Thomas P. DiNapoli
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OFFICE OF THE
NEW YORK STATE COMPTROLLER

DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY

NEW YORK POWER AUTHORITY

VEHICLE ACQUISITION, USE, AND DISPOSITION

Report 2006-S-116

AUDIT OBJECTIVES

Our audit objectives were to (1) determine whether the New York Power Authority (NYPA) complied with requirements for the procurement, use, and disposition of its vehicles; and (2) account for all the vehicles owned by NYPA.

AUDIT RESULTS - SUMMARY

NYPA is the largest state-owned utility in the United States, operating power plants that provide about one-quarter of the electricity used in New York State. NYPA sells most of its electricity to investor-owned utilities in New York State, large industrial customers in the State, and governmental agencies in the New York City area. To support its operations, NYPA has a fleet of 567 motor vehicles.

Of the 567 vehicles that the Department of Motor Vehicles (DMV) identified as registered to NYPA, only 255 appeared on NYPA's inventory records. We provided NYPA with a list of the 312 unaccounted-for vehicles. NYPA responded that 202 were active and 110 had been disposed of. We recommend that NYPA keep its inventory of vehicles up to date and promptly notify DMV of changes to its vehicle fleet.

NYPA assigned 13 of its vehicles to employees. The Internal Revenue Service has determined that personal use of an employer-provided vehicle, including its use for commuting, should be considered income to the employee, and has issued guidelines for the calculation of this income. We found NYPA did not use the correct guidelines to compute income for 5 of its 13 employees. As a result, the employees' vehicle-related income was not accurately reported. NYPA officials agreed that they did not use the correct method to calculate the income, but added that, using the correct method, the difference was insignificant. They indicated they have implemented revised procedures.

Our report contains four recommendations to improve vehicle management at the NYPA. NYPA officials agreed with our recommendations and have taken steps to address them.

This report, dated September 27, 2007, is available on our website at: http://www.osc.state.ny.us. Add or update your mailing list address by contacting us at: (518) 474-3271 or
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

BACKGROUND

The New York Power Authority (NYPA) is the largest state-owned utility in the United States, operating power plants that provide about one-quarter of the electricity used in New York State. NYPA sells most of its electricity to investor-owned utilities in New York State, large industrial customers in the State, and governmental agencies in the New York City area.

To provide electric service, NYPA owns and operates 6 major generating facilities, 11 small electric generating facilities, 5 small hydroelectric facilities, and a number of transmission lines. These facilities include two large hydroelectric facilities (Niagara and St. Lawrence-FDR), a large pumped-storage hydroelectric facility (Bleinheim-Gilboa), two oil-and-gas-fired facilities in NYC (Poletti Project) and Long Island (Flynn Project), and an energy control center (Frederick R. Clark Energy Center). NYPA has administrative offices in Albany and White Plains. NYPA has a fleet of 567 vehicles to support its operations.

AUDIT FINDINGS AND RECOMMENDATIONS

Vehicle Accountability

We obtained a file from the Department of Motor Vehicles (DMV) that listed all registered vehicles owned by the State's public authorities including NYPA. Of the 567 vehicles that the DMV identified as registered to NYPA, only 255 appeared on NYPA's inventory records. We provided NYPA with a list of the 312 unaccounted-for vehicles. NYPA responded that 202 were active and 110 had been disposed of. We recommend that NYPA keep its inventory of vehicles up to date and promptly notify DMV of changes to its vehicle fleet.

We selected a random sample of 50 vehicles registered to NYPA. We were able to observe or account for all 50 vehicles. However, we noted that the license plates on two vehicles at Niagara needed to be switched to correspond with DMV records. NYPA management replied to our preliminary findings report that they have corrected the mismatch.

Overall, we found 26 instances where the vehicles assigned to license plates on the DMV listing showed a different vehicle identification number (VIN) than the vehicles assigned to the license plates on the NYPA listing. Follow-up at the Niagara facility showed that five of the mismatches resulted from license plates being assigned to the wrong vehicle. NYPA replied to our preliminary report that corrective action has been completed.

Policies and Procedures

Section 2879(1) of the Public Authorities Law requires each public authority board to review and approve its procurement guidelines annually. We were directed to the internet to view the approved minutes of the Board of Trustees, which included the annual approval of the procurement guidelines from 2002 to 2005.

NYPA has a decentralized procurement operation. The awarding of critical procurement documents is made only by a Procurement Representative at a facility or the White Plains Office Procurement Group. Lightweight vehicles weighing less than 8,500 pounds are purchased centrally in the White Plains office. Special equipment is purchased by the using facility. These items are bought to replace equipment that is being retired. Because of their high dollar value, these items are identified in NYPA's budget process.

We examined the purchases of 30 vehicles totaling $800,887 by NYPA at its White Plains office and its other facilities. We determined 30 vehicles were appropriately purchased: 27 from a State contract and 3 via competitive bidding.

