR's four refuse removal contracts and found they do not require the vendors to recycle LIRR waste. Therefore, LIRR officials will need to address whether it is best to implement source separation or post collection recycling by vendors.

We visited the repair facility at Hillside, and repair buildings at the West Side yard. At these facilities the LIRR recycles metal, waste oil, industrial batteries and florescent bulbs. The Hillside facility also recycles paper in office areas, and plastic and cans in its cafeteria area. Metal from other LIRR locations is collected at the Hillside facility, where it is weighed prior

to removal by a vendor. The LIRR receives payment for recycled metal, but not for other materials such as waste oil. The LIRR also has a contract to recycle electronic waste such as computers. We visited space leased for LIRR Headquarters and found bins to recycle only paper and cardboard. All other materials are disposed of by a private carter under contract with the building owner.

Under EO 4, by September 1, 2008, the MTA was required to assign an employee to serve as the Sustainability and Green Procurement Coordinator (Coordinator). The Coordinator is responsible for providing Program training to staff, vendors and contractors. The MTA has assigned a Coordinator and two assistants, as required. Additionally, an employee at the LIRR told us he is responsible for EO 4 compliance at the LIRR. During our audit fieldwork, the MTA Coordinators told us that they were waiting for the final report from the Blue Ribbon Commission before developing a formal recycling program, and appropriate training materials. Since then, the final report was issued in February 2009. Therefore, the Coordinators should develop a comprehensive recycling Program and provide training that includes the requirements of the Act, other applicable laws and EO 4.

We recognize the LIRR's recycling efforts thus far, and its participation in the MTA's Blue Ribbon Commission. However, until the MTA finalizes its new Program the LIRR should take interim steps to develop a more comprehensive recycling program to reach full compliance with applicable laws and Executive Orders, and provide its employees with information on the program.

At the closing conference, LIRR officials indicated that they had determined they would not provide bins for passengers to source separate recyclables at stations due to logistical and personnel issues, indicating that it was not cost effective. LIRR officials also showed us new recycling stations that were placed in most LIRR office and shop buildings to collect paper, metal, glass and batteries, as well as providing information on recycling opportunities to the staff. They reported collecting 640 pounds of batteries since Earth Day 2009 which were transported to the Hillside facility and picked up by LIRR's battery recycler. Officials also stated that as existing refuse contracts expire, new ones will include requirements for post collection recycling by the vendor.

Reporting

EO 4 requires the MTA and its constituent agencies begin reporting on their recycling efforts by August 31, 2009. At the time of our field work, the LIRR did not have a system or procedures in place to collect the recycling data necessary from its locations, and refuse vendors to prepare the required report. This information is necessary to monitor and inform employees and commuters about the level of success achieved in recycling, and areas

where their assistance is needed for further improvements. LIRR officials advised, that they now collect data from their refuse contractors. However because some refuse is commingled with other trash, that is not recycled, much of the data is estimated.

- Recommendations**
1. Consult with MTA sustainability coordinators and develop a recycling program for LIRR which complies with applicable State and local laws and Executive Orders at all locations. Communicate requirements of the program to vendors and landlords, and monitor implementation of the program.
 2. Communicate recycling requirements to LIRR employees and passengers and monitor compliance as necessary.
 3. Monitor new refuse vendor contracts to ensure they contain terms requiring vendors to recycle LIRR materials post collection and monitor vendor compliance.
 4. Review and monitor recycling activity data from each LIRR location, refuse vendors and landlords. Verify reported data, on a test basis, to ensure the accuracy of information used to prepare the annual reports.

Agency Comments

347 Madison Avenue
New York, NY 10017-3739
212 878-7000 Tel



Metropolitan Transportation Authority

State of New York

June 1, 2010

Ms. Carmen Maldonado
Audit Director
The Office of the State Comptroller
123 Williams Street – 21st Floor
New York, NY 10038

Re: Report #2009-S-91 – Long Island Rail Road Recycling Program

Dear Ms. Maldonado:

This is in reply to your letter requesting a response to the above-referenced draft audit report.

I have attached for your information the comments provided to the MTA Chairman and Chief Executive Officer by Ms. Helena Williams, President of Long Island Rail Road, which address this report.

Sincerely,

A handwritten signature in black ink, appearing to read "M. J. Fucilli".

