



OFFICE OF INSPECTOR GENERAL

Catalyst for Improving the Environment

Memorandum Report

Pollution Prevention: Effectiveness of EPA's Efforts to Encourage Purchase of Recycled Goods Has Not Been Demonstrated

Report No. 2003-P-00013

September 22, 2003



Report Contributors:

Anne Bavuso
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Abbreviations

CPG	Comprehensive Procurement Guideline
EPA	Environmental Protection Agency
EO	Executive Order
OAM	Office of Acquisition Management
OIG	Office of the Inspector General
OSW	Office of Solid Waste
RCRA	Resource Conservation and Recovery Act

Cover illustration: Recycling logo on EPA's Jobs through Recycling homepage.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
INSPECTOR GENERAL

September 22, 2003

MEMORANDUM

SUBJECT: Pollution Prevention: Effectiveness of EPA's Efforts to Encourage
Purchase of Recycled Goods Has Not Been Demonstrated
Report No. 2003-P-00013

FROM: Carolyn Copper /s/
Director of Hazardous Waste Issues
Office of Program Evaluation

TO: Barry Breen
Principal Deputy Assistant Administrator
Office of Solid Waste and Emergency Response

Morris X. Winn
Assistant Administrator
Office of Administration and Resources Management

This is our final report on the effectiveness of EPA's efforts to purchase recycled goods which was conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). This memorandum report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends. This report represents the opinion of the OIG and the findings contained in this report do not necessarily represent the final EPA position. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

Action Required

In accordance with EPA Manual 2750, you are required to provide a written response to the report within 90 calendar days of the date of this report. You should include a corrective actions plan for agreed upon actions, including milestone dates. We have no objections to the further release of this report to the public. For your convenience, this report will be available at <http://www.epa.gov/oig/>

If you or your staff have any questions, please call me at (202) 566-0829 or Anne Bavuso, Project Manager, at (215) 814-5800.

Results in Brief

In an effort to prevent pollution and conserve natural resources and virgin materials, Congress requires that the Federal Government's purchasing power be used to steer materials away from disposal toward recycling. Specifically, EPA has two requirements to fulfill under Section 6002 of the 1976 Resource Conservation and Recovery Act (RCRA). First, EPA is required to designate items made from recycled-content goods the Federal Government should purchase. Second, as a procuring agency, EPA is directed to establish an affirmative procurement program to ensure it purchases the EPA-designated items.

Although EPA has taken steps toward administering the requirements of RCRA Section 6002, it has not effectively implemented all the requirements. The Office of Solid Waste (OSW) is responsible for the designation of recycled-content items and it has designated 54 items since the 1980s. The Office of Acquisition Management (OAM) is responsible for implementing the affirmative procurement program, but the office has:

- Only included 5 of the 54 designated items in its guidance.
- Not collected or tracked EPA's facilities' or contractor-designated item purchases.
- Not used internal Agency information on government credit card purchases to monitor purchases of recycled-content items.
- Not modified its data systems to accommodate a fiscal 2004 requirement to report its purchases of recycled-content items.
- Not monitored or evaluated the effectiveness of the affirmative procurement program.

Incomplete program implementation undermines the Agency's ability to credibly articulate and demonstrate the role these mandated activities play in preventing pollution. We believe the Agency's lack of program strategies, goals, specific performance measures and milestones, and clear linkage between the RCRA Section 6002 requirements and the Agency's broad pollution prevention goals has contributed to their ineffective implementation and requires action. Developing appropriate program strategies, goals, and measures will not only establish performance milestones and accountability for program managers and staff but will also assist Agency and independent evaluators in determining whether the Agency's progress, or compliance, with the RCRA Section 6002 requirements is satisfactory.

Purpose of Review

Our specific evaluation questions were:

- Has EPA complied with its responsibilities as authorized by RCRA Section 6002 and Executive Order (EO) 13101 to designate items in a Comprehensive Procurement Guideline?
- Has EPA effectively implemented its affirmative procurement program in compliance with RCRA Section 6002 and EO 13101?

Background

RCRA Section 6002 requires EPA to designate in a Comprehensive Procurement Guideline (CPG) items that can be made with recycled material.¹ The CPG is to be updated every 2 years or as appropriate. Once EPA designates an item in the CPG, the responsibility for purchasing these items is with each procuring agency.²

An agency that purchases an EPA-designated item in excess of \$10,000 during the course of the fiscal year is subject to RCRA Section 6002, which requires procuring agencies (including EPA) to develop an affirmative procurement program that ensures recycled-content items are purchased by agencies to the maximum extent practical. Affirmative procurement programs are important because they contain the Agency's policy and strategy for maximizing its purchases of designated items. According to EPA policy, the program should be comprehensive and minimally consist of a preference program; promotion program; estimation, certification, verification program; and monitoring and review program.

