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OFFICE OF THE COMPTROLLER
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AUDIT

BUREAU OF AUDIT

November 9, 2015

By Electronic Mail

Ana M. Bermúdez
Commissioner
New York City Department of Probation
33 Beaver Street, 23rd Floor
New York, NY 10004

**Re: Letter Report on the New York City Department of Probation's Compliance
with Local Law 36 (Audit Number SZ16-067AL)**

Dear Commissioner Bermúdez:

This Letter Report concerns the New York City Comptroller's audit of the New York City Department of Probation's ("DOP") compliance with Local Law 36, which governs waste prevention, reuse and recycling by City agencies. The objective of this audit was to determine if DOP 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 DOP made to follow recycling rules established by the New York City Department of Sanitation ("DSNY") pursuant to Local Law 36. Our audit of DOP 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 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 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 DOP did not fully comply with Local Law 36. DOP did not establish a waste prevention, reuse and recycling plan until April 2015, notwithstanding that Local Law 36 requires such a plan to have been submitted to DSNY no later than July 1, 2011. We also found that DOP did not submit the required annual reports to its Commissioner or to DSNY for Fiscal Years 2012, 2013, and 2014. Although Local Law 36 requires that each agency designate one assistant coordinator for each building it occupies, we found that DOP has designated only two additional assistant coordinators to assist its agency’s lead coordinator for its thirteen City-owned (DOP occupied) office buildings.

During our site visit to the Bay Street office in Staten Island, we noted that the waste generated from the office, including shredded papers and cans, is collected and placed in a trash compactor before it is picked up by the waste management company. A trash compactor allows more waste to fit into a smaller space by compaction. However, once the trash is compressed, recyclables are difficult to separate; this practice may hinder DOP’s effort to comply with Local Law 36. In addition, 7 of DOP’s 11 facilities did not have proper recycling signage posted at the receptacles. Signage and labeling provide instruction for the proper disposal of designated recyclable materials. Our findings are outlined in the table entitled Compliance Summary below.

| COMPLIANCE SUMMARY | | |
|--|------------|--|
| Local Law 36 Criteria | Compliance | Notes |
| Recycles designated materials | Partial | Generally complies (exception noted above). |
| Designated a lead recycling coordinator and assistant coordinators | Partial | DOP has offices in thirteen City-owned buildings but only designated two assistant coordinators. |
| Established a waste prevention, reuse and recycling plan by July 1, 2011 | No | DOP did not establish a waste prevention, reuse and recycling plan until April 2015. |
| Submits annual report to the agency head and DSNY Commissioner | No | DOP did not submit annual reports for Fiscal Years 2012, 2013, and 2014. |

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

We recommend that DOP submit the required annual reports to its Director and DSNY by July 1st of each year and designate additional assistant coordinators as required by Local Law 36. We also recommend that DOP review its waste collection process at the Staten Island office to ensure it is in compliance with New York City Recycling Law and label each recycling receptacle at the other six locations to indicate what recyclable materials should be placed in each 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 September 15, 2015, 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 DOP 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 DOP;
- We requested and reviewed as applicable DOP’s waste prevention, reuse and recycling plan, list of coordinators, and the agency’s annual reports for 2012 through 2014; and
- We conducted interviews with DOP’s recycling/sustainability coordinator to discuss the agency’s recycling and waste prevention efforts and visited DOP’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 |

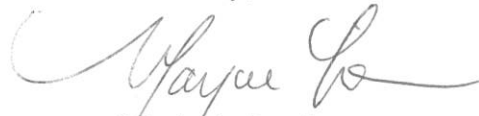
Because many agencies may have pursued initiatives beyond these core requirements, we recognized agencies' additional actions regarding recycling and sustainability. Our

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 DOP officials during and at the conclusion of this audit. On October 22, 2015, we submitted a draft letter report providing DOP with an opportunity to formally respond. DOP's response was received on November 4, 2015. In its written response, DOP agreed with the report's findings and stated that it has appointed an Assistant Coordinator for each building it occupies; that it will submit the annual reports in a timely manner; and that it has obtained recycling signage from DSNY and has posted it at all receptacles. DOP also addressed our finding at the Bay Street office in Staten Island by contacting the landlord "to explore the feasibility of separating" the recyclable materials.

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

Sincerely,



Marjorie Landa

c: Phyllis R. DeLisio, Assistant to Commissioner Bermudez, DOP
Charles Harris, Director of Internal Audit, DOP
Mindy Tarlow, Director, Mayor's Office of Operations
George Davis, III, Deputy Director, Mayor's Office of Operations



Ana M. Bermúdez
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November 4, 2015

Ms. Marjorie Landa
Deputy Comptroller for Audit
City of New York
Office of the Comptroller
Bureau of Audit
Municipal Building
1 Centre Street, Room 1100
New York, NY 10038

Re: **DOP's Response to Draft Letter Report on the NYC Department of Probation's Compliance with Local Law 36 (Audit Number SZ16-067AL)**

Dear Ms. Landa:

The New York City Department of Probation ("DOP") is in receipt of the October 22, 2015 report for the period, July 1, 2011 through September 15, 2015 prepared by the Office of the NYC Comptroller. We would like to thank the Comptroller's audit team for their professionalism in conducting this audit and are grateful for the opportunity to respond to the Draft Letter Report.

DOP is committed to ensuring compliance with Local Law 36. To this end, we have addressed each of the findings and recommendations below:

AUDITOR'S FINDING:

DOP only designated two additional Assistant Coordinators to assist its agency Lead Coordinator in its eleven City-owned, DOP occupied office buildings.

AGENCY RESPONSE:

DOP agrees with the audit findings. DOP has appointed an Assistant Coordinator for each building it occupies to assist its agency's Lead Coordinator.

AUDITOR'S FINDING:

At the Bay Street Office in Staten Island, waste generated from the office, including shredded papers and cans, is collected and placed in a trash compactor before it



is picked up by the waste management company making it difficult for recyclables to be separated. This practice may hinder DOP's effort to comply with Local Law 36.

AGENCY RESPONSE:

DOP has contacted the landlord to explore the feasibility of separating these materials, and will follow-up accordingly.

AUDITOR'S FINDING:

7 out of 11 DOP facilities did not have proper recycling signage posted at the receptacles.

AGENCY RESPONSE:

DOP has obtained recycling signage from the Department of Sanitation and has posted them at all receptacles.

With regard to DOP's waste prevention, reuse and recycling annual plan, the plan was submitted in April of 2015 when DOP realized that the agency had not been in compliance due to a misunderstanding of waste management requirements. Going forward, annual reports will be submitted in a timely manner.

Once again, I want to thank you for the opportunity to review and respond to the Draft Letter Report.

Respectfully submitted,

A handwritten signature in blue ink that reads "Ana M. Bermúdez".

Ana M. Bermúdez