
**Thomas P. DiNapoli
COMPTROLLER**



Audit Objective..... 2

Audit Results – Summary 2

Background..... 2

**Audit Findings and
Recommendations..... 3**

Compliance with Order 3

Recommendations..... 4

Procurement of Environmentally
Preferred Products..... 4

Recommendation 5

Use of Environmentally Preferred
Cleaning Products 5

Recommendation 6

Audit Scope and Methodology..... 6

Authority 6

Reporting Requirements..... 6

Contributors to the Report 6

Appendix A - Auditee Response 7

**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

**OFFICE OF CHILDREN AND
FAMILY SERVICES**

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

Report 2008-S-22

AUDIT OBJECTIVE

The objective of our audit was to determine whether the Office of Children and Family Services is in compliance with Executive Order 134 requirements, including purchasing and using environmentally preferred cleaning products.

AUDIT RESULTS - SUMMARY

Executive Order (Order) 134 was issued January 5, 2005 to reduce the environmental impact of cleaning State facilities. The Order requires all State agencies to procure and use cleaning products with properties that minimize the potential impacts to human health and the environment. The Order also requires State agencies to conduct an assessment describing the efforts undertaken to comply with the Order, and provides agencies six months from the date of the Order to transition to conforming products.

The Office of Children and Family Services (OCFS) operates the State's juvenile justice programs, which include its residential facilities for juvenile delinquents and juvenile offenders placed in the custody of OCFS by family and criminal courts. OCFS leases 16 buildings consisting of Central Office, Regional Offices and support buildings and owns and operates 42 residential facilities throughout the State. We found that OCFS was not in compliance with the Order. When we engaged this audit in February 2008, OCFS officials said they were unaware of the Order. At that time, OCFS had not completed the initial assessment report due on January 5, 2006, and had not transitioned to conforming products within six months of the Order. Also, OCFS had neither required its youth facilities and offices nor encouraged its landlords of leased space to purchase and use environmentally preferred cleaning products.

However, we note that since our audit was engaged, some of OCFS' facilities have become aware of the Order, and have started to purchase environmentally preferred products. In addition, OCFS now includes language in their lease agreement that requires landlords to use cleaning products that conform to the Order.

Our audit report contains six recommendations. OCFS officials concurred with our recommendations and indicated steps taken or planned to implement them.

This report, dated September 30, 2008, 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
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Albany, NY 12236

BACKGROUND

Executive Order (Order) 134 was issued January 5, 2005 to reduce the environmental impact of cleaning State facilities. The Order requires all State agencies to procure and use cleaning products with properties that minimize the potential impacts to human health and the environment. The Order also required all State agencies to conduct an assessment and issue a report within one year of the effective date of the Order, describing the efforts undertaken to comply with the Order. The assessment report must be retained and made available to agency employees and the general public. The report must also be reviewed and updated biennially.

The Order also directed the Office of General Services (OGS) to guide State agencies with selecting and procuring environmentally safe cleaning products. OGS has compiled a list

of over 700 environmentally preferred cleaning products, including floor finishing and stripping products. Most products 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 Office of Children and Family Services (OCFS) was established in 1998, and is responsible for programs and services involving foster care, adoption and adoption assistance, child protective services, preventative services for children and families, services for pregnant adolescents, childcare and referral programs and protective programs for vulnerable adults. In addition, OCFS is responsible for all aspects of the State's juvenile justice programs including administering and managing residential facilities, community-based group homes, day-placement centers and reception centers for juvenile delinquents and juvenile offenders placed in OCFS custody by family and criminal courts.

The OCFS Central Administration Office is located in Rensselaer with regional offices and support buildings in Albany, Buffalo, New York City, Rochester, Syracuse and Yonkers. OCFS leases 16 buildings consisting of Central Office, Regional Offices and support buildings and owns and operates 42 youth facilities located throughout the State. Contractors and employees provide housekeeping and maintenance of these facilities. At some of the facilities, juvenile residents are responsible for some cleaning and upkeep of their personal areas. The facility employees or facility contractors are responsible for purchasing cleaning products.

OCFS' facilities procure most of their cleaning products from Ecolab. During the State fiscal year ending March 31, 2007,

OCFS spent about \$1 million on housekeeping supplies and materials. This amount includes facility cleaning products and supplies (e.g., mops, scouring pads), and soaps that may be used for personal care.

AUDIT FINDINGS AND RECOMMENDATIONS

Compliance with Order

The Order requires State agencies 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 State agencies six months from the date of the Order to transition to conforming products. This enabled agencies to conform in a manner that avoided waste of existing inventories, accommodated the establishment of supply chains for new products enabled the training of personnel in appropriate cleaning practices, and allowed the phase out of products and practices that did not conform to the Order.

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

- assess current facility management practices and use of cleaning products;

- evaluate whether these 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.

We found that OCFS was not in compliance with the Order. When we engaged this audit in February 2008 OCFS officials said they were unaware of the Order. Therefore, OCFS had not assigned an individual to assess current management practices and use of cleaning products at the facilities and did not complete the initial assessment report due on January 5, 2006, or the biennial update assessment report due January 5, 2008. Further, OCFS did not transition to conforming products within six months of the Order, and had not required its youth facilities, offices, or landlords of leased space to purchase and use environmentally preferred cleaning products.

Without the required assessments being conducted, employees and the general public do not have the necessary information on what efforts have been undertaken by the Office to comply with the Order and are not aware of the reasons why products are being purchased that do not comply with the requirements of the Order.

We note that OCFS officials now state that they are aware of the Order, and they have included language in their most recent lease agreements, which commenced on April 1, 2008, that require landlords to use cleaning products that conform to the Order.

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 the agency's operations.
2. Notify all landlords, facility employees and contractors about the requirements of the Order.
3. Assign an individual to conduct assessments for all buildings used, whether owned or leased, and review and update this assessment biennially, as required by the Order.
4. Make the assessment available to employees and the general public.

Procurement of Environmentally Preferred Products

The Order requires State agencies to procure and use 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. Although OCFS officials indicated that they were not aware of the requirements of the Order, we visited their facilities to determine their employees' awareness of the Order and whether any of the facilities complied with the Order by purchasing environmentally preferred cleaning products. We judgmentally selected eight of the 56 locations to visit. We interviewed employees in charge of purchasing and obtained invoices of recently

purchased cleaning products. OCFS did not send out any information to the facilities telling them about the Order until after we initiated our audit. Subsequently, OCFS sent a memo, dated February 14, 2008, to all facility directors informing them to begin immediate steps to bring each facility into compliance with the order.

One of the eight facilities we selected for a site visit was already utilizing only environmentally preferred products. Two of the eight youth facilities confirmed to us that they did not purchase any environmentally preferred cleaning products. However, officials at one of these facilities told us that if they had been aware of the Order, they would have complied. Following our visits, both facilities have since identified the cleaning products they are currently using, the quantities on hand, and the estimated time to use up current quantities and replace the products with those that comply with the Order. Further, as of March 2008, one facility has started to purchase environmentally preferred cleaning products and the other is expected to start by June 2008, after existing quantities are used.

The remaining five youth facilities were purchasing some environmentally preferred products. We examined nine purchase orders for cleaning products purchased by these five facilities during the period June 2007 through March 2008. We determined that 22 cleaning products were purchased during this time. Of these, five were environmentally preferred. Therefore, these facilities were not in full compliance with the Order.

Recommendation

5. Require all facility employees, and encourage all landlords and contractors to begin purchasing and using

environmentally preferred cleaning products.

Use of Environmentally Preferred Cleaning Products

We inspected maintenance closets, storage areas and cleaning carts at eight facilities that we visited. We found and inspected a total of 77 cleaning products (60 at the five State-owned youth facilities and 17 at the three leased facilities).

We found 11 products that were environmentally preferred (five at the youth facilities and six at the leased facilities). The environmentally preferred products being used at the youth facilities included two all purpose cleaners, one glass cleaner, one degreaser and one floor finishing product.

Of the three leased buildings, one is owned and operated by OGS. Building management were aware of the Order and utilized four environmentally preferred cleaning products (floor cleaner, floor stripper, all purpose cleaner and floor sealer). In addition, the landlord provides training, complete with a manual, to its custodial workers on how to use the environmentally preferred cleaning products. The remaining two leased facilities are cleaned by the same vendor. We reviewed the products used by this vendor and found that only two were environmentally preferred, a carpet cleaner and a floor cleaner. Based on our interviews with officials at these facilities, the use of these environmentally preferred products was not based on any directives received from OCFS.

As a result of using non-compliant products, OCFS has not yet realized the benefits to the environment and the health and safety of occupants of OCFS facilities that could be derived from implementation of the Order.

Recommendation

6. 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 audit in accordance with generally accepted government auditing standards. Our audit determined if OCFS was in compliance with the Order by procuring and using environmentally preferred cleaning products that minimize potential impacts to human health and the environment. Our audit period was January 5, 2005 through March 31, 2008.

To accomplish our audit objectives, we interviewed OCFS Central and facility officials, as well as building managers to determine what steps were taken to comply with the Order. We judgmentally selected five of the 42 State-owned youth facilities and three of 16 leased buildings to visit and determine whether they were in compliance with the Order. At each facility that claimed to be using environmentally preferred cleaning products we reviewed purchases of cleaning products and examined cleaning product inventories. To determine if OCFS encouraged its landlords and building managers to use environmentally preferred cleaning products, we reviewed lease agreements and interviewed OCFS officials and building managers.

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

We performed this audit 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 OCFS 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 Commissioner of OCFS 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 William Challice, Mike Solomon, Todd Seeberger, Scott Heid, Jennifer Bachinsky, Rachelle Luchkiw, Melissa Landrio, and Sue Gold.

APPENDIX A - AUDITEE RESPONSE



July 24, 2008

New York State
Office of
Children & Family
Services

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David A. Paterson
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Gladys Carrión, Esq.
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Mr. Frank Patone, Audit Supervisor
Office of the State Comptroller
123 Williams Street
New York, New York 10038

Dear Mr. Patone:

This is the Office of Children and Family Services (OCFS) response to draft report 2008-S-22, Environmental Impact of Cleaning of Facilities. This document will detail the steps OCFS has taken to implement the requirements of Executive Order (EO) 134 and address the six recommendations contained in the draft report. It is important to note that OCFS maintains both juvenile facilities and leased buildings. OCFS is committed to compliance with this order in all OCFS buildings. Additionally, attached to this report is a memo which details the steps the Division of Juvenile Justice and Opportunities for Youth (DJJOY) has and is taking on this topic. The individual responses to the recommendations follow.

1. **OSC Recommendation**

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 the agency's operations

OCFS Response

OCFS will be diligent in the review of new laws, rules, regulations and other directives that are applicable to agency operations.

2. **OSC Recommendation**

Notify all landlords, facility employees and contractors about the requirements of the Order.

OCFS Response

All landlords have been notified and encouraged to become familiar with EO 134.

3. **OSC Recommendation**

Assign an individual to conduct assessments for all buildings used, whether owned or leased, and review and update this assessment biennially, as required by the Order.

OCFS Response

Staff members from two divisions of OCFS have conducted assessments of all buildings used, whether owned by OCFS, or leased. Elena Watson of the Office of Management Services (OMS) will assess leased buildings and Kurt Pfisterer of the DJJOY will assess all the juvenile facilities. OCFS will update the assessment biennially to maintain compliance with the EO.

4. **OSC Recommendation**

Make the assessment available to employees and the general public.

OCFS Response

The current assessment will be available to all employees and to the general public.

5. **OSC Recommendation**

Require all facility employees, and encourage all landlords and contractors to begin purchasing and using environmentally preferred cleaning products

OCFS Response

OCFS is strongly encouraging all landlords and contractors to begin purchasing and using environmentally preferred cleaning products. OGS is the landlord and utilizes environmentally preferred products in seven buildings where OCFS has leases. OCFS realizes that the EO calls for it to monitor compliance with the preferred green items, and as mentioned above, notification has been sent to all such entities. As the property managers for OCFS, OGS has asked OCFS to review the green cleaning supply efforts at leased locations and compare those efforts against the existing lease documents to ensure that the properties are in compliance with EO 134. OCFS is cooperating with OGS in that effort.

The review of lease documents by OMS has revealed that in many cases the current lease agreements precede EO 134 and many Lease Management Agreements (LMA) do not contain language that specifically addresses this issue. OCFS can and will continue to encourage private landlords to comply however, the contract for Janitorial Services is most often between the OGS and their vendor of choice. OCFS will continue to foster compliance with EO 134 and has recently added language into new lease contracts as follows:

* Comment

*State Comptroller's Comment: This final report has been revised as a result of OCFS' response.

14. JANITORIAL SERVICE

Landlord shall provide janitorial services as follows:

Landlord shall provide janitorial services in accordance with the specifications in Schedule "A" annexed hereto and made a part hereof.

The Commissioner of General Services recognizes the need to procure and use cleaning products that minimize potential impacts to human health and the environment consistent with maintenance of the effectiveness of these products for the protection of public health and safety, as mandated by New York State Executive Order 134. In order to realize this objective, the Commissioner of General Services encourages Landlord to become familiar with, implement, and maintain the cleaning of the Premises and the common areas of the building in conformance with Executive Order No. 134. Specific information and guidelines to aid in compliance are currently available at: <http://www.ogs.state.ny.us/bldgadmin/environmental/default.html>.

Landlords should specifically look at information available at: <http://www.ogs.state.ny.us/bldgadmin/environmental/GreenGuidelines.pdf> and <http://www.ogs.state.ny.us/bldgadmin/environmental/ProductLists.html>. Consultation and guidance will be available through the Office of General Services (OGS) upon request.

Landlord acknowledges an understanding of the State policy, EO-134, respecting the utilization of environmentally appropriate cleaning products and pledges to cooperate with the State in the implementation of this policy.

6. OSC Recommendation

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

OCFS Response

OCFS is committed to phasing out the use of non-environmentally preferred cleaning products in OCFS buildings and facilities.

Additionally, OCFS would like to clarify one statement contained in the first paragraph of the section "Procurement of Environmentally Preferred Products". The report states, "Subsequently, OCFS sent a memo, dated February 14, 2008, to all facility directors informing them to start procuring environmentally preferred cleaning products." OCFS contends that statement is not a complete depiction of what the memo said. The memo directed all facility and program directors to immediately develop and implement compliance plans for EO 134. As of March 2008, all facilities and programs had compliance plans that they were actively implementing.

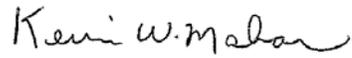
*
Comment

*State Comptroller's Comment: This final report has been revised as a result of OCFS' response.

- 4 -

OCFS appreciates the opportunity to comment on this draft report. Please feel free to contact me at (518) 402-3985 or Ralph Timber at (518) 473-0796 with any questions or comments you may have.

Sincerely,



Kevin W. Mahar, Director
Office of Audit and Quality Control

cc: William T. Gettman, Jr.
Thomas S. Tipple



New York State
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Family
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MEMORANDUM

TO: Anthony Hough, Associate Commissioner
Div. Juvenile Justice and Opportunities for Youth

FROM: Kurt Pfisterer, Agency Accreditation Manager
Div. Juvenile Justice and Opportunities for Youth

RE: Executive Order 134 Compliance Monitoring

DATE: June 26, 2008

All DJJOY facilities, day treatment programs and group homes have submitted plans for compliance with EO 134 and have begun implementation. The following are my recommendations for compliance monitoring:

1. Facility fire safety officers will check compliance with EO 134 and check for unauthorized cleaning products, and note same on monthly fire safety reports.
2. Facility/program directors will provide updates on compliance efforts in their monthly reports.
3. Facility/program purchasers will provide quarterly updates on compliance efforts and the status of non-compliant products that need to be used up and not reordered.
4. Compliance with EO 134 will be added to the facility self assessment program.
5. Annual accreditation reviews will assess compliance with EO 134.
6. PPM 3243.12 "Environmental Health in Facilities", will need to be updated to include language regarding using cleaning products that are in compliance with EO 134.

I have already begun efforts to institute items 1, 4, 5 and 6 above. I have been in contact with Supervisor of Facilities Fire Safety, Dusty Deiter, to add EO 134 compliance to the monthly fire safety inspections conducted by facility fire safety officers. I have initiated dialogue with Audit and Quality Control regarding inclusion of EO 134 on the FSA instrument. Number 5 is done. I have drafted a revised version of PPM 3243.12 for Deputy



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Commissioner Burrell's review and approval. Items 2 and 3 will require a directive from you, via the Facility Coordinators, to accomplish.