
**Thomas P. DiNapoli
COMPTROLLER**



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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

**CENTRAL NEW YORK
REGIONAL
TRANSPORTATION
AUTHORITY**

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

Report 2008-S-17

AUDIT OBJECTIVE

The objective of our audit was to determine whether the Central New York Regional Transportation Authority (Authority) 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 and certain public authorities, including the Authority, to procure and use cleaning products that minimize the potential impact on human health and the environment. The Order also requires the Authority to conduct an assessment of its cleaning practices, and it provided six months from the date of the Order to transition to conforming products.

We found that the Authority was not in compliance with the Order when we initiated our audit in February 2008. No assessment was conducted, and the Authority was not procuring or using environmentally preferred products. Authority officials told us that State oversight agencies had not advised the Authority of the Order; consequently, the Authority was not aware of it.

Authority officials did, however, take immediate and meaningful measures to comply with the Order after our audit commenced. For example, the Authority added a provision to a new contract for cleaning services (at its Headquarters and its Regional Transportation Center) that enabled the Authority to require the use of Green Seal Certified cleaning products. Authority officials also directed purchasing staff to procure cleaning products that comply with the Order.

Our audit report contains six recommendations pertaining to the Authority's implementation of the Order. Authority officials agreed with our recommendations and have taken steps 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, including certain public authorities such as the Authority, to procure and use cleaning products having properties that minimize the potential impact on human health and the environment. The Order required each State 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 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 Environmental Choice. Green Seal and Environmental Choice are

recognized as independent authorities in the field of environmentally safe cleaning products.

The Authority was created in 1970 and went into operation in 1972. The Authority's mission is to provide the Central New York community (including Onondaga, Cayuga, Oneida, and Oswego counties) with transportation services that are safe, convenient, reliable, and environmentally responsible. The Authority is governed by a nine-member Board appointed by the Governor, and it is operated on a day-to-day basis by an Executive Director who is appointed by the Board.

The Authority's Headquarters is located in Syracuse, New York. Its William F. Walsh Regional Transportation Center (also located in Syracuse) is an intermodal facility that offers travelers access to various passenger rail, intercity bus, and local and regional public transit services. The Authority also operates facilities in Oswego, Auburn, Rome, and Utica. Operating costs are funded by passenger revenues (about 25 percent of total revenues), and the balance of the Authority's funding comes from Federal, State and local assistance. In 2007, the Authority provided bus service to about 14 million passengers with its fleet of 261 buses. The Authority's ridership has grown over the past six years, with further growth expected in the future.

The Authority's Headquarters building is approximately 198,000 square feet, and includes business offices, a dispatch office, a compressed natural gas (CNG) fueling station, and a bus garage (the largest portion of the building). The office areas require standard cleaning activities. The Regional Transportation Center contains a small office and some common areas that require cleaning. Several private vendors lease small areas in

the building, and they are responsible for cleaning their own spaces.

The majority of the cleaning at the Authority has been procured through two cleaning contracts. One contract is for cleaning the Headquarters and Regional Transportation Center facilities, and the second contract is for cleaning the Utica facility. Authority employees are responsible for cleaning the Auburn, Oswego, and Rome facilities.

The Authority has been committed to environmentally-conscious operations. For example, the Authority began using CNG buses in 1991, and it now has 120 CNG buses and nine diesel-electric hybrid buses. The Authority also received an Environmental Excellence Award from the Federal Highway Administration in 2001 for the development and implementation of a CNG dispenser system. Of further note, the American Public Transportation Association named the Authority the best mid-sized public transportation system in North America in 2006.

AUDIT FINDINGS AND RECOMMENDATIONS

Compliance with Order

The Order requires the Authority 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 the Authority six months from its origination to transition to conforming products. This provision helped agencies 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 work practices; and allowed the phase-out of products and practices that did not conform to the Order.

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

- assessing current facility management practices and use of cleaning products;
- evaluating whether current products conform to the Order;
- identifying and procuring conforming cleaning products; and
- documenting the reasons for selecting products that do not conform to the Order and including these reasons in the report required by the Order.

We found that the Authority was not in compliance with the Order when we initiated our audit in February 2008. No assessments had been conducted, and the Authority was, generally, not purchasing or using environmentally preferred supplies. Authority officials told us that State oversight agencies had not advised the Authority of the Order; consequently, they were not aware of it. Authority officials added that they have typically received notices of previous Executive Orders directly from the

Governor's Office or another designated oversight agency.

However, Authority officials did take immediate steps to comply with the Order after our audit commenced. For example, at the time we initiated our audit, the Authority was in the process of awarding a new cleaning contract for its Headquarters and the Regional Transportation Center. The Authority modified the terms of the new contract to require the use of Green Seal Certified products and directed its purchasing staff to procure cleaning products that conform to the Order.