Alternative Fueled Vehicles

Executive Order 111 (EO 111), issued June 10, 2001, requires most state agencies and public authorities (including NYPA) to reduce their energy consumption by 35 percent and to begin to shift their procurement of light-duty vehicles (cars and light trucks weighing less than 8,500 pounds) from those using traditional fuels such as gasoline to those using alternative fuels such as electricity, compressed natural gas (CNG), 85-percent ethanol, etc. Some vehicles can accept both traditional fuel sources and alternative fuel sources. Such hybrid vehicles would fulfill the requirements of EO 111.

EO 111 requires that, by 2005, at least 50 percent of all new light-duty vehicles acquired shall be alternative fuel models, with a goal of 100-percent procurement of alternative fuel vehicles by 2010. NYPA had to report at the end of the 2005 model year on its compliance with this requirement, indicating how well it complies or the reasons it is not in compliance. It must also report on its efforts to reduce the impact of medium- and heavy-duty vehicles on the environment, e.g., through reduced usage or alternative fuels.

NYPA-provided information showing its procurement of light-duty vehicles that used alternative fuel. This information is summarized in the following table and supports NYPA's compliance with EO111.

Year	Total Light-Duty Vehicles Purchased	Total Vehicles Using Alternative - Fuel	Percent
2002	24	16	66
2003	36	31	86
2004	40	35	88
2005	34	34	100

Personal Use of NYPA Vehicles

The Internal Revenue Service (IRS) has determined that personal use of an employer-provided vehicle, including its use for commuting, should be considered income to the employee. IRS Publication 15-B provides for three ways to calculate income from the personal use of an employer vehicle as shown below. In addition, IRS regulations require the employer to have a written use policy in place prohibiting any personal use other than commuting in order to use the commuting rule to determine income associated with the employee's vehicle use.

- **Full fair market value** (based on what the employee would have to pay to lease the same vehicle), allocated between the employer and employee based on employee's usage log, plus 5.5 cents per mile if the employer provides the gasoline.

- **Cents-per-mile rule** (multiplying a standard rate times the number of miles the vehicle was used for personal activities). To qualify for this rule, the vehicle's fair market value, when it is first used by an employee for personal use, cannot exceed a maximum of $14,800 in 2004. The vehicle must be used at least 10,000 miles per year, or have business use as its principal application.

- **Commuting rule** (multiplying $1.50 times each one-way commuting trip) To use this rule, the employer must have a written policy forbidding any personal use other than commuting and de minimus use, and the employee cannot be a "control employee" (either an elected official or an employee earning over $128,200 in 2004 or $131,400 in 2005).

According to the IRS, the amount of income from personal use of an employer-provided vehicle can either be added to the employee's W-2 or the employee can pay the employer the calculated amount.

NYPA reports that 13 employees are assigned vehicles. Of the 13 employees, there are 5 employees who take their vehicles home.

NYPA uses the cents-per-mile rule to calculate personal use of its vehicles for IRS reporting requirements.

We concluded that none of the five employees was eligible to use the cents-per-mile rule. NYPA officials replied to our draft audit report that they have reviewed the calculations procedures and revised them accordingly.

Surplus Vehicle Sales

NYPA's useful life criteria for disposing of vehicles is 5 to 6 years or 75,000 miles, whichever comes first. Also factored into the decision to dispose of a vehicle is the actual condition of the vehicle and the vehicle's maintenance history.

Prior to 2002, NYPA disposed of its vehicles at the site where they were located via a public auction. Since then, NYPA uses an auctioneer, Surplus Asset Sales, to dispose of all its vehicles at one location, the Clark Energy Center (Clark) located in Marcy, New York. The Marcy facility is secured and houses disposed vehicles from other sites, which include Niagara Falls, Massena, Albany, Gilboa, White Plains, and Astoria. The auctioneer conducts an inventory of vehicles and other assets to be sold, advertises the items, conducts the public auction, collects the money, and remits payment to NYPA after deducting its commission.

Surplus Asset Sales accepts sealed bids and awards the vehicle to the highest bidder. The winning bid is the sale price. NYPA officials indicated that, if they receive bids below NYPA's assessed value, the vehicle will not be sold and will be held for the next auction. Winning bidders are notified that they have ten days to provide a certified check as payment for the vehicle. Payment is collected by Surplus Asset Sales who remits it to NYPA.

To improve accountability and to provide for early detection of any discrepancies regarding location of vehicles, the Clark facility should identify vehicles in its inventory records as soon as the vehicles arrive from other locations. At this same time, Clark should confirm to the submitting facility that the vehicles have been received. We found that vehicles sent to Clark for auction are not recorded into inventory until just prior to auction. At that time, the auctioneer inventories the vehicles and informs the submitting facility that their vehicles are ready for sale. During our visit to Clark, we were unable to locate one vehicle that was supposed to be there. NYPA officials were able to provide support explaining this discrepancy. However, the discrepancy highlights the need for timely inventory accountability over all vehicles at Clark.