Additional guidance for RCRA Section 6002 was provided in the 1998 EO 13101: *Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition*. The Order directs each Federal Agency to implement affirmative procurement programs in accordance with RCRA Section 6002 and EPA to develop guidance for government-wide use of environmentally preferable products. The Order also directs the Office of the Federal Environmental Executive to implement provisions of the order; develop a government-wide waste prevention and recycling strategic plan; generate a biennial report to the President; coordinate government-wide education and training programs for agencies; take all actions necessary to ensure that agencies comply with the requirements of the order; and, in coordination with the Office of Management and Budget's Office of Federal Procurement Policy, work with State and local governments to improve Federal, State, and local use of recycled products.

Scope and Methodology

We performed our evaluation from October 2002 through May 2003. We interviewed officials who were involved in planning, implementing, or providing support and oversight to the designation of EPA's CPG and the affirmative procurement program. These officials included staff from the Office of the Federal Environmental Executive; EPA's Office of Solid Waste and Emergency Response, including OSW; and the Office of Administration and Resources Management, including OAM. Our review focused on the applicable RCRA Section 6002 requirements for EPA to designate and purchase CPG items. We also reviewed documents sufficient to render an opinion on our objectives. We performed our evaluation in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States, as they applied to performance audits.

¹Appendix A lists the current 54 designated items.

²Procuring agencies are all Federal executive branch agencies, State and local agencies using appropriated Federal funds, and their contractors.

We examined prior studies, and these studies showed that EPA was slow to develop guidance on recycled-content item purchases, and other Federal agencies had not adequately monitored their purchases of EPA-designated items.³

Findings

EPA Complied with RCRA Section 6002, But Program Success Difficult to Determine

In compliance with RCRA Section 6002, OSW has designated 54 items in its CPG since the 1980s, but we could not determine the success of the procurement guideline program. Despite meeting the intent of the RCRA statute, EPA did not develop program management plans for the designation of recycled-content items, including the development of specific milestones, goals, or performance measures, which assist in evaluating program effectiveness. In addition, this program had no clear linkage to the Agency's broad pollution prevention goals. OSW's strategic plan for years 2003 through 2008 failed to link or even mention CPG program activities.

In developing the CPG, OSW relied on criteria in RCRA Section 6002 to research items that should be designated. The Agency also participated in an interagency workshop that provided feedback about prospective CPG items. To give affected procuring agencies an opportunity to comment on EPA-proposed items, EPA used the formal notice and rulemaking process to designate CPG items.

Other Federal agencies have expressed some concerns about the CPG items that EPA has designated. EPA is not responsible for implementing other agencies' CPG programs, but EPA has a lead role in designating items that they must purchase. OSW officials told us that other agencies have commented that EPA designated too many items that, despite the requirements, they may not be able to purchase. Some agencies were also concerned with tracking large numbers of purchased items because their automated systems did not contain tracking or reporting mechanisms for recycled-content items. In addition, Department of Energy officials have stated that they had difficulty using the designated items because the vendors listed either did not exist or no longer carried the items with recycled-content. Further, the Department of Energy found that it was time-consuming and inefficient for each of its sites to research the availability of EPA-designated items.

Not All Components of Affirmative Procurement Program Fully Implemented, and Effectiveness of Program Difficult to Determine

EPA could not assure it was purchasing recycled-content items to the maximum extent practical as required by RCRA Section 6002. We believe that the Agency's lack of plans, strategies, and performance goals and milestones for the affirmative procurement program was a factor in the

³U.S. General Accounting Office Report GAO/RCED-93-58, *Solid Waste: Federal Program to Buy Products With Recovered Material Proceeds Slowly*, May 1993; and U.S. General Accounting Office Report GAO-01-430, *Federal Procurement: Better Guidance and Monitoring Needed to Assess Purchases of Environmentally Friendly Products*, June 2001.

program's incomplete implementation and limitations we observed. Following are our findings for the four components of the Agency's affirmative procurement program.

Preference Program

The affirmative procurement program allows EPA to prefer certain recycled-content items over virgin material items, and establish for itself minimum content standards for those items. RCRA Section 6002 requires EPA to establish an affirmative procurement program for each recycled-content item within 1 year after designation.⁴ We found that EPA's affirmative procurement program only contained information for the first five items designated in the 1980s. Although EPA's program guidance only contained 5 of 54 CPG items, this does not mean that the Agency was not purchasing some of the "excluded" 49 items. Although very incomplete, the Agency's most recent report of CPG items it had purchased indicated that the Agency purchased some items that had not yet been officially incorporated into the affirmative procurement program.

Promotion Program

RCRA Section 6002 requires agencies to actively communicate, or promote, their preferences for recycled-content items internally to their project officers, contract officers, and others, as well as externally to their contractors and vendors. EPA promoted its affirmative procurement program through workshops presented by EPA employees, Contractor Officer Representative training (basic and re-certification), purchase cardholder training, ad hoc mini training sessions (which were also videotaped for use at other locations), an OAM Annual Conference, contract clauses, EO 13101 goals, and the Agency's CPG web site.