In addition, Authority officials indicated that they had complied timely with other recent Executive Orders addressing environmental issues. Specifically, officials stated that they complied with Executive Order 111 (Green and Clean State Buildings and Vehicles) and Executive Order 142 (Use of Bio-Fuels in State Vehicles and Buildings) prior to the Orders' prescribed implementation dates. Consequently, Authority officials believe that they have been very conscious of pertinent environmental matters, including those addressed through direction from the State.

Recommendations

1. Develop and implement formal procedures for periodically reviewing sources of new guidance (such as Executive Orders and other pertinent laws, rules, and regulations) that are applicable to the Authority's operation.
2. Conduct an assessment for all buildings used by the Authority and review and update this assessment biennially, as required by the Order.
3. Make the assessment available to employees and the general public.

Procurement of Environmentally Preferred Products

The Order requires the Authority to procure and use specific cleaning products having properties that minimize potential impact on human health and the environment, consistent with the maintenance of the effectiveness of these products for the protection of public health and safety. To determine whether the Authority procured environmentally preferred products, we reviewed purchases of cleaning products from eight suppliers during the period July 1, 2007 through February 14, 2008. The purchase records showed that 23 products were purchased, none of which was in compliance with the Order.

We also reviewed contracts with two cleaning contractors. One contract, to clean the Headquarters and Regional Transportation Center, covered the period April 2003 through February 2008. This contract did not contain terms requiring or encouraging the vendor to use environmentally preferred cleaning products because it went into effect prior to the Order. However, as noted previously, Authority officials took steps to comply with the Order by adding provisions to the successor contract that required the use of Green Seal Certified products.

The other contract was to clean Authority facilities in Utica and covered the period from December 2007 through November 2008. This contract began after the Order was issued, but did not contain terms requiring or encouraging the use of environmentally preferred cleaning products because the Authority was not aware of the Order when the contract began. Officials said that they would add provisions to future cleaning contracts that require the use of environmentally preferred cleaning products.

Recommendations

4. Procure only cleaning 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.
5. Amend contracts for cleaning services and leases, where applicable, to include wording that requires the purchase and use of environmentally preferred cleaning products.

Use of Environmentally Preferred Products

During February 2008, we performed four site visits to the Authority's Headquarters, Regional Transportation Center, and its Utica and Auburn buildings to observe the cleaning products in use by contractors and Authority staff. In total, we noted 35 cleaning products in use, one of which (used at the Headquarters) complied with the Order. As a result of using non-compliant products, the Authority had not yet realized the benefits to the environment and the health and safety of occupants of Authority 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, and dispose of those that are no longer being used.

AUDIT SCOPE AND METHODOLOGY

We conducted our audit in accordance with generally accepted government auditing standards. We audited the Authority's procurement and use of environmentally

preferred cleaning products, as required by the Order. Our audit covered the period January 5, 2005 through February 29, 2008.

To accomplish our objective, we interviewed officials at the Authority's Headquarters and cleaning staff at various facilities owned by the Authority. We reviewed records of cleaning supply purchases from July 1, 2007 through February 14, 2008. We also inventoried cleaning supplies to determine the types of cleaning products in use, and we reviewed contracts with cleaning contractors.

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

REPORTING REQUIREMENTS

We provided draft copies of this report to Authority officials for their review and formal comment. We considered their comments in preparing this report and have included them as Appendix A. Authority officials agreed with our recommendations and have taken steps to implement them.

Within 90 days after the final release of this report, as required by Section 170 of the Executive Law, the Chairman of the 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 Steve Sossei, Brian Mason, Steve Goss, Kathleen Hotaling, David Pleeter, and Sue Gold.

APPENDIX A - AUDITEE RESPONSE



THE CENTRAL NEW YORK REGIONAL TRANSPORTATION AUTHORITY
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Authority Members
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Nicholas F. Laino
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Frank Kobliski, Executive Director

June 5, 2008

Mr. Steven E. Sossei
Office of the State Comptroller
Division of State Government Accountability
110 State St.
Albany, NY 12236-0001

Dear Mr. Sossei:

Attached are the Central New York Regional Transportation Authority's comments regarding Draft Audit Report 2008-S-17 (see Attachment 1). We understand that this letter and attachment will be appended to the final version of that Report.

Our comments address the initial absence of communication dating back to 2005 and thereafter by the State regarding the existence and applicability of Executive Order #134 to the CNYRTA, and the CNYRTA's history and positive record on environmental responsibility and awareness.

With regard to the specific recommendations contained in the report, five of the six pertain to the actual steps required for compliance with EO #134. We certainly agree with them and have already begun implementing them, as noted in the report. The other recommendation suggests implementation of procedures to periodically review sources of new guidance that are applicable to the Authority's operations. While we understand and generally agree with this, we still believe that state agencies and offices bear a basic responsibility to communicate any new, revised or obsolete requirements directly to the entities charged with compliance with such requirements.

We appreciate the professionalism exhibited by your staff during this audit and in the preparation of this report.

Sincerely,

A handwritten signature in black ink that reads "Frank Kobliski". The signature is written in a cursive, flowing style.

Frank Kobliski
Executive Director

attachment

CNY CENTRO, INC. • CENTRO OF CAYUGA, INC. • CENTRO OF ONEIDA, INC. • CENTRO OF OSWEGO, INC.
CENTRO PARKING, INC. • CENTRO CALL-A-BUS, INC. • INTERMODAL TRANSPORTATION CENTER, INC.
Public Benefit Subsidiary Corporations of the Central New York Regional Transportation Authority

CNYRTA Comments Regarding Draft Audit Report 2008-S-17

Communication of Executive Order #134- The CNYRTA has a proud history of compliance with both the spirit and the letter of the multitude of laws, regulations and requirements it operates under, whether promulgated by New York State Department of Transportation, the Office of the State Comptroller, the Division of Budget, the Authority Budget Office, the Governor's Office, the Public Transportation Safety Board, the New York State Legislature, the Department of Environmental Conservation, the Federal Transit Administration, the Environmental Protection Agency or any other federal, state or local oversight or funding entity. The CNYRTA's record speaks for itself in terms of prior audit results, inter-agency cooperation, awards and public recognition, and high levels of credibility with its primary oversight agencies, which are the Federal Transit Administration (FTA) and the New York State Department of Transportation (NYSDOT). As an example, the State Comptroller issued a press release on August 24, 2005 regarding Audit 2004-S-69 which included the following: "When an authority like the Central New York Regional Transportation Authority is effectively managed, we think it is important to say so. CNYRTA follows an established system of financial oversight and ethics guidelines above and beyond state requirements, and should serve as an example for other authorities" and "We found that CNYRTA has developed a culture of management ethics and efficiency". We were therefore disappointed at being subject to scrutiny for something that was not adequately communicated, namely the application to the Authority of Executive Order #134. Additionally, there had been no initial follow-up guidance of any kind communicated to the CNYRTA by the Office of General Services (in consultation with the Departments of Health and Environmental Conservation). Such follow-up guidance by the State to covered entities was also required by the Order.

As referred to in the audit draft, a review of our compliance with previous Executive Orders which were clearly applicable and communicated to the Authority such as EO #111 (energy saving measures for facilities), EO #1 (gifts), EO #3 (webcasting of public meetings) and EO #142 (use of bio-fuel in diesel-fueled vehicles), demonstrates immediate and full compliance with such orders. In those cases, however, the CNYRTA was directly and affirmatively informed by some New York State administrative or implementing agency of the existence and applicability of such orders to the CNYRTA.

It goes without saying that the CNYRTA is ultimately responsible for maintaining awareness of new laws, policies and procedures. However, the CNYRTA staff had no reason to believe, based on past communication practices of various arms of the State, that it would have to actively monitor Executive Orders in search of newly applicable requirements. The CNYRTA has always viewed New York State (through the NYSDOT) as its primary partner in providing high quality mass transit services in Central New York-- but the partnership has to work in both directions with other state oversight agencies as well. We firmly believe that the State bears a simple, fundamental

responsibility to communicate the existence of new requirements to those agencies which are expected to comply with such requirements.

Other environmental friendly actions by the CNYRTA- We are grateful for mention of the Authority's commitment to the improving the environment by the types of buses it has chosen to procure (CNG and hybrid diesel-electric), the availability of its CNG facilities to outside CNG vehicle fleets and private users, its advanced compliance with Executive Order #142 (use of bio-fuels in state vehicles), and its efforts to reduce energy consumption in all of its owned buildings, at great capital cost and effort, by full compliance with Executive Order #111 years before the deadline. Among other environmentally friendly actions taken by the CNYRTA is the recycling in an approved manner, since 1982, of all waste oils (including bus motor oil, transmission fluid, hypoid gear oil, hydraulic oil and used motor oil from employees who change their own motor oil at home) and ultimately using these liquids to provide heat to the main Centro maintenance and office building, for which CNYRTA has received governmental plaudits. Since their installation in 1997, all waste motor oil from the massive CNG engines which compress the natural gas for use in our buses has also been recycled in the same manner. By doing this, we have both reduced operating costs and decreased electrical and other energy used, which in turn reduces air pollution.

It should be evident that the CNYRTA's efforts to be environmentally responsible are not limited to its CNG and hybrid bus purchases. The CNYRTA is and has been committed to having a safe and environmentally protected setting within its facilities and its transportation district through a variety of noteworthy activities - but always at a cost. Significant capital costs of the fast-fueling CNG fueling station and compression system (\$4 million) and the incremental costs of CNG and hybrid buses aside (approximately \$75,000 and \$125,000 per vehicle, respectively), the CNYRTA spent over \$2.5 million in the past 3 years for the major energy mitigation improvements in its Syracuse, Oswego, Cayuga bus facilities and the Regional Transportation Center. The phrase "environmentally responsible" contained in the CNYRTA's mission statement is not a hollow one to create a politically correct appearance. We share the same goals regarding the environment as EO #134 and appreciate the Comptroller's recommendations this regard.