Recommendations

1. Reconcile the differences between the DMV and NYPA vehicle listings.

2. Install the correct license plates on NYPA vehicles to address mismatches noted in the report.

3. Require executive staff to follow the appropriate IRS rules for fringe benefit income reporting.

4. Inventory surplus vehicles when they arrive at Clark Energy Center to ensure accountability.

AUDIT SCOPE AND METHODOLOGY

We audited selected aspects of NYPA's procurement, use, and disposition of its vehicles for the period May 1, 2002 through the conclusion of field work on October 31,

2005. To accomplish our objectives, we interviewed NYPA officials, and reviewed records, documents, and reports prepared by NYPA. We also compared NYPA's vehicle inventory records with vehicle registration records maintained by the New York State Department of Motor Vehicles; performed a physical verification of selected vehicles at NYPA; reviewed the minutes for selected NYPA Board meetings; verified whether NYPA's Procurement Guidelines were followed; reviewed NYPA compliance with Executive Order 111 regarding alternative-fuel vehicle procurement; reviewed NYPA's compliance with IRS guidelines concerning income reporting for the personal use of employer-provided vehicles, and reviewed the disposition of surplus vehicles. We conducted our audit in accordance with generally accepted government auditing standards.

This report is one in a series of reports at various New York State public authorities addressing the acquisition, use and disposition of vehicles not used in revenue-generating activities.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

AUTHORITY

This audit was performed according to the State Comptroller's authority under Article X, Section 5 of the State Constitution and Section 2803 of the Public Authorities Law.

REPORTING REQUIREMENTS

A draft copy of this report was provided to NYPA officials for their review and comment. Their comments were considered in preparing this final report. NYPA officials agreed with our recommendations and have taken, or will take steps, to implement them.

Within 90 days after the final release of this report, as required by Section 170 of the Executive Law, the Chairman of the New York Power Authority shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reason therefor.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include Carmen Maldonado, Robert Mehrhoff, Santo Rendon, Joseph F. Smith, Rebecca Tuczynski, and Peter Pagliaro.

APPENDIX A - AUDITEE RESPONSE

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NewYorkPower Authority

Roger B. Kelley
President and
Chief Executive Officer

August 21, 2007

Ms. Carmen Maldonado
Audit Director
Office of the State Comptroller (OSC)
Division of State Government Accountability
123 William Street – 21st Floor
New York, NY 10038

Dear Ms. Maldonado:

On behalf of Frank McCullough, Chairman of the New York Power Authority ("Authority" or "NYPA"), please accept this letter as the Authority's response to the draft final audit report (2006-S-116) entitled: "New York Power Authority – Vehicle Acquisition, Use and Disposition" (the "2006 Fleet Draft Final Report").

The Authority is pleased that the 2006 Fleet Draft Final Report presents a balanced picture of the Authority's Vehicle Acquisition, Use and Disposition procedures and its accounting for all vehicles owned by the Authority.

- Vehicle Accountability: OSC selected a random sample of 50 vehicles and were able to observe or account for all 50 vehicles.
  In 2006, with the objective of augmenting internal control over its vehicles, the Authority initiated a process to centralize all of its fleet activities under a new Fleet Operations Group.
  The Authority is moving, in an orderly manner, towards centralization of titles for all vehicles and specialized equipment. The Authority has also reconciled its inventory and is working towards uniformity of its registration name (i.e., PASNY, NYPA, NYSPA, etc.) with the Department of Motor Vehicles listing.

- Policies and Procedures: OSC examined the purchases of 30 vehicles and determined that the 30 vehicles were appropriately purchased: 27 from a State contract and 3 via competitive bidding. The Authority has centralized its vehicle procurement operation.

Ms. Carmen Maldonado
August 21, 2007
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- Alternative Fuel Vehicles: Executive Order 111 (EO111), issued June 10, 2001, requires that, by 2005, at least 50 percent of all new light-duty vehicles acquired shall be alternative fuel models with a goal of 100 percent by 2010. The 2006 Fleet Draft Final Report shows that the Authority reached the 100 percent goal in 2005, five years earlier than required by EO 111.

- Personal Use of NYPA Vehicles: The Authority has already reviewed its calculations procedures in connection with the personal use of Authority vehicles and revised them accordingly. The Authority will continue to monitor the appropriate governing regulations and adjust its policies accordingly.

- Surplus Vehicle Sales: The Authority now uses the New York State Office of General Services' (OGS) auction services for all Light Duty vehicle dispositions. All Utility and Specialty equipment is disposed of using the services of US Auction located in Wilmington DE, a firm that specializes in the disposal of Utility equipment. The US Auction contract was awarded as a result of competitive bidding and was approved by the Authority's Trustees.

The Authority agrees with the four (4) recommendations set forth in the 2006 Fleet Draft Final Report and looks forward to presenting its implementation status report ninety (90) days after the issuance date of the 2006 Fleet Final Report in accordance with Section 170 of the Executive Law.

The Authority appreciates the OSC's recognition of the cooperation and courtesies extended by the Authority to its auditors during the audit, and requests that a copy of this letter be incorporated into the final audit report.

If you have any questions please do not hesitate to contact me at 914-287-3501.

Very truly yours,

Roger Kelley
President and Chief Executive Officer