Despite these efforts, we found there was a general lack of knowledge about the Agency's affirmative procurement program, and procurement staff had difficulty articulating the difference between recycled-content items required to be purchased under RCRA Section 6002 and items associated with EPA's environmentally preferable program. The environmentally preferable program is discussed in EO 13101, but not required under RCRA Section 6002.

We believe shortcomings in the promotion program are a factor in staff's limited knowledge of the program. We observed the following shortcomings in the training component of the Agency's promotion program activities:

- The most recent ad hoc mini training sessions were presented 2 years ago. Attendance was limited to Headquarters staff and OAM could not verify the number of times videotapes of the training sessions were used at regional locations.
- OAM had no information on the number or attendance of the regional workshops.
- Since 2000, only 61 percent of government purchase cardholders received training.

⁴An agency can choose not to purchase a designated item. RCRA Section 6002 indicates the following reasons for not purchasing a designated item: (1) the item is not reasonably available, (2) the item fails to meet performance standards, and (3) the item is unreasonably priced.

Estimation, Certification, and Verification Program

EPA requires its contractors to submit reports containing estimates and certifications of the percentage of recycled-content materials used in the performance of the contract. However, OAM told us that it does not collect the information because it has not modified its data systems to begin tracking contractors' purchases. According to Agency officials, data systems have not been modified because EPA is not required to report the information until fiscal 2004. However, this data is needed by EPA to fulfill its basic requirement under RCRA Section 6002, as well as guidance in EO 13101, to purchase and report designated items.

Monitor and Review of Procurement Program

The Agency had not conducted an evaluation of its affirmative procurement program and had no information on whether the program was achieving desired results. Program guidance states, "EPA's Recycling Program will review the range of estimates and certifications received to determine whether the Agency's preference program is effective."⁵ We asked the Agency for reports or self audits as evidence of its review and evaluation of its affirmative procurement program, but officials said none had been performed. Without this information the Agency had no knowledge of the program's performance, success, failure, strengths, or weaknesses.

Other Challenges

- The Office of the Federal Environmental Executive does not require EPA to report its purchases of recycled-content items until fiscal 2004. However, the Agency voluntarily reported purchase information in a fiscal 2002 RCRA report. While we commend the Agency for undertaking this effort, we observed weaknesses in its reporting. OAM reported information that was contrary to what we found during our review in that it reported events that did not occur. For example, OAM reported that it routinely reviewed the affirmative procurement plan, and updated the document within the past 3 years, but this was not the case. In addition, the data in the report was incomplete, with only 18 of 50 Agency facilities reporting information. Further, all staff responsible for requesting and purchasing EPA-designated items were not asked to contribute to the report.
- We found that management controls to ensure consideration of recycled-content items were not consistently used. EPA's Contract Management Manual discusses the use of a checklist and questionnaire to ensure that the staff requesting purchases will discuss with the contract management official the possibility that recycled-content items can be bought within the completion of the contract. We found that the checklist and questionnaire used to facilitate the discussion were not used. Also, staff did not document their reasons why a CPG item was not purchased. Finally, the questionnaire did not include the complete list of EPA-designated items.

⁵ Contract Management Manual Chapter 13, Affirmative Procurement Program for Recovered Materials, pg. 13.9.

- We were told that EPA had no data on products it buys with government purchase cards because the issuing bank did not provide the data. However, Agency credit card holders maintain logs of items they purchase with the credit card. Government credit cards are the preferred method to purchase and pay for micro-purchases (under \$2,500) and, according to EPA, these purchases amount to \$3 to \$5 million in office supplies annually. An improvement in this area is EPA's development of a Blanket Purchase Agreement. This system will allow government purchase cardholders to buy recycled-content products, as well as other "green-type" products, and will provide data for detailed tracking of all purchases throughout the Agency. This online purchasing system for office supplies is expected to be operational in 2005, and all government purchase cardholders will be required to use it. EPA said it plans to train all of its credit card purchasers on how to use the online system.

Conclusion

Although EPA has taken steps to designate recycled-content items for purchase and established some of the required components of its program to ensure that items are purchased, the program has not been effectively implemented. This situation greatly complicates the Agency's ability to credibly articulate the effect or role the program has on EPA's pollution prevention objectives. Although steps have been taken to comply with the intent of the RCRA Section 6002 requirements, there were no obvious standards to evaluate whether the compliance observed was satisfactory, sufficient, or helping to contribute to the related environmental goal. The lack of accountability and management tools for implementing the RCRA Section 6002 requirements – including a strategic plan, goals, performance measures, and milestones – was a primary and significant factor contributing to the incomplete implementation of the RCRA requirements and weaknesses for activities that were implemented. Without accountability and program management tools, the Agency's ability to determine the effectiveness of program activities in preventing pollution and to identify ways program activities may need to be revised to obtain improved program results will continue to be jeopardized.

