



CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
SCOTT M. STRINGER

MARJORIE LANDA
DEPUTY COMPTROLLER FOR
AUDIT

BUREAU OF AUDIT

June 24, 2016

By Electronic Mail

Commissioner Fidel F. Del Valle
New York City Office of Administrative Trials and Hearings
100 Church Street, 12th Floor
New York, NY 10007

Re: Letter Report on the New York City Office of Administrative Trials and Hearings' Compliance with Local Law 36 (Audit Number SZ16-113AL)

Dear Commissioner Del Valle:

This Letter Report concerns the New York City Comptroller's audit of the New York City Office of Administrative Trials and Hearings' ("OATH") compliance with Local Law 36, which governs waste prevention, reuse and recycling by New York City agencies. The objective of this audit was to determine if OATH is complying with the local law, which is intended to make City agencies, and ultimately the City as a whole, more sustainable through efforts that promote a clean environment, conserve natural resources and manage waste in a cost-effective manner. In addition, in the course of the audit, we noted efforts OATH made to follow recycling rules established by the New York City Department of Sanitation ("DSNY") pursuant to Local Law 36. Our audit of OATH is one in a series of audits we are conducting on the City's compliance with the local law.

Background

In 1989, New York City established Local Law 19, codified as Administrative Code §16-301, *et seq.*, to establish an overarching "policy of the city to promote the recovery of materials from the New York City solid waste stream for the purpose of recycling such materials and returning them to the economy." The law mandates recycling in New York City by residents, agencies, institutions and businesses, and includes a series of rules to guide implementation. Local Law 19 requires the City to establish environmental policies to conserve natural resources and manage waste in a sustainable and cost-effective manner.

In 2010, the City enacted Local Law 36, which amended the recycling provisions of Local Law 19 (Administrative Code §16-307) to require each City agency to develop a waste prevention, reuse and recycling plan and submit the plan to DSNY for approval by July 1, 2011. Local Law 36 also requires each agency to designate a lead recycling or sustainability coordinator for the agency and, where the agency occupies more than one building, to

designate an assistant coordinator for each building. By July 1, 2012, and in each year thereafter, the lead recycling coordinator for each agency is required to submit a report to the head of its agency and to DSNY “summarizing actions taken to implement the waste prevention, reuse, and recycling plan for the previous twelve-month reporting period, proposed actions to be taken to implement such plan, and updates or changes to any information included in such plan.”

In addition, Local Law 36 requires the DSNY Commissioner to adopt, amend and implement regulations governing recycling by City mayoral and non-mayoral agencies. DSNY is also responsible for consolidating the information contained in agency reports and including this information in the agency’s annual recycling report.

Findings and Recommendations

Our audit found that OATH generally complied with Local Law 36. However, we found that OATH did not establish a waste prevention, reuse and recycling plan until October 2013, notwithstanding that Local Law 36 requires such a plan to have been submitted to DSNY no later than July 1, 2011. We further found that OATH did not submit the required annual reports to its Commissioner or to DSNY for Fiscal Years 2012 and 2013. Our findings are outlined in the table entitled Compliance Summary below.

COMPLIANCE SUMMARY		
Local Law 36 Criteria	Compliance	Notes
Recycles designated materials	Yes	Generally complies.
Designated a lead recycling coordinator and assistant coordinators	Yes	OATH has designated lead recycling coordinators and assistant coordinators for its seven locations.
Established a waste prevention, reuse and recycling plan by July 1, 2011	Partial	OATH established the waste prevention, reuse and recycling plan in October 2013.
Submits annual report to the agency head and DSNY Commissioner	Partial	OATH did not submit annual reports for Fiscal Years 2012 and 2013 to DSNY or its Commissioner. OATH has submitted the required annual reports for Fiscal Years 2014 and 2015.

In addition to these findings, we note that OATH has made certain efforts to address waste prevention, reuse and safe handling of hazardous waste beyond the requirements of the local law. Specifically, OATH has set its printers to double-sided copying as a default and eliminated stand-alone printers to reduce its paper usage. OATH also follows the City's E-Waste policy and participates in a City-wide contract for hazardous waste disposal. These measures have been taken in accordance with DSNY's additional rules enacted pursuant to Local Law 36.

In response to our audit, OATH stated that it would "take the recommendations in the report into consideration." We urge OATH to follow our recommendations and submit the annual reports to its Commissioner and DSNY by July 1st of each year as required by Local Law 36.

