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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

**BATTERY PARK CITY
AUTHORITY**

**COMPLIANCE WITH
EXECUTIVE ORDER 134 -
ENVIRONMENTAL
IMPACT OF CLEANING
FACILITIES**

Report 2008-S-13

AUDIT OBJECTIVE

Our objective was to determine whether the Battery Park City Authority (BPCA) is in compliance with Executive Order 134 (Order) requirements, including purchasing and using green cleaning products.

AUDIT RESULTS - SUMMARY

The Order was issued on January 5, 2005 to reduce the environmental impact of cleaning State facilities. It requires all State agencies and certain public authorities, including BPCA, to procure and use cleaning products that minimize the potential impacts to human health and the environment. The Order also requires BPCA to conduct an assessment of its cleaning practices and it provides six months from the date of the Order to transition to conforming products.

Although BPCA officials were unaware of the Order at the time our audit commenced, we determined that BPCA's practices substantially comply with the Order's requirements. Prior to the Order's issuance, BPCA had already adopted its own environmental initiatives, which include environmentally preferred cleaning practices. We found BPCA officials had already taken specific actions that are consistent with the requirements of the Order, such as:

- assigning an individual who is responsible for the overall implementation of environmentally friendly practices for all new buildings throughout BPCA; and
- encouraging the landlord for BPCA's leased office space to purchase and use environmentally preferred cleaning products.

BPCA officials explained that their environmental efforts include not only the organization's indoor facilities, but its outdoor spaces as well. We found that the Battery Park City Parks Conservancy (BPCPC), the not-for-profit organization which manages all of the parks and open spaces within the 92-acres known as Battery Park City, purchases and uses a number of environmentally preferred cleaning products in its daily operations. BPCPC also provides training to cleaning staff in the use of environmentally preferred products. As a result, BPCA and BPCPC are in a position to assist other agencies that choose to expand their environmentally sensitive cleaning programs beyond traditional indoor spaces.

Finally, we found that BPCA has prepared annual summary reports describing its environmental initiatives, including the use of environmentally preferred cleaning products. These reports, however, have not been made generally available to the public and do not include a detailed evaluation of the extent to which the cleaning products used meet specific standards, as required by the Order.

Our report includes four recommendations for improving BPCA's compliance with the Order. In response to our draft report, BPCA officials generally agreed with our recommendations and indicate that they will take action to implement them.

This report, dated September 30, 2008, is available on our website at:

<http://www.osc.state.ny.us>.

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Office of the State Comptroller

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BACKGROUND

Executive Order 134 (Order) was issued on January 5, 2005 to reduce the environmental impact of cleaning State facilities. The Order requires all State agencies, including certain public authorities, such as the Battery Park City Authority (BPCA), to procure and use cleaning products having properties that minimize the potential impacts to human health and the environment. The Order required each agency to conduct a formal assessment and issue a report of their programs to promote environmentally safe cleaning by January 4, 2006, and to retain and make this assessment report available to employees and the general public. Agencies are required to update their assessments biennially.

The Order also directed the Office of General Services (OGS) to guide agencies with selecting and procuring environmentally safe cleaning products. OGS has compiled a list of environmentally preferred cleaning products, most of which are certified by either Green Seal (through its GS-37 certification) or by Environmental Choice. Green Seal and Environmental Choice are recognized authorities in the field of environmentally safe cleaning products. The list of environmentally preferred cleaning products includes five categories: General Cleaning Products, Floor Finish Products, Floor Stripper Products, Hand Soaps, and Vacuums. OGS uses these five categories to classify those products that are used most frequently and in the largest areas.

BPCA was created in 1968 by the New York State Legislature as a public benefit corporation. BPCA's mission is to plan, create, coordinate and maintain a balanced community comprising commercial, residential, retail, and park space. BPCA owns and manages the land known as Battery

Park City, a 92-acre planned community on the lower west side of Manhattan. The neighborhood, which is the site of the World Financial Center along with numerous housing, commercial and retail buildings, is named for adjacent Battery Park.

BPCA grants long-term land leases for individual sites to developers. Buildings constructed as a result of this process are designed to conform to various documents created by the BPCA. These documents include the 1979 Master Plan (which governs all development in the project area), neighborhood and site Design Guidelines covering exterior aesthetics and other issues, and BPCA's Environmental Guidelines, which were released in 2000. The purpose of the Environmental Guidelines is to establish a process for the creation of environmentally responsible residential and commercial buildings that are appreciably ahead of current standards and practices for development. All development in Battery Park City that started after 2000 is subject to the Environmental Guidelines, which have since been updated three times in response to evolving technology, philosophy, and feasibility in environmentally preferred development.

BPCA's Master Plan specifies that 30 percent of the site must be held as open space. This open space has been developed into parks, gardens, plazas, playgrounds, and other open areas. These areas are independently operated units of the New York City park system, maintained by the Battery Park City Parks Conservancy (BPCPC). BPCPC is a private, nonprofit organization supported by BPCA, the residents of Battery Park City, and its commercial and residential developers, and was created by BPCA in 1988. BPCPC staff clean and maintain the open space and public restrooms in Battery Park City. BPCA leases the office space for its staff from a private

building manager. BPCA staff do not perform any cleaning activities.

AUDIT FINDINGS AND RECOMMENDATIONS

Compliance with the Order

The Order requires BPCA to:

- procure products and use practices that reduce or minimize the risks of harmful effects to employees, custodial workers, visitors, and other building occupants, as well as the environment;
- encourage contractors supplying goods and services to select and procure such products; and
- encourage lessors and building managers to select and procure such products.

The Order provided agencies six months from the date of issuance to transition to conforming products. This transition period was established to enable agencies to conform in a manner that avoided waste of existing inventories, accommodate the establishment of supply chains for new products, enable the training of personnel in appropriate work practices, and to allow for the phase out of products and practices that did not conform to the Order.

In addition, the Order requires BPCA to assign an individual who will be responsible to:

- assess current facility management practices and use of cleaning products;
- evaluate whether current products conform to the Order;

- identify and procure conforming cleaning products; and
- document the reasons for selecting products that do not conform to the Order and include these reasons in the report required by the Order.

BPCA officials told us that State oversight agencies had not formally advised them of the Order. Consequently, they were unaware of its requirements. They added that they currently have a system in place to monitor all Executive Orders issued by the Governor's Office. Nonetheless, we found that BPCA had already adopted its own environmental initiatives which include environmentally preferred practices that substantially comply with the Order.

We found BPCA officials have designated an individual as "Director of Sustainability," who is responsible for planning, implementation, and oversight of all sustainability initiatives. This same person is now responsible for BPCA's compliance with the Order.

In addition, although they were unaware of the Order's requirement to prepare a biennial self assessment report, officials did prepare a report in 2006 summarizing each of BPCA's environmental initiatives, and updated it in 2008, which is consistent with the requirements of the Order. The reports incorporate information on various initiatives, including those involving cleaning practices. However, they do not include an evaluation of the cleaning products used by BPCPC and BPCA's landlord; nor do they identify conforming cleaning products and the reasons for selecting products that may not conform to the Order.

We also found these reports were internal in nature and were not generally made available

to the public, although BPCA's website and its newsletter do contain significant information about environmental initiatives, including the use of environmentally preferred cleaning products. Even so, including this required information in the reports and making them publicly available would further inform BPCA employees, Battery Park residents, and the general public who visit park areas, about all of the specific efforts undertaken by BPCA towards implementing the use of environmentally preferred cleaning products.

For its outdoor spaces, BPCPC provides its cleaning and maintenance staff with initial training upon hiring, followed by ongoing training classes, which delineate the use of environmentally preferred cleaning products and practices. Seasonal employees also participate in the training program.

Regarding its leased office space, BPCA officials met with their landlord in 2007 to encourage the purchase and use of environmentally preferred products, which is consistent with the requirements of the Order. BPCA officials also made a presentation to the landlord to encourage the use of environmentally friendly substitutes for items such as paints, glues and carpets.

