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OFFICE OF THE COMPTROLLER
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AUDIT

BUREAU OF AUDIT

October 16, 2014

By Electronic Mail

Dr. Feniosky Peña-Mora
Commissioner
New York City Department of Design & Construction
30-30 Thomson Ave.
Long Island City, NY 11101

**Re: Letter Report on the New York City Department of Design and Construction's
Compliance with Local Law 36 (Audit Number 7R14-118AL)**

Dear Commissioner Peña-Mora:

This Letter Report contains the findings of our audit of the compliance by the New York City Department of Design and Construction ("DDC") with Local Law 36, which governs waste prevention, reuse, and recycling by City agencies. The objective of this audit is to determine if DDC 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 additional efforts made by DDC to follow recycling rules established by the Department of Sanitation for the City of New York ("DSNY") pursuant to Local Law 36. Our audit of DDC is one in a series of audits we are conducting of 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 over-arching "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 by which it 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 the 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 the agency occupies. 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 Commissioner of DSNY 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 Department’s annual recycling report.

Findings and Recommendations

Our audit found that DDC generally complies with Local Law 36. DDC source separates its recyclable materials, and has designated a lead recycling/sustainability coordinator and assistant coordinator. DDC has established an agency waste collection, reuse, and recycling plan in December 2011 but the plan did not include information on waste prevention and reuse efforts. In addition, we found that DDC did not submit the annual reports to its Commissioner or to DSNY as required. Further, we noted from one of our site observations that the recycling containers were missing proper signage and were collecting a mixture of waste materials. Our findings are outlined in the table entitled Compliance Summary below.

COMPLIANCE SUMMARY		
Local Law 36 Criteria	Compliance	Notes
Recycles designated materials	Partial	Agency has designated different color bins without proper signage
Designates waste prevention reuse and recycling coordinator	Yes	DDC designated a lead coordinator and assistant coordinator
Establishes a waste prevention, reuse and recycling plan by July 2011	Partial	DDC established a recycling and waste collection plan in December 2011 but it did not include the agency’s waste prevention and reuse efforts
Submits annual report to the agency head and DSNY Commissioner	No	DDC did not submit annual reports to its commissioner or to DSNY for fiscal years 2012 and 2013

In addition to these findings, we observed that DDC has made additional efforts to address waste prevention, reuse and safe handling of hazardous waste beyond the requirements of the local law. Specifically, DDC participates in the citywide contract with

an independent contractor for the disposal of hazardous waste. DDC also follow the City guidelines and participates in a public auction program for the disposal of its unused furniture and other surplus assets. These observations are based on DSNY's additional guidelines.

We recommend that DDC update its waste prevention, reuse and recycling plan and submit the required annual report to its Commissioner and DSNY by July 1st of each year. We also recommend that DDC label each recycling container to indicate what recyclable materials to recycle in the given container.

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 February 12, 2014, 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 DDC 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 DDC;
- We requested and reviewed as applicable DDC's waste prevention, reuse, and recycling plan, list of coordinators, and agency's 2012 and 2013 annual reports; and
- We conducted interviews with DDC's recycling/sustainability coordinator to discuss the agency's recycling and waste prevention efforts and visited DDC 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

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.

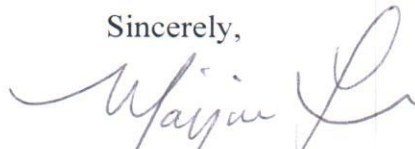
The issues covered in this report were discussed with DDC officials during and at the conclusion of this audit. On August 15, 2014, we submitted a draft letter report providing DDC with an opportunity to formally respond. DDC's response was received on August 28, 2014. In its written response, DDC stated that it is in agreement with the findings and will comply with the recommendations.

In addition, DDC expressed a concern that it did not have an opportunity to clear "up any confusion or misinformation" at an exit conference. However, the auditors met with DDC's Recycling Officials on February 5, 2014 to discuss the audit findings. Again, on August 11, 2014, prior to the issuance of the draft report, an email was sent to DDC to reiterate the audit findings and to give DDC another opportunity to voice any concerns. Throughout the audit process, the auditors had an open and transparent dialogue with DDC officials.

Further, at the conclusion of the audit, DDC agreed with the audit findings and has stated it plans to implement the recommendations.

The full text for the DDC's comment is attached as an addendum to this report.