Michael J. Fucilli
Auditor General

Attachment

The agencies of the MTA

MTA New York City Transit
MTA Long Island Rail Road

MTA Long Island Bus
MTA Metro-North Railroad

MTA Bridges and Tunnels
MTA Capital Construction

MTA Bus Company

Jamaica Station
Jamaica, NY 11435-4380
718 558-8252 Tel
718 657-9047 Fax

Helena E. Williams
President



May 27, 2010

Mr. Jay Walder
Chairman and Chief Executive Officer
Metropolitan Transportation Authority
347 Madison Avenue
New York, NY 10018

**RE: New York State Comptroller's Request for Response
Metropolitan Transportation Authority – Long Island Rail Road
Recycling Program - 2009-S-91**

Dear Mr. Walder:

As required by Section 170 of the Executive Law, detailed below are the updated actions that have been taken or will soon be taken to address the recommendations contained in the State Comptroller's Audit of the LIRR's Recycling Program. The audit contained a series of recommendations designed to aid the Long Island Rail Road in fully establishing a recycling program in compliance with applicable requirements that will minimize the impact on human health and the environment and further LIRR's efforts in becoming a greener and more sustainable railroad.

Recommendation No. 1

- Consult with MTA sustainability coordinators and develop a recycling program for LIRR, which complies with applicable State and local laws and Executive Orders at all locations. Communicate requirements of the program to vendors and landlords, and monitor implementation of the program.

LIRR Response to Recommendation No. 1

The MTA Director – Sustainability has been tasked with disseminating sustainability program information to the MTA Agencies. In addition, the LIRR's System Safety department is responsible for administration of the program and as such, is preparing a draft corporate policy that will formalize LIRR's existing efforts into a Materials Flow Program. The Program will establish standard responsibilities and procedures aimed at promoting the reduction, reuse and recycling of materials used throughout the LIRR's operations, projects and facilities. Senior LIRR Management is expected to approve and enact the Program, currently in draft status, in July 2010.

Status: On-Going.

MTA Long Island Rail Road is an agency of the Metropolitan Transportation Authority, State of New York
Jay H. Walder, Chairman and Chief Executive Officer

Mr. Jay Walder

May 27, 2010

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Recommendation No. 2

- Communicate recycling requirements to LIRR employees and passengers and monitor compliance as necessary.

LIRR Response to Recommendation No. 2

The LIRR currently has a Sustainability Webpage that provides recycling information to LIRR employees. LIRR also plans to expand its webpage to include the new Program (see Recommendation #1 above) when available; signage and postings; contract information and other useful links and information about recycling.

System Safety together with the Public Affairs Department will develop a community outreach program by the end of 2010.

Status: On-Going.

Recommendation No. 3

- Monitor new refuse vendor contracts to ensure they contain terms requiring vendors to recycle LIRR materials post collection and monitor vendor compliance.

LIRR Response to Recommendation No. 3

All existing material recycling and disposal contracts will be reviewed and if possible, modified to require vendors to conduct source and/or post-collection recycling. Additionally, System Safety will select a sample of 15% of the contracts to ensure vendor compliance with these requirements.

Additionally, in response to the audit finding that the LIRR does not receive payment for waste oil recycling, System Safety has been working with Procurement and Logistics to ensure that the LIRR gets paid for the market value of waste oil and batteries. These contracts are currently in the procurement process. Currently, the P&L Department is in the process of generating contract documents to establish a battery recycling and resale contract, if the market place supports this. This contract is anticipated in about 3 months.

A NYCT contract for the recycling and sale of Waste Oils, currently exists, with A.B. Environmental being the contract awardee. The LIRR will ride this NYCT contract, and a kickoff meeting with A.B. Environmental was held on May 20th. The Notice to Proceed is expected to be issued in three to four weeks.

Status: On-Going.

Mr. Jay Walder

May 27, 2010

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Recommendation No. 4

- Review and monitor recycling activity data from each LIRR location, refuse vendors and landlords.
- Verify reported data, on a test basis, to ensure accuracy of information used to prepare the annual reports.

LIRR Response to Recommendation No. 4

A written procedure for this will be included in the Materials Flow Program referenced in Recommendation #1 above. The System Safety Department will administer this program, and also coordinate the compliance effort.

The Program will require LIRR departments to provide their recycling data to System Safety on an annual basis. All recycling contractors and vendors will be required, via new contract language provided, to report their recycling data on a quarterly basis, with annual summaries, including a final contract termination report.

System Safety shall prepare and provide the annual reporting for E.O. No. 4 compliance and will audit, on an annual basis, a representative number (minimum of 15%) of all contracts and departments. The auditing and verification will begin with the year-end 2010 reporting.

Status: On-Going.

We believe the LIRR's action plan addresses the recommendations of the State Comptrollers Office. Please contact me should you require additional information.

Sincerely,



Helena E. Williams
President

cc: M. Young
N. Yellin
J. Calderone
S. McGowan
D. Mahon
P. Manske
J. Rosado
K. Malloy
P. Dutta
Pres. Log # 230497