Finally, BPCA officials reach out to interested groups to educate them about environmentally friendly practices. For example, BPCA met with local construction trade unions and developers to discuss implementing environmentally friendly construction practices. BPCPC officials also showed us a slide show on green cleaning and parks maintenance that officials said was presented to the State and City Parks agencies, as well as the National Parks Service.

Procurement of Environmentally Preferred Products

The Order requires BPCA to procure and use specific cleaning products having properties that minimize the potential impacts to human health and the environment consistent with the maintenance of the effectiveness of these products for the protection of public health and safety. We obtained an understanding of BPCPC's procurement process and reviewed invoices for cleaning products purchased during calendar years 2005 through 2007. BPCPC reported spending \$29,140 on cleaning products during this period. BPCPC officials identified eight environmentally friendly products for use to clean open spaces and public restrooms, which they purchase directly (a heavy-duty all purpose cleaner, a hand soap, a stainless steel and appliance cleaner, a graffiti remover, a hard surface stain remover, a sidewalk and ground cleaner, a dish soap, and laundry detergent).

BPCPC officials determined that four of these were environmentally preferred cleaning products by checking the OGS, Environmental Protection Agency, Green Seal and Greenstar certified lists. They told us that they confirmed the status of the remaining four based on their review of the product label and content descriptions. They also told us that, although the price of environmentally preferred products is comparable to conventional products, it is actually cheaper to use environmentally preferred products because they are concentrated and, therefore, last longer.

We confirmed that three of the eight cleaning products BPCPC identified as environmentally friendly are conforming products included on either the OGS or Green Seal lists (the heavy-duty all purpose cleaner, hand soap and hard surface stain remover).

Use of Environmentally Preferred Products

We examined the products being used by BPCPC. Our observations were done both during regular business and evening hours. We reviewed the cleaning supplies in BPCPC storage areas and observed cleaning activities to verify that staff are using environmentally preferred cleaning products. The areas that we visited included the BPCPC headquarters and restrooms. Our observations confirmed that the headquarters and public restrooms are cleaned using the three environmentally preferred products that BPCPC officials indicated they purchase.

We also observed the cleaning of the aluminum walk-off mat that BPCPC maintains in one of the residential buildings. BPCPC officials explained that the walk-off mat saves cleaning time by collecting excess dirt and dust and preventing it from being tracked further. Due to the high volume of visitors, the walk-off mat is wet-mopped every night. Twice a month, the top layer is lifted and the bottom layer is mopped with an orange-based cleaner.

BPCPC officials told us that they test environmentally preferred products for use in Battery Park City. For example, BPCPC uses a soybean product to remove graffiti, which officials have found does a better job than the conventional product. BPCPC also uses an orange-based product instead of conventional cleaners for the restrooms and an environmentally preferred product is used to disinfect sidewalks and dog runs.

We also reviewed the list of 25 different cleaning products that BPCA officials claimed their landlord uses to clean the leased office space. Of these, we confirmed that 12 are certified as environmentally preferred by

Green Seal. The remaining 13 products, while meeting certain environmentally preferred criteria, are not certified. We also observed environmentally preferred products on the cleaning cart used in BPCA's leased office area. We did not observe any personal or conventional cleaning products within the BPCA staff office area.

We also found that BPCA purchased a vacuum cleaner equipped with a high efficiency particulate air (HEPA) filter, as required to meet environmentally preferred standards. Purchasing environmentally sensitive vacuum cleaners equipped with proper filtering devices is one way to significantly reduce the level of airborne contaminants produced through the cleaning process. BPCA's office area is mainly comprised of carpets. BPCA officials told us that they demonstrated this vacuum cleaner to their landlord and encouraged the landlord to use it when cleaning the carpeting in BPCA's office space.

Recommendations

1. Develop and implement formal procedures to periodically review sources of new guidance (such as Executive Orders and other pertinent laws, rules, and regulations) that are applicable to BPCA's operations.
2. Expand current reporting on environmental initiatives to include information specifically required by the Order and make the reports available to employees and the general public.
3. Only use products that are on the OGS preferred list (or certified by either Green Seal or Environmental Choice) or document the reasons for purchasing and/or using non-environmentally preferred products.