Sincerely,



Marjorie Landa

- c: Edward Voisich, Jr., Assistant Commissioner of Operations and Facilities Management
- Robert Matti, Director of Internal Audit
- Mindy Tarlow, Director, Mayor's Office of Operations
- George Davis, III, Deputy Director, Mayor's Office of Operations



NEW YORK CITY DEPARTMENT OF
DESIGN + CONSTRUCTION

DR. FENIOSKY PEÑA-MORA
Commissioner

August 28, 2014

Marjorie Landa
Deputy Comptroller for Audit
City of New York
Office of the Comptroller
1 Centre Street
New York, NY 10007

Re: Draft Letter Report
NYC Department of Design and Construction's Compliance with Local Law 36
Audit Number 7R14-118AL

Dear Deputy Comptroller Landa:

The New York City Department of Design and Construction ("DDC") received the subject draft audit on compliance with Local Law 36 ("LL 36") on August 15, 2014 (the "Draft Audit"). Interestingly, the Comptroller's Office elected, without discussing with DDC, to bypass any exit conference for this Draft Audit. It is not clear to us why there was no exit conference before issuing the Draft Audit. Please be advised that DDC considers an exit conference essential whenever an audit is conducted and if asked, would have requested such an exit conference here. It is our understanding and belief that exit conferences are beneficial in clarifying all the facts, clearing up any confusion or misinformation, and allowing both sides to express their viewpoints and opinions in an open and transparent dialogue.

DDC appreciates the fact that the auditors noticed that DDC makes additional efforts beyond the LL 36 in addressing waste prevention. As stated in your Draft Audit: *"In addition to these findings, we observed that DDC has made additional efforts to address waste prevention, reuse and safe handling of hazardous waste beyond the requirements of the local law. Specifically, DDC participates in the citywide contract with an independent contractor for the disposal of hazardous waste. DDC also follow the City guidelines and participates in a public auction program for the disposal of its unused furniture and other surplus assets."* [See p. 3, Draft Audit.]

The following will list the auditors' findings with DDC's detailed responses:

Audit Finding # 1: Recycles designated materials / Partial Compliance: Agency has designed different color bins without proper signage.

DDC Response to Audit Finding # 1: DDC is in agreement with this finding and will comply.

DDC has two (2) locations: 30-30 Thomson Ave., Long Island City, NY and 40 Worth St., NY, NY. Both locations are in non-City owned buildings with private landlords. In both location, the private landlords use private carting services for the collecting and final sorting of waste and recyclables. In addition to the landlords' recycling processes, DDC had issued to all employees a blue recycle bin and had been instructed by email to dispose all recyclable paper in such blue recycle bins. All copying machines have a similar blue recycle bin and all pantries are equipped with recycle bins for metal and plastic cans and bottles. These blue colored bins, at each employee's workspace and at the copying machines, are outlined with the white symbol for recycling.





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DDC Response: NYC Comptroller's Audit Number 7R14-118/AL

In addition to the steps already taken by DDC as outlined above, DDC will now reach out to the NYC Department of Sanitation ("DSNY") to obtain stickers that specify the exact recycling material (i.e. "paper only") to be placed in the blue colored bins. Once obtained, DDC will label all of the blue colored bins with these clarification stickers.

Audit Finding # 2: Establish a waste prevention, reuse and recycling plan by July 2011 / Partial Compliance: DDC established a recycling and waste collection plan in December 2011 but it did not include the agency's waste prevention and reuse efforts.

DDC Response to Audit Finding # 2: DDC is in agreement with this finding and will comply

DDC did not include our waste prevention and reuse efforts in our December 2011 plan. Notwithstanding this minor oversight, DDC is strongly committed to waste reduction and reuse efforts as evidenced by the blue colored bins at everyone's desk and near every copying station, as well as recycle bins in every pantry. DDC has been developing and improving its computer systems in an effort to reduce the massive amounts of paper work required in contract development and payments to contractors. By turning away from paper generated systems and replacing them with electronic substitutes, DDC is reducing the consumption and storage of excessive paper. In addition, DDC has initiated double sided copying at all copying machines. In addition, DDC's Facility Maintenance Unit has a policy to repair electrical appliances, whenever possible, instead of replacing them when they are not functioning correctly.

Audit Finding # 3: Submits annual report to the agency head and DSNY Commissioner / No Compliance: DDC did not submit annual reports to its commissioner or to DSNY for fiscal years 2012 and 2013.

DDC Response to Audit Finding # 3: DDC is in agreement with this finding and will comply.

DDC did not file the annual reports but will comply with all future required filings in a timely manner.

Sincerely,

A handwritten signature in black ink, appearing to read "Feniosky Peña-Mora".

Commissioner Feniosky Peña-Mora