Scope and Methodology

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The scope period for this audit was July 1, 2011, the date Local Law 36 went into effect, through May 26, 2016, the last day of our fieldwork. Our methodology for this audit consisted of the following steps:

- We reviewed applicable laws, rules, policies and procedures to determine our criteria in accordance with Local Law 36, including Local Law 19, Local Law 36, DSNY's agency waste prevention, reuse and recycling plan template and DSNY's report submission form and implementation guidelines;
- We sent an electronic survey to OATH to determine if the agency met the key provisions of Local Law 36 reflected as the core criteria in the table below and analyzed the survey results and other additional materials provided by OATH;
- We requested and reviewed as applicable OATH's waste prevention, reuse and recycling plan, list of coordinators, and the agency's annual reports for 2012 through 2015; and
- We conducted interviews with OATH's recycling/sustainability coordinator to discuss the agency's recycling and waste prevention efforts and visited OATH's facilities to verify its compliance with Local Law 36.

Based on our understanding of the Local Law 36 requirements, we outlined all the criteria necessary for agencies to be in compliance. The table below outlines agencies' core

criteria required to achieve compliance under Local Law 36. A summary of these core criteria forms the basis for the compliance summary reported for each audited agency.

CORE CRITERIA	
Compliance	Detailed Criteria
Recycling	Agency source-separates recyclable materials
Coordination	Agency has a lead coordinator
	Agency has assistant coordinator(s) as applicable
WPRR Plan	Agency has a waste prevention, recycling and reuse plan
Report to Agency Head and DSNY Commissioner	Agency submitted 2012 report
	Agency submitted 2013 report
	Agency submitted 2014 report
	Agency submitted 2015 report

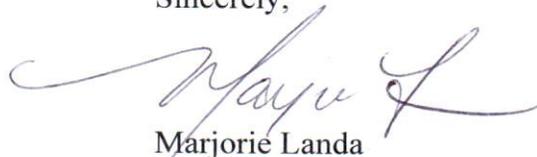
Because many agencies may have pursued initiatives beyond these core requirements, we recognized agencies' additional actions regarding recycling and sustainability. Our observations are based on the additional actions established by DSNY in its waste prevention, reuse and recycling plan implementation guidelines and other efforts taken by agencies.

The issues covered in this report were discussed with OATH officials during and at the conclusion of this audit. On June 3, 2016, we submitted a draft letter report providing OATH with an opportunity to formally respond. OATH's response was received on June 21, 2016. In its written response, OATH agreed with the audit findings and stated it "will take the recommendations in the report into consideration." OATH also stated that it "only became aware of this requirement in 2013. Since that time OATH has been in compliance with Local Law 36."

It should be noted that we communicated with OATH and all other City agencies of our intention to conduct audits of their compliance of Local Law 36 in September 2013. In light of that, we are pleased that OATH had subsequently developed its waste prevention, recycling, and reuse plan. Thereafter, OATH should submit annual reports to its Commissioner and DSNY by July 1st of each year as required by Local Law 36.

The full text of OATH's comments is included as an addendum to this report.

Sincerely,



Marjorie Landa

Commissioner Del Valle

June 24, 2016

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c: Peter Tumminelli, Assistant Commissioner for Operations, OATH
Linda May, Deputy Commissioner for Administration, OATH
Michael Ragolia, Director of Facilities Management, OATH
Maria Marchiano, Acting Deputy Commissioner and Chief Clerk, OATH
Mindy Tarlow, Director, Mayor's Office of Operations
George Davis, III, Deputy Director, Mayor's Office of Operations



100 CHURCH STREET, 12TH FLOOR, NEW YORK, NEW YORK 10007

FIDEL F. DEL VALLE
COMMISSIONER AND CHIEF ADMINISTRATIVE LAW JUDGE
212-933-3001

June 21, 2016

By Hand Delivery

Majorie Landa
Office of the Comptroller
1 Centre Street, Room 1100
New York, NY 10007

RE: Draft Letter Report on the Office of Administrative Trials
and Hearings' Compliance with Local Law 36
SZ16-113AL

Dear Ms. Landa:

Attached please find a copy of OATH's response to the draft letter report on the Office of Administration
Trials and Hearings' Compliance with Local Law 36.

If you require anything further, please contact this office.

Sincerely,

A handwritten signature in blue ink, appearing to read "Fidel F. Del Valle". The signature is fluid and cursive.

Fidel Del Valle, Esq.
Commissioner and Chief Administrative Law Judge

**RESPONSE TO COMPTROLLER DRAFT LETTER REPORT OF OATH'S COMPLIANCE
WITH LOCAL LAW 36**

Thank you for the opportunity to respond to the Comptroller's Draft Letter Report. OATH will take the recommendations in the report into consideration. It is important to note that OATH did not become an agency until July of 2010 and that as a newly formed agency only became aware of this requirement in 2013. Since that time OATH has been in compliance with Local Law 36.