4. Phase out the use of non-environmentally preferred cleaning products within a timely manner, as required by the Order.

AUDIT SCOPE AND METHODOLOGY

We conducted our performance audit in accordance with generally accepted government auditing standards. We audited BPCA's procurement and the use of environmentally preferred cleaning products, as required by the Order. Our audit covered the period January 5, 2005 through March 15, 2008.

To accomplish our objective, we met with BPCA officials to confirm and enhance our understanding of the process used to procure and use environmentally preferred cleaning products. We reviewed the provisions of the Order and related guidance available on the OGS Internet site. We reviewed purchases of cleaning products and cleaning product inventories to determine the types of cleaning products purchased for the period January 2005 to December 2007. We also observed selected cleaning activities to determine the types of cleaning products used, as of March 2008.

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 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 BPCA officials for their review and comment. Their comments were considered in preparing this report, and are included as Appendix A.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the President and Chief Executive Officer of the Battery Park City 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 where recommendations were not implemented, the reasons therefor.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include Frank Houston, John Buyce, Myron Goldmeer, Jeremy Mack, Katrina Lau, Jonathan Bernstein, and Sue Gold.

APPENDIX A - AUDITEE RESPONSE

JAMES CAVANAUGH
PRESIDENT & CEO

June 23, 2008



HUGH L. CAREY
BATTERY PARK
CITY AUTHORITY

Mr. Frank J. Houston
Audit Director
Office of the State Comptroller
Division of State Government Accountability
123 Williams Street
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New York, NY 10038

Re: Response to Draft Audit Report 2008-S-13
(E.O. 134)

Dear Mr. Houston:

This is a response to the Draft Audit Report (2008-S-13) ("Report") by the New York State Office of the Comptroller concerning Executive Order 134. The Report properly recognizes that the Authority's green innovations and practices not only pre-date those set forth in EO 134, but that our Parks Conservancy has created training materials to educate other State, City and National Park agencies about methods to maintain their parks in an environmentally friendly manner. We appreciate that the report notes that the Authority "is in a position to assist other agencies that choose to expand their environmentally sensitive cleaning programs beyond traditional indoor spaces."

In addition to the foregoing, the Report makes certain observations and recommendations. These are addressed as follows:

Specifically the report accurately recognizes that the Authority currently has a procedure in effect to monitor Executive Orders. Nonetheless, it states that formal procedures should be put in place. We will formalize our existing procedures, in order to strengthen this existing practice.

While the Report recognizes that the Authority has completed reports required under E.O. 134, it recommends that the reports should be amplified to include additional information. In future, we will do this. However, because our documents are available to the public under the Freedom of Information provisions of the Public Officer's Law, we do not feel that it is necessary to implement the recommendation to post these documents on our website, which is above and beyond the requirements of the Executive Order. The BPCA website clearly details its mission and commitment to green building and sets forth the numerous initiatives of the Authority in green building and green maintenance

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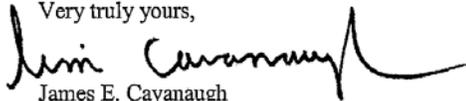
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of our parks and open spaces. In these ways, the public is aware of our commitment to the use of green products and the information is available to it.

Finally, the Authority uses cleaning products which are both green (environmentally friendly) and effective. The Authority believes that it is not fiscally prudent to expend money on products which may be "environmentally preferred" (meaning that they are on a list of preferred products) but are not effective for the task. For that reason, some of the environmentally friendly products used by the Authority/Conservancy may not be on the environmentally preferred State list, but they have been proven effective over the course of the last two decades. Nonetheless, we will document our reasons for using products, which although environmentally friendly, do not appear on the OGS list of preferred products.

As always, we would like to express our appreciation for your audit services and will continue to provide our fullest cooperation to the auditors.

Very truly yours,



James E. Cavanaugh
President & CEO

cc: Hon. Thomas P. DiNapoli