Recommendations

We recommend that the Principal Deputy Assistant Administrator, Office of Solid Waste and Emergency Response, direct OSW to take the following action to improve results of the CPG program:

- 1-1. Develop a comprehensive strategy for the CPG program, including establishing performance goals, measures, and milestones. This strategy and plan should include discussion of how the CPG is linked to the accomplishment of the Agency's broad pollution prevention goals and what needs to be accomplished from the CPG program in order to contribute to broad pollution prevention goals.

We recommend that the Assistant Administrator, Office of Administration and Resources Management, direct OAM to take the following actions to address weaknesses in EPA's affirmative procurement program:

- 1-2. Develop a strategic plan for the affirmative procurement program, including performance goals and measures that clearly and specifically define the results the Agency expects to achieve and when it expects to achieve them. This strategic plan should include discussion of how the affirmative procurement program is linked to the accomplishment of the Agency's broad pollution prevention goals.
- 1-3. Revise the Agency's affirmative procurement program to include the information on all 54 CPG items, and revise guideline recommendations and other appropriate guidance.
- 1-4. Review and revise, as needed, contract manuals, contract clauses, and procedures to accurately reflect the current status and policies of the affirmative procurement program, and determine appropriate time frames to review and update the program and related policies, clauses, and procedures.
- 1-5. Modify relevant procurement data systems to enable clear collection, tracking, and reporting on purchases of EPA-designated items.
- 1-6. Ensure all appropriate EPA staff, including program officers, receive CPG and affirmative procurement program training. Training should be comprehensive, ensuring all procurement and acquisition staff understand nuances in "green" purchasing and their obligation to select EPA-designated items.
- 1-7. Ensure that CPG items are consistently considered by contract management officials by requiring the use of appropriate control procedures such as the checklist and questionnaire.
- 1-8. Improve the promotion of the affirmative procurement program to EPA staff and external stakeholders, such as by: preparing and distributing program policies through electronic mail and other media; publishing articles in EPA newsletters; conducting Agency-wide workshops and training sessions on the RCRA Section 6002 requirements; educating contractors and potential bidders of the Agency's preference to purchase recycled-content items by publishing items in trade publications and posting notices on the Agency's home page; participating in vendor shows and trade fairs; and placing statements in solicitations.
- 1-9. Develop and implement a process that would allow it to review and monitor the progress of its affirmative procurement program.

Agency Comments and OIG Evaluation

Agency officials generally agreed with our report findings and recommendations. As appropriate, we made changes to our report based on Agency comments. Complete Agency responses are in Appendix B and C.

In response to Recommendation 1-1, which was directed to OSW:

OSW agreed with Recommendation 1-1 and stated that it already has a strategy for the CPG program. We asked for documentation of the strategy, and the Agency produced a 1995 Federal Register Notice: *Procedures for Submission of Recycled Content Products Information to EPA*. OSW officials stated that it used the procedures outlined in the Notice as its strategy for the CPG program. This document does not satisfy our recommendation because it lacks program goals, performance measures, and milestones. In addition to the Notice, OSW provided its new planning document: *Mutual Performance Agreements for FY 2004*. This document mentions activities performed in the Procurement Guideline Program, but fails to designate program goals, measures, and milestones for the program. In response to the final report, OSW needs to provide the specific action planned and the completion date for final resolution of Recommendation 1-1.

In response to Recommendations 1-2 through 1-9, which were directed to OAM:

OAM agreed with Recommendation 1-2. However, OAM indicated that the development of a strategic plan for the affirmative procurement program is beyond the purview of OAM. OAM suggested that a multi-office workgroup, internal to EPA, should create a strategic plan for the Agency that would satisfy our recommendation. OIG accepts OAM's response. In response to the final report, OAM needs to provide the specific action planned and completion date for final resolution of Recommendation 1-2.

OAM agreed with Recommendation 1-3. OAM stated it will revise the affirmative procurement program's guidance document to include a link to the CPG web site. The CPG web site will contain a listing of all the current CPG items, thus allowing the affirmative procurement program guidance document to remain up-to-date. The milestone given for this planned action is the end of the first quarter of fiscal 2004, to coincide with OAM's re-issuance of the Contract Management Manual. We consider OAM's planned action and implementation schedule to be satisfactory. In its response to our final report, OAM needs to confirm the final resolution of Recommendation 1-3.

OAM agreed with Recommendation 1-4, and, as stated above, plans to revise the Contract Management Manual by the end of the first quarter of fiscal 2004. We consider OAM's planned action and implementation schedule to be satisfactory.

OAM agreed with Recommendation 1-5. However, OAM believes that proper implementation of the recommendation is broader than its office. According to OAM,

because of the decentralized nature of EPA's purchasing structure, not all EPA purchases can be tracked with OAM data systems (e.g., EPA facilities' purchases). Any system modification decisions that would attempt to capture all EPA purchases would have to be implemented under the direction and guidance of an EPA office with broader authority than OAM. OAM is making system modification decisions that are within its purview, and has created a process to collect CPG purchase information through purchase cards. OIG accepts OAM's response. However, OAM needs to provide the specific action planned and the completion date for the development of a process to collect the Agency's purchasing data for its fiscal 2004 RCRA report.

OAM agreed with Recommendation 1-6. OAM agreed that it needs to ensure all appropriate EPA staff receive affirmative procurement program training, and it will continue its efforts to train appropriate staff. With the launching of the Blanket Purchase Agreement on-line system, OAM will require all purchase cardholders to receive training on "green" purchasing, and that training is to include the CPG Program. OAM stated that more ad hoc mini-training sessions will be given later this year. OIG accepts OAM's response, and made changes to the final report to reflect OAM's comments.

OAM agreed with Recommendation 1-7. OAM stated it will update the checklist as part of the affirmative procurement program. At the exit conference, OAM agreed to link the questionnaire to the CPG web site to ensure questions involving the consideration of CPG items are up-to-date, and attach the justification not to purchase CPG items to the checklist. OIG accepts OAM's response. In its final report, OAM needs to confirm final resolution of Recommendation 1-7.

OAM agreed with Recommendation 1-8 to increase its efforts to promote the CPG and the affirmative procurement program. "Hot Tips" publications will be used to remind acquisition personnel of the Federal requirements. OAM will incorporate the CPG program into its contractor forums and use the Contract Customers Relations Council as appropriate to better educate both EPA's contractors and employees about the program. OIG accepts OAM's response. In response to the final report, OAM needs to provide the specific action planned to increase its efforts to promote the CPG and the affirmative procurement program. For example, OAM should provide a "Hot Tips" publication that discusses the CPG program.

OAM agreed with Recommendation 1-9. OAM believes planned system enhancements, along with the Blanket Purchase Agreement on-line system, will permit OAM to review and monitor the progress of the Agency's affirmative procurement program. OIG believes OAM or a multi-office workgroup needs to develop performance goals and measures to improve the monitoring and review of the Agency's affirmative procurement program. In response to the final report, OAM needs to provide the specific action planned and the completion date for final resolution of Recommendation 1-9.

Comprehensive Procurement Guideline Items (54)

Paper and Paper Products

Paper and Paper Products

Vehicular Products

Engine Coolants
Re-refined Lubricating Oils
Retread Tires

Construction Products

Building Insulation Products
Carpet
Carpet Cushion
Cement and Concrete Containing Coal Fly Ash
Cement and Concrete Containing Ground
Granulated Blast Furnace Slag
Consolidated and Reprocessed Latex Paint
Floor Tiles
Flowable Fill
Laminated Paperboard
Patio Blocks
Railroad Grade Crossing Surfaces
Shower and Restroom Dividers and Partitions
Structural Fiberboard

Transportation Products

Channelizers
Delineators
Flexible Delineators
Parking Stops
Traffic Barricades
Traffic Cones

Park and Recreation Products

Park Benches and Picnic Tables
Plastic Fencing
Playground Equipment
Playground Surfaces
Running Tracks

Landscaping Products

Food Waste Compost
Garden and Soaker Hoses
Hydraulic Mulch
Lawn and Garden Edging
Plastic Lumber Landscaping
Timbers and Posts
Yard Trimmings Compost

Nonpaper Office Products

Binders (plastic covered,
chipboard, and pressboard)
Office Recycling Containers
Office Waste Receptacles
Solid Plastic Binders
Plastic Clipboards
Plastic File Folders
Plastic Clip Portfolios
Plastic Presentation Folders
Plastic Desktop Accessories
Plastic Envelopes
Plastic Trash Bags
Printer Ribbons
Toner Cartridges

Miscellaneous Products

Awards and Plaques
Industrial Drums
Manual-Grade Strapping
Mats
Pallets
Signage
Sorbents

August 22, 2003

MEMORANDUM

SUBJECT: OSWER Response to OIG Draft Report "Pollution Prevention: Effectiveness of EPA's Efforts to Encourage Purchase of Recycled Goods Has Not Been Demonstrated" Assignment Number 2003-000139

FROM: Tom Dunne/s/
Associate Assistant Administrator

TO: Carolyn Copper
Director of Hazardous Waste Issues
Office of Program Evaluation

Thank you for the opportunity to review and comment on the subject draft report. Overall, we agree with the findings and the recommendation in the report, but we have provided some specific comments below.

Specific comments:

1. Background Section

We believe that the last paragraph under Background section should be written in the past tense to articulate the conclusions of the previous evaluations by the General Accounting Office (GAO). This paragraph should be revised to read "Prior studies had shown that EPA was slow to develop guidance on recycled-content item purchases, and other Federal agencies had not adequately monitored their purchases of EPA-designated items."

2. Findings Section

This section states that EPA complied with RCRA section 6002, but that the success of the procurement guideline program is difficult to determine because the Agency did not develop program management plans for the designation of items, including the development of specific milestones, goals, or performance measures.

