
**Thomas P. DiNapoli
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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

**OