
Follow-Up on Recommendations from Report No. 14-16, *Audit of the Department of Health's Glass Advance Disposal Fee Program*

A Report to the Governor
and the Legislature of
the State of Hawai'i

Report No. 17-04
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OFFICE OF THE AUDITOR
STATE OF HAWAII



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STATE OF HAWAII

Constitutional Mandate

Pursuant to Article VII, Section 10 of the Hawai'i State Constitution, the Office of the Auditor shall conduct post-audits of the transactions, accounts, programs and performance of all departments, offices and agencies of the State and its political subdivisions.

The Auditor's position was established to help eliminate waste and inefficiency in government, provide the Legislature with a check against the powers of the executive branch, and ensure that public funds are expended according to legislative intent.

Hawai'i Revised Statutes, Chapter 23, gives the Auditor broad powers to examine all books, records, files, papers and documents, and financial affairs of every agency. The Auditor also has the authority to summon people to produce records and answer questions under oath.

Our Mission

To improve government through independent and objective analyses.

We provide independent, objective and meaningful answers to questions about government performance. Our aim is to hold agencies accountable for their policy implementation, program management and expenditure of public funds.

Our Work

We conduct performance audits (also called management or operations audits), which examine the efficiency and effectiveness of government programs or agencies, as well as financial audits, which attest to the fairness of financial statements of the State and its agencies.

Additionally, we perform procurement audits, sunrise analyses and sunset evaluations of proposed regulatory programs, analyses of proposals to mandate health insurance benefits, analyses of proposed special and revolving funds, analyses of existing special, revolving and trust funds, and special studies requested by the Legislature.

We report our findings and recommendations to the Governor and the Legislature to help them make informed decisions.

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Follow-Up on Recommendations from Report No. 14-16, *Audit of the Department of Health's Glass Advance Disposal Fee Program*

Section 23-7.5, Hawai'i Revised Statutes, requires the Auditor to report to the Legislature annually on each audit recommendation more than one year old that has not been implemented by the audited department or agency. This report presents the results of our review of nine recommendations made to the Department of Health (DOH) in Report No. 14-16, Audit of the Department of Health's Glass Advance Disposal Fee Program, which was published in December 2014.

Why we did the 2014 audit

The 2014 Legislature asked this office to conduct an audit of the Glass Advance Disposal Fee (ADF) program, noting that the cost of recycling non-deposit glass containers exceeded the amount of revenue collected by the State. Although counties receive approximately 90 percent of that revenue in order to pay glass recyclers, they commonly exhaust



GLASS CONTAINERS

This follow-up report deals with "glass containers," which are not defined in statute and should not be confused with deposit glass beverage containers.

those funds before the end of each fiscal year. Before considering an increase of the advance disposal fee for glass containers, the Legislature asked us to examine how State funds are used by the counties.

What we found in 2014

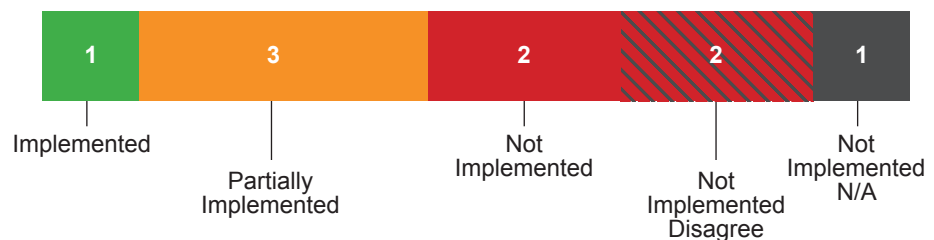
In Report No. 14-16, *Audit of the Department of Health's Glass Advance Disposal Fee Program*, we found that the State's solid waste disposal goals were outdated and the program lacked performance goals that were tied to a clear mission. As a result, it was unclear what the program was supposed to accomplish and how it measured progress. We also found that DOH viewed its role in the program as limited to collecting funds and passing those funds along to counties. DOH did not verify or require supporting documentation for the costs claimed by counties and recyclers, so was unable to determine why incentive rates to recyclers varied from county to county. In Report No. 14-16, we made nine recommendations to the department.

What we found this year

Our follow-up on DOH's implementation of recommendations made in Report No. 14-16, conducted between October 2016 and February 2017, included interviewing selected personnel, examining relevant documents and records, and evaluating whether the department's actions fulfill our recommendations. We found that the department has implemented one and partially implemented three of the nine recommendations. One recommendation is no longer applicable and four recommendations remain open.

Exhibit 1

Audit Recommendations by Status



Source: Office of the Auditor

Background

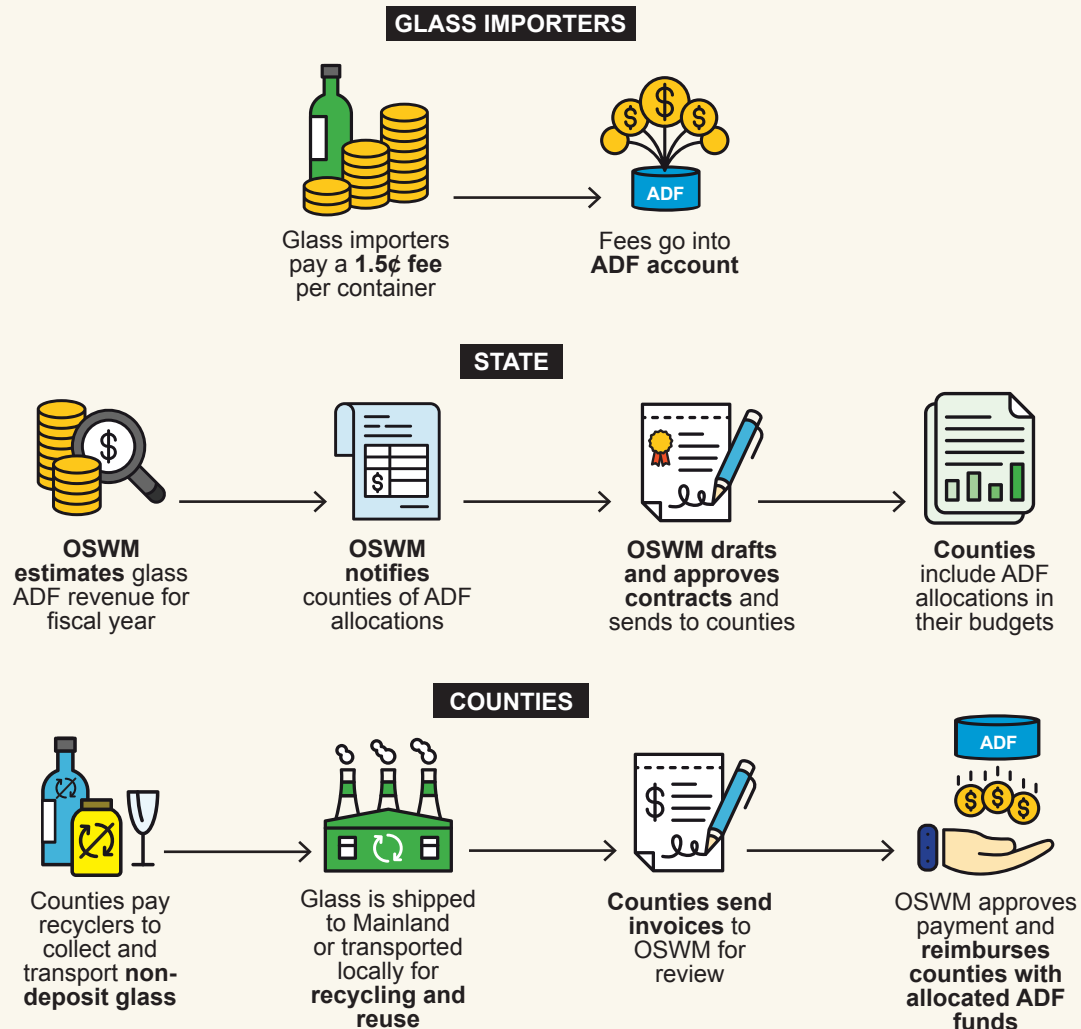
The glass advance disposal fee was established in 1994 as part of the *Glass Container Recovery* law. The purpose of the fee is to encourage glass recycling, and for glass container importers to pay an advance disposal fee to be used to fund county glass recovery programs.

Exhibit 2

Glass Advance Disposal Fee Process

After glass importers pay their quarterly or annual advance deposit fees to the department, the fees are deposited into the ADF account within the Environmental Management Special Fund.¹ Around July or August, the Office of Solid Waste Management estimates the amount of ADF revenue it expects to collect for the remaining fiscal year based on revenues to date. Once it has made its projection, the office executes a contract with each county for its glass recycling program, specifying the anticipated allocation amount. Counties pay recyclers (via contract or verbal agreement), which collect and transport non-deposit glass either to the Mainland for recycling or reuse, or somewhere locally for reuse. Counties submit recyclers' invoices to the Office of Solid Waste Management for reimbursement.

DOH distributes 90 percent of ADF revenues to counties based on each county's population to fund their glass recovery programs. State law requires each county to run a glass recovery program, which must include some form of a glass incentive or "buyback" program to encourage participation.



¹ Those who import or manufacture fewer than 5,000 non-deposit beverage glass containers per year are exempt from the ADF.

Source: Office of the Auditor



DEFINITION OF TERMS

WE DEEM recommendations:

- **Implemented** where the department or agency provided sufficient and appropriate evidence to support all elements of the recommendation;
- **Partially Implemented** where some evidence was provided but not all elements of the recommendation were addressed;
- **Not Implemented** where evidence did not support meaningful movement towards implementation, and/or where no evidence was provided;
- **Not Implemented – N/A** where circumstances changed to make a recommendation not applicable; and
- **Not Implemented – Disagree** where the department or agency disagreed with the recommendation, did not intend to implement, and no further action will be reported.

Recommendations and their status

Our follow-up efforts were limited to reviewing and reporting on the implementation of the audit recommendations. We did not explore new issues or revisit old ones that do not relate to the original recommendations.

Recommendation 1

DOH should work with the Legislature to update the State's waste disposal goals to ensure the goals are measurable and revised when necessary.

Not Implemented

Comments

The Environmental Management Special Fund was previously used to fund program positions. In FY2016, the Legislature granted a separate budget request to fund those positions through general funds, rather than the special fund. Per DOH, the special fund will be used to develop measurable goals once sufficient funding has been accumulated in the special fund.

Target Date

Per DOH, the estimated date of completion is June 30, 2018. The feasibility of that date could not be determined based on the scope of our review.

Recommendation 2

DOH should work with the Legislature to clarify whether the purpose of the glass advance disposal fee is to fully or partially fund county glass collection programs.

Not Implemented - Disagree

Comments

During our review, DOH disputed the recommendation because the department believes that language from the 1994 legislative committee reports and the *Glass Container Recovery* law presumes that the State is required to fully fund the county glass disposal fee programs. However, the statutory language is unclear regarding whether the State is obligated to fully or partially fund the county programs.

Recommendation 3

DOH should adopt administrative rules that include, but are not limited to, recycling goals for non-deposit glass, performance measures for the glass ADF, a schedule when counties are notified of ADF allocations and formalizing contracts, reporting requirements and supporting documents, and a process for returning unspent ADF funds at the end of annual contract periods.

Not Implemented - Disagree

Comments

DOH has not adopted administrative rules because, in its view, the *Glass Container Recovery* law does not provide the specific authority to adopt such rules. However, Section 342G-13(2), HRS, provides that DOH shall “[a]dopt rules pursuant to chapter 91 and administer the rules as provided for in this chapter[.]” During discussions with the solid waste management coordinator and DOH’s assigned deputy attorney general during our review, they asserted that it is unclear whether that provision applies to the *Glass Container Recovery* law.

Recommendation 4

DOH should adopt written procedures for the glass ADF program that include, but are not limited to, contract administration, accounting, enforcement and compliance, and the collection and compilation of glass ADF data presented in annual reports to the Legislature.

Partially Implemented

Comments

DOH has adopted written procedures for contract administration, accounting, and collection and compilation of glass ADF data presented in legislative annual reports. Written procedures for enforcement and compliance have not been adopted since, according to DOH, the program is unable to allocate enough staff to perform such activities.

Target Date

Per DOH, the estimated date of completion is May 2021. The feasibility of that date could not be determined based on the scope of our review.



ADMINISTRATIVE RULES

ADMINISTRATIVE rulemaking is one of the methods by which state agencies carry out their tasks. The purpose of rules is to implement laws, and to establish operating procedures for state agencies. Generally, statutes provide a skeleton, or superstructure, for state programs; agencies are then required to “fill in the details” and implement those programs on a day-to-day basis. Agencies have considerable discretion in applying the law, particularly where a controlling statute is expressed in general terms.

Recommendation 5

DOH should revise the scope of services in its contracts with counties to include requiring supporting documents for costs such as administrative costs and incentive rates.

Implemented

Comments

The scope of services within the county contracts was revised to include requiring supporting documentation for such costs.

Recommendation 6

If it elects to retain reimbursement as the preferred method of payment, DOH should coordinate with counties to establish a new method for calculating ADF allocations that is timely and accurate.

Partially Implemented

Comments

DOH formally adopted a new method of calculating ADF allocations in the FY2017 contract year. However, we were unable to assess during this review whether the new method is timely and accurate as the counties have not received any disbursements to-date. We will be able to assess the new method once annual revenues and disbursements are known. This recommendation is thus deemed partially implemented at this time.

Recommendation 7

DOH should require the City and County of Honolulu to return unspent ADF funds that were allocated in previous years, taking into account the reserve ADF funds the county used in FY2012 at the department's request.

Not Implemented - N/A

Comments

This recommendation is no longer applicable as a portion of the City and County of Honolulu's ADF program was temporarily suspended in FY2014 due to the lack of funding provided by DOH. According to the City and County of Honolulu, the unspent ADF funds were depleted in FY2010 and FY2012 when the City did not receive allocations from DOH.

Recommendation 8

DOH should suspend allocations of glass ADF funding to the County of Kaua‘i until the department reaffirms whether the buyback program required for counties to receive glass ADF funds is satisfied by participation in the deposit beverage container 5¢ redemption system.

Not Implemented

Comments

DOH continued to provide allocations to the County of Kaua‘i despite the County not having a buyback program. However, DOH asserts that it will start suspending allocations to the County of Kaua‘i starting with FY2019 allocations. This recommendation is thus deemed not implemented at this time.

Target Date:

Per DOH, the estimated date of completion is February 28, 2018. The feasibility of that date could not be determined based on the scope of our review.

Recommendation 9

DOH should continue with intended plans to request from the 2015 Legislature funds to update the State’s integrated waste management plan and additional staff to adequately administer the glass ADF.

Partially Implemented

Comments

The Environmental Management Special Fund was previously used to fund program positions. In FY2016, the Legislature granted a separate budget request to fund such positions through general funds, rather than the special fund. Per DOH, the special fund will be used to fund additional staff positions and update the State’s integrated waste management plan once sufficient funding has been accumulated in the special fund.

Target Date

Per DOH, the estimated date of completion is June 30, 2018. The feasibility of that date could not be determined based on the scope of our review.

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