While we agree with this finding in general, we note that neither the statute nor the Executive Order requires EPA to develop program management plans, specific milestones, goals, or performance measures for the issuance of Comprehensive Procurement Guidelines (CPGs). We suggest that the report make clear that while these items are suggestions for improving the management of the program, the critical point is that EPA has fulfilled its

statutory responsibilities. Moreover, the report notes that there is no mention of the CPG activities in the strategic plan for 2003- 2008. While this may be the case, CPG activities are included in our Mutual Performance Agreements for FY 2004 (a new planning document instituted this year by the Office of Solid Waste) and as part of our Resource Conservation Challenge materials.

The report also indicates that other agencies have expressed concern that EPA has designated too many items for them to track. We are not sure of the purpose of this statement since EPA's actions regarding CPG designations are in compliance with statutory provisions.

3. Recommendation

The report recommends that OSWER develop a comprehensive strategy plan for the CPG program including goals, measures, milestones and a discussion of how CPG is linked to the achievement of the Agency's broad pollution prevention goals. We have a strategy for CPG designations and have begun to work with stakeholders on potential products to be designated and on streamlining the process.

Again, thank you for the opportunity to review and comment on this report. If you have any questions please contact Thea McManus at (703) 308-8738 or Johnsie Webster, Audit Liaison, at (202) 566-1912.

MEMORANDUM

SUBJECT: Draft Audit Report: Effectiveness of EPA's Efforts to Encourage Purchase of Recycled Goods Has Not Been Demonstrated
Assignment No. 2003-000139

FROM: Morris X. Winn
Assistant Administrator

TO: Carolyn Copper
Director of Hazardous Waste Issues
Office of Program Evaluation
Office of Inspector General

Thank you for the opportunity to submit our comments on the draft report entitled "Effectiveness of EPA's Efforts to Encourage Purchase of Recycled Goods Has Not Been Demonstrated." The comments contained in this memorandum address only the findings related to the Office of Acquisition Management (OAM). Per verbal direction from the Office of the Inspector General (OIG), the Office of Solid Waste and Emergency Response will be responding under separate cover.

We are in general agreement with the draft report. OAM has developed an Affirmative Procurement Program (APP) in accordance with Federal requirements. We agree with your finding that the program should be updated to reflect current recycled-content products named to the Comprehensive Procurement Guidelines (CPG). However, some of the other findings noted in your draft report are not completely within the purview of OAM to resolve. Some of your findings relate to the decentralized nature of Agency purchases of CPG items and broad, strategic Agency goals for recycling; to that end, OAM will collaborate with other Agency offices to strengthen our APP.

Our responses are discussed by subject in the order of appearance in the report.

COMMENTS ON SPECIFIC FINDINGS

Not all Components of Affirmative Procurement Program Fully Implemented, and Effectiveness of Program Difficult to Determine.

The Resources Conservation and Recovery Act (RCRA) Section 6002, and Executive Order (EO) 13101, require that procuring agencies establish an APP to ensure that requirements for products named to the CPG are purchased with established recycled contents. The APP should consist of four components: Preference Program, Promotion Program, Estimation, Certification, and Verification Program, and a Monitor and Review Program.

Preference Program

The draft OIG report, under preference program, indicated that OAM has not updated its APP to include items added to the CPG list. It is true that the APP is outdated. Because the list of CPG items changes, and the Agency clearance process makes it impractical to make changes to procurement manuals frequently, it is our intention to revise the APP to include a link to the CPG website, rather than a list of CPG items. Thus, acquisition personnel seeking information on the APP will have immediate access to the current list of CPG items and the recommended recycled-content. The APP revision will be accomplished by the end of the first quarter of fiscal year (FY) 2004, as a part of OAM's issuance of the revised Contracts Management Manual (CMM).

The APP has historically contained a preference element in accordance with regulation. EPA's APP permits a 10% price differential for items containing the prescribed amounts of recycled-content. That is, Agency buyers may pay up to 10% more for recycled-content items than for those made with virgin material, and still consider them equal in the procurement evaluation process. We request that the OIG final report find that the preference program requirement has been met, and narrow the finding to a need to update the list of CPG items.

Promotion Program

The draft report states that OAM has not adequately promoted the APP. OAM believes that the program has been actively promoted through a variety of venues such as training, 'hot tips', seminars, and the Contract Customers Relations Council (CCRC). The CCRC is a focus group consisting of program and procurement personnel. This focus group addresses procurement issues and offer solutions to a broad range of procurement matters.

Training has not been limited to Headquarters staff, as stated in the report. A series of mini-training sessions, which were presented at Headquarters, were videotaped and provided to remote locations. In addition, 'green procurement', including the CPG program, has consistently been a topic at the annual OAM training conference, which is open to program and procurement personnel from all across the Agency. OAM has also participated with the General Services Administration (GSA) in sponsoring 'green' training sessions, both at GSA's annual procurement conference and series of 'brown bag' lunchtime seminars.

