
**Thomas P. DiNapoli
COMPTROLLER**



Audit Objective..... 2

Audit Results - Summary 2

Background..... 2

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

Compliance with Order 3

Recommendations..... 5

Procurement of Environmentally-
Preferred Products..... 5

Recommendations..... 5

Use of Environmentally-Preferred
Products 5

Recommendations..... 6

Audit Scope and Methodology..... 7

Authority 7

Reporting Requirements..... 7

Contributors to the Report 7

Appendix A - Auditee Response 8

**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

**DEPARTMENT OF MOTOR
VEHICLES**

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

Report 2008-S-25

AUDIT OBJECTIVE

The objective of our audit was to determine whether the Department of Motor Vehicles is in compliance with Executive Order 134 requirements, including purchasing and using green cleaning products.

AUDIT RESULTS - SUMMARY

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 to procure and use cleaning products with properties that minimize their impact on human health and the environment. When first issued, the Order also stated that cleaning products can present environmental concerns because they may contain chemicals associated with eye, skin, or respiratory irritation, and other health issues. The Order requires State agencies to conduct an assessment and provides the agencies six months from the date of the Order to transition to conforming products.

We found that the Department of Motor Vehicles (Department) is not in compliance with the Order because it did not transition to conforming products within the six months, and it did not conduct the required assessment. In addition, the Department has not encouraged landlords for leased spaces to purchase and use environmentally-preferred products and has not documented the reasons for selecting products that are not environmentally-preferred. Further, the Department has not issued any memorandums prohibiting its employees from bringing in their own cleaning products. Therefore, facilities are still using non-conforming cleaning products, and the Department does not have a monitoring system in place to determine if environmentally-preferred cleaning products are being used at its facilities.

In July 2005, the Department assigned an individual the responsibility for assessing current practices and use of products, evaluating whether products used conform to the Order, identifying and procuring conforming cleaning products, and documenting the reasons for selecting products that do not conform to the Order. As of March 20, 2008, this individual has taken no actions to implement the Order because after consulting with the Office of General Services (OGS), Department officials believed the Order did not apply to them since their facilities are either leased or the responsibility of OGS. We asked OGS whether the Department was exempt from the Order. OGS' Legal Bureau replied that the Department is not exempt and has to comply with the Order.

Our report contains eight recommendations for complying with the Order. Department officials agreed with our recommendations and have taken or will take actions 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
110 State Street, 11th Floor
Albany, NY 12236

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 to procure and use cleaning products having properties that minimize the potential impacts on human health and the environment. The Order required that each State agency prepare an

assessment within one year of the effective date of the Order and retain and make this assessment available to employees and the general public describing the efforts undertaken by such State agency to comply with this Order. The report must be reviewed and updated biennially by the agencies.

The Order also directed the Office of General Services (OGS) to guide State agencies in selecting and procuring environmentally-safe cleaning products. OGS has compiled a list of more than 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 Department of Motor Vehicles (Department) issues driver licenses and vehicle registrations, collects revenue for the State and localities, and administers operating and enforcement units that oversee driver, vehicle and traffic safety. The Department operates a main office in Albany (Empire State Plaza); 3 regional headquarters in Albany, Long Island, and New York City; 29 district and branch offices in Albany and the New York City metropolitan area; summons adjudications centers in New York City, and Suffolk, Monroe, and Erie counties; and back-office operations in upstate cities and counties (County Clerks operate motor vehicle offices in most upstate areas). The Department staff of 2,829 helped serve more than 20 million customers in 2007.

The Department has a total of 48 facilities, including 44 that are leased. OGS is responsible for cleaning and maintenance at the four owned facilities. For janitorial services at the leased facilities, either the Department contracts directly with a vendor,

the landlord contracts with a vendor, or the landlord has its own employees clean the facilities. Department employees do not clean any facilities. As of March 25, 2008, the Department spent \$537,683 during the fiscal year 2007-08 on janitorial services contracts.

AUDIT FINDINGS AND RECOMMENDATIONS

Compliance with Order

The Order requires all State agencies to:

- procure products and use practices that reduce or minimize the risks of harmful effects on employees, custodial workers, visitors, and other building occupants, and on the environment;
- encourage contractors supplying goods and services to State agencies to select and procure such products; and
- encourage lessor 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 would enable them 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 phaseout of products and practices that did not conform to the Order.

We found that the Department did not transition to conforming products within the six months and it did not conduct the required assessment. In addition, the Department has not encouraged the landlords of leased space

to use environmentally-preferred cleaning products.

Assessment

The Order requires each State agency 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.

The Department designated the Director for Central Services/Facilities to assume these responsibilities. However, the Department did not complete an assessment and has not attempted to comply with this Order. Department officials stated that their understanding was that the assessment had to be prepared for only State-owned buildings and not for leased spaces. Further, OGS prepares the assessment for the buildings that it manages where the Department is a tenant. We asked OGS whether DMV was exempt from EO134 because it does not own its facilities. OGS replied that all State agencies are required to comply with EO134 and produce a report containing certain information. Those agencies that lease space are not exempt from adhering to the reporting requirements of the Order. Clearly, the Department should have complied with the Order. In addition, as previously mentioned, in 2005, the Department assigned an individual responsibility for carrying out the Order. Furthermore, Department officials advised they reassigned the responsibility of ensuring compliance with the Order to

someone within its Fiscal Management unit, which they believe can best oversee the implementation of the Order. Such actions are inconsistent with a position that the Order does not apply to the Department.

The Department's Central Office was aware of the Order, but did not communicate the requirements of this Order to facility staff. In addition, the Department has not developed any policies or procedures for the purchase and use of environmentally-preferred cleaning products and has not issued any memorandums to employees prohibiting them from bringing in cleaning products of their own for use in their work space or break areas.

The cleaning of the Department's facilities is either contracted with cleaning vendors or is the responsibility of the landlord. In addition, the Department purchases cleaning products for employees to use at their workstations or break areas. However, the Department has not made any attempts to purchase environmentally-preferred cleaning products. Further, it has not encouraged contracted vendors or landlords to purchase and use environmentally-preferred cleaning products. Department officials stated this was not done because they did not believe that the Order pertained to them since either they lease facilities or OGS maintains facilities for the Department.

Without the required assessments being conducted and the reports prepared, employees and the general public do not have the necessary information regarding efforts that have been undertaken by the Department to comply with the Order; and are not aware of the reasons products are being purchased that do not comply with the requirements of the Order. In the absence of policies and procedures, employees do not have

knowledge of, or guidelines for, the appropriate use of cleaning products.

Recommendations

1. Conduct an assessment for all buildings used by the Department, whether owned or leased, and review and update this assessment biennially, as required by the Order.
2. Make the assessment reports available to employees and the general public.

Procurement of Environmentally-Preferred Products

The Order requires the Department to procure and use cleaning products having properties that minimize potential impacts on human health and the environment, consistent with maintenance of the effectiveness of these products for the protection of public health and safety. Cleaning products are being purchased for use at Department facilities by three different parties: the people responsible for cleaning the facility (OGS, the cleaning contractor, or landlords); the Department, using either the State-issued credit card or a purchase order (the purchases made through purchase order include the cleaning products along with other general office supplies); or Department employees, who bring the cleaning products into their work space.

We visited 10 of the Department's 48 facilities to verify what cleaning products were purchased during the period July 1, 2007, through December 31, 2007. We obtained an understanding of the procurement and receiving process and verified the types of cleaning products on hand. We also reviewed cleaning contracts and facility leases for the ten locations we visited. We requested purchasing records from the private cleaning contractors at all ten facilities. However, only

one of the contractors responsible for cleaning the facilities supplied sufficient records to document product purchases used at the facilities. For the facility where the contractor provided documentation, we found that they did not always purchase environmentally-preferred products.

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

Recommendations

3. Establish policies and procedures for the purchase and use of green cleaning products.
4. Issue a memorandum to employees instructing them not to bring in their own cleaning products or establish a process for approving products employees are allowed to bring in.
5. Use only 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.

Use of Environmentally-Preferred Products

At the ten locations we visited, we reviewed the cleaning products that had been purchased and were actually in use. We also compared the products we found with the approved products list provided on the OGS website. We found that:

- None of the ten facilities has received guidance from the Department as to the use of environmentally-preferred cleaning products.
- One site was provided special training in the use of environmentally-preferred cleaning products.
- At six facilities, employees brought in cleaning products of their own, none of which was an environmentally-preferred cleaning product.
- The Department provided cleaning supplies to employees at four facilities, but none of them had been OGS-approved. The Department provided these products to its employees for use at their workspace or break areas.
- Four sites were using some environmentally-preferred cleaning products. However, no facilities were using them exclusively. Two of these sites were OGS-managed facilities; one was a landlord-cleaned facility; and the final site was contractor-cleaned.

At the 10 locations, we observed 85 different cleaning products used by the people responsible for cleaning the facility. Of those 85 products, 12 were OGS-approved, 35 were not approved by OGS, and OGS has not made a determination for 38 of them. Further, we observed 78 cleaning products used by employees to clean their workspace or break areas. Of those 78 products, 37 were not approved by OGS; and OGS has not made a final determination for 41 products, such as floor stripper and floor finisher.

We reviewed all 10 cleaning contracts (covering 14 facilities) approved since January 5, 2005, to determine if they

contained language that requires contractors to use environmentally-preferred cleaning products. We found that none of the ten contracts included language specifically requiring the use of environmentally-preferred cleaning products. However, all ten included language allowing changes to the contract terms to accommodate changes in laws, rules, regulations, or administrative orders. This section of the contracts allows the Department to require, or at least encourage, the contractors to use environmentally-preferred products to clean the facilities. We provided the Department with a sample contract that employs the language OGS uses in its contracts regarding the use and purchase of environmentally-preferred cleaning products.

We also reviewed the lease agreements for nine of the sites we visited (the tenth site is State-owned, so there is no lease) and found that none contained language requiring the use of green cleaning products. However, the lease agreements all contain provisions that require landlords to comply with any new laws, rules, orders, ordinances, and regulations. This includes the Order requiring agencies to minimize the impact on their employees, customers, and the environment of cleaning their facilities.

Recommendations

6. Issue directives requiring all facilities to begin using environmentally-preferred products.
7. Require landlords of leased space to comply with lease provisions that require them to follow all laws, rules, orders, ordinances, and regulations applicable to the Department.

8. Contact OGS for a final determination on the products to use at Department facilities.

AUDIT SCOPE AND METHODOLOGY

We conducted our audit in accordance with generally accepted government auditing standards. We audited the Department of Motor Vehicles' procurement and use of environmentally-preferred cleaning products, as required by the Order. Our audit covered the period January 5, 2005, through March 26, 2008.

To accomplish our objective, we interviewed officials from the Department's Division of Human Resources and Fiscal Management. We also interviewed officials at ten of the Department's facilities, representatives of the landlords from which the Department leases office space, and cleaning contractors who maintain the facilities where Department operations are located. We reviewed the provisions of the Order and related guidance available on OGS' internet site. We selected a judgmental sample of ten Department facilities located throughout the State. At each facility, we reviewed purchases of cleaning products and cleaning product inventories to determine the types of cleaning products purchased and in use. We also reviewed all ten cleaning contracts, approved since January 5, 2005. In addition, we reviewed the cleaning contracts for those locations we visited for which the Department had contracted directly with the cleaning contractor.

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 the purpose 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 copy of this report was provided to Department officials for their review and comment. Their comments were considered in preparing this final 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 the Department of Motor Vehicles 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 why.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include Carmen Maldonado, Robert Mehrhoff, Joel Biederman, Brandon Ogden, Gayle Clas, Jeffrey Dormond, Kathleen Garceau, Anne Marie Miller, and Sue Gold.

APPENDIX A - AUDITEE RESPONSE



DAVID J. SWARTS
Commissioner

NEW YORK STATE
DEPARTMENT OF MOTOR VEHICLES
AUDIT SERVICES

EDWARD J. WADE
Director of Audit Services

August 8, 2008

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

Re: 2008-S-25 Draft Audit Report

Dear Ms. Maldonado:

This letter is in reference to the New York State Comptroller's draft audit findings which address the Department of Motor Vehicle's (DMV) compliance with Executive Order 134 (Environmental Impact of Cleaning Facilities).

Please note the following concerning the audit recommendations:

Recommendation 1:

Conduct an assessment for all buildings used by the Department, whether owned or leased, and review and update this assessment biennially, as required by the Order

DMV Response:

DMV will conduct an assessment for all buildings used by the Department, whether owned or leased, and review and update this assessment biennially, as required by the Executive Order.

Recommendation 2:

Make the assessment reports available to employees and the general public.

DMV Response:

DMV will make the assessment reports available to employees and the general public.

Recommendation 3:

Establish policies and procedures for the purchase and use of green cleaning products.

DMV Response:

DMV has established policies and procedures for the purchase and use of green cleaning products.

Recommendation 4:

Issue a memorandum to employees instructing them not to bring in their own cleaning products or establish a process for approving products employees are allowed to bring in.

DMV Response:

DMV has developed and will issue a memorandum prohibiting employees from bringing in their own cleaning products.

Recommendation 5:

Use only green 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.

DMV response:

DMV has advised employees to use only green products that are on the OGS preferred list (or certified by either Green Seal or Environmental Choice).

Recommendation 6:

Issue directives requiring all facilities to begin using the environmentally-preferred products.

DMV Response:

DMV has issued directives to employees to begin using the environmentally-preferred products.

Ms. Carmen Maldonado

3

August 8, 2008

Recommendation 7:

Require landlords of leased space to comply with lease provisions that require them to follow all laws, rules, orders, ordinances and regulations applicable to the Department.

DMV Response:

DMV has advised all landlords of leased space to comply with lease provisions that require them to follow all laws, rules, orders ordinances and regulations applicable to the Department. DMV has also advised all janitorial contractors that the use of environmentally-preferred products is encouraged, in accordance with the language of Executive Order 134.

Recommendation 8:

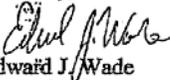
Contact OGS for a final determination on the products to use at Department facilities.

DMV Response:

DMV will contact OGS for a final determination on the products to use at Department facilities.

We will continue to look for improvement opportunities such as these and always welcome a chance to better serve the citizens of this State. If you have any questions concerning this matter, please contact me.

Sincerely,


Edward J. Wade
Director of Audit Services