The OAM training manual for purchase card holders provides comprehensive coverage of the CPG program and the requirement to buy recycled-content products. OAM's training manual was identified by the President's Task Force on Recycling as a good example for promoting the CPG to purchase card holders. This is particularly significant in that the vast majority of CPG items that EPA buys are purchased by purchase card holders.

Estimation, Certification, and Verification Program

The OIG draft report states that OAM has not modified its data systems. Although mandatory reporting is not required until FY 2004, the OIG states that APP information is necessary to fulfill the basic requirement under RCRA Section 6002 and EO 13101.

While it is true that OAM's automated systems are not fully capable of collecting all procurement information related to the CPG program, OAM has, nonetheless, performed the estimation and verification required for reporting purposes for the past several years. As EPA is not one of the six major procurement agencies, we have been exempted from reporting until the end of FY 2004. Despite this exemption, we have chosen to submit qualified reports, because the Federal Environmental Executive (FEE) has encouraged voluntary reporting. The estimating and verification process each year was performed manually.

Along with the rest of the Federal government, EPA struggles to modify existing systems to collect necessary procurement information. However, the problems with CPG program reporting go beyond system modifications; they actually highlight the very decentralized procurement structure responsible for procuring CPG items. Even with system modifications, OAM can only capture CPG items purchased under contract or purchase order, and we estimate this to be a very low percentage of the total CPG purchases made at EPA.

As previously stated, the vast majority of CPG item purchases are done via the purchase card. Agency-wide purchase card activity is not tracked via OAM data systems, nor on a detailed level in any other EPA data system. As a result, OAM has taken a very aggressive step in attempting to collect data on such purchases by initiating a mandatory Blanket Purchase Agreement (BPA) for office supplies. OAM will be able to collect all required information on CPG purchases made via this BPA. By far, office supplies is the largest category of CPG items that EPA purchases, and we expect that the BPA will greatly improve our ability to monitor and verify compliance with the APP. Other civilian agencies are looking on EPA's experience under the BPA as a pilot program, as they are also unable to adequately capture and report accurate

CPG information. The BPA will also help us track these purchases by reporting on the following criteria:

1. Value and Percentage of all Purchases that are Environmentally Preferable Purchasing (EPP) products or services.
2. Value and Percentage of all CPG items purchased
3. Activities to Identify and Promote new EPP items
4. Toner cartridge and battery recycling activity

The BPA will be awarded by the end of the first quarter of FY 2004. It is anticipated that it will be mandatory for use across the Agency by the end of the second quarter of FY 2004.

In addition to purchase card holders acquiring CPG items which are not entered into OAM's systems, many of the facility operators acquire CPG items through GSA or through local procurement activities. The Agency has manually and informally gathered information from these activities for reporting in the past, and we expect that manual data collection will continue.

Monitor and Review of Procurement Program

The draft report states that the Agency has not conducted an evaluation of its APP and

had no information on whether the program was achieving its results. We concur that the Agency has not met this requirement, and suggest that it is due to the fact that a decentralized buying system limits a centralized monitoring system. OAM is not in a position to monitor and review the program because a substantial amount of the buying takes place through other offices. Furthermore, the success measures are to be linked to Agency strategic goals for recycling programs, which again, is outside of OAM's purview. Nonetheless, OAM has worked closely with other Agency offices to meet the requirements under EO 13101 for purchasing recycled-content items, and will continue to do so.

RECOMMENDATIONS:

1-2. OIG Recommendation:

Develop a strategic plan for the affirmative procurement program, including performance goals and measures that clearly and specifically define the results the Agency expects to achieve and when it expects to achieve them. This strategic plan should include discussion of how the affirmative procurement program is linked to the accomplishment of the Agency's broad pollution prevention goals.

OAM Response:

The development of a strategic plan for the APP encompasses the Agency's broad pollution prevention goals. As such, the strategic plan's desired outcome is beyond the purview of OAM. OAM will continue to work with other Agency offices to ensure that a strategic plan for the APP meets the objectives of EO 13101 and RCRA Section 6002.

1-3. OIG Recommendation:

Revise the Agency's affirmative procurement program to include the information on all 54 CPG items, and revise guideline recommendations and other appropriate guidance.

OAM Response:

We agree. The APP will be revised to include all CPG items through a link to the CPG web site. This will be accomplished by the end of the first quarter of FY 2004 as a part of OAM's re-issuance of the CMM. OAM is in process of drafting other updates to the APP, and will implement them following formal agency clearance review.

1-4. OIG Recommendation:

Review and revise, as needed, contract manuals, contract clauses, and procedures to accurately reflect the current status and policies of the affirmative procurement program, and determine appropriate time frames to review and update the program and related policies, clauses, and procedures.

OAM Response:

As discussed in response to recommendation 1-3, above, OAM will update the CMM to include all of the CPG items. The CMM is the only place where the APP is documented. OAM is committed to reviewing the CMM on an ongoing basis and making revisions as necessary. There are no clauses which require review and revision.

1-5. OIG Recommendation:

Modify relevant procurement data systems to enable clear collection, tracking, and reporting on purchases of EPA-designated items.

OAM Response:

OAM continues to work toward making the necessary system modifications to our Integrated Contracts Management System (ICMS) and our Small Purchase Electronic Data Interchange (SPEDI) to enable the Agency to meet its FY 2004 reporting requirements. As previously discussed, system modifications, alone, will not provide all the information necessary for collection and reporting, as most of the transactions for CPG items take place outside of the systems.

Most of EPA's CPG items are acquired through use of a purchase card. In an effort to collect the information on CPG purchases through purchase cards, OAM is in the process of placing a BPA for office supplies. The BPA will have its own reporting system, and the Agency will be able to manually combine data from the BPA with the other electronic procurement systems to report to the Federal Procurement Data System (FPDS) and the President's Task Force on Recycling. Despite these various system enhancements and new mechanisms, administrative purchases of CPG items at field locations will continue to be collected and reported informally as these purchases fall outside of OAM's automated systems. Until the system enhancements are made and the BPA is initiated, OAM will continue to report manually.

1-6. OIG Recommendation:

Ensure all appropriate EPA staff, including program officers, receive CPG and affirmative procurement program training. Training should be comprehensive, ensuring all procurement and acquisition staff understand nuances in "green" purchasing and their obligation to select EPA-designated items.

OAM Response:

OAM will continue to provide training on "green" purchasing, and we will schedule a training session specifically on the APP and CPG program during the FY 2004 training year. In addition, OAM regularly presents three training courses to program office staff: 1) the three day basic Contracting Officer's Representative (COR) Training Course, 2) the one-day

COR Recertification Course required every three years, and 3) the one-day Purchase Card Course. The first two courses are designed for Agency employees who are CORs managing contracts; the third course is for Agency purchase cardholders and their approving officials.

Both COR courses contain information about the importance of, and requirement for, Agency employees and contractors to purchase recycled/recovered items, energy star, as well as environmentally preferred items. The text contains a reference to an Agency web site providing details on specific regulations and environmentally preferable items available on the market. The Purchase Card Training textbook covers "Buying Green in Environmentally Preferable Purchasing." The text defines and explains the CPG, the EPP and the Energy Star programs. As previously noted, EPA's purchase card training manual has been credited as a good example by the President's Task Force on Recycling, and it has been used as a model by other Federal agencies.

Classroom instruction, as well as the text, reminds card holders that they "shall favor buying environmentally preferable and energy-efficient products and services which minimize environmental impact." To assist purchase card holders in recognizing CPG items, the CPG web site is identified in the course text.

1-7. OIG Recommendation:

Ensure that CPG items are consistently considered by contract management officials by requiring the use of appropriate control procedures such as the checklist and questionnaire.

OAM Response:

OAM will update the checklist as part of updating the APP. We believe the checklist is a valuable tool in ensuring that procurement packages are complete, and we agree that purchase of CPG items should be considered prior to each award.

1-8. OIG Recommendation:

Improve the promotion of the affirmative procurement program to EPA staff and external stakeholders, such as by: preparing and distributing program policies through electronic mail and other media; publishing articles in EPA newsletters; conducting Agency-wide workshops and training sessions on the RCRA Section 6002 requirements; educating contractors and potential bidders of the Agency's preference to purchase recycled-content items by publishing items in trade publications and posting notices on the Agency's home page; participating in vendor shows and trade fairs; and placing statements in solicitations.

OAM Response:

OAM will increase efforts to promote CPG and APP. We will make use of our 'hot tips' publications to remind all acquisition personnel of the Federal requirements. We will also incorporate the CPG program into our contractor forums and continue to discuss in the

CCRC, as appropriate, in order to better educate both our employees and our contractors about the program. As previously stated, we will continue to present formal training on APP.

1-9. **OIG Recommendation:**

Develop and implement a process that would allow it to review and monitor the progress of its affirmative procurement program.

OAM Response:

The system enhancements outlined above, in conjunction with the BPA for purchase card purchases of CPG items, will permit OAM to better review and monitor progress of its APP.

We appreciate the opportunity to review the draft report and hope that our comments will be taken into consideration and result in changes to the final report. While the APP needs to be revised to incorporate all CPG items, OAM has taken the necessary steps to implement and promote the APP. OAM strongly supports the acquisition of products and services with recycled-content, and we believe that the OAM APP appropriately balances the procurement of recycled-content items with all other Federal procurement policies and preference programs.

Again, thank you for the opportunity to provide comments on the draft report. If you have any questions, or comments, please call Judy Davis, Director, Office of Acquisition Management, at 564-4310, or Leigh Pomponio, Manager, Policy and Oversight Service Center, at 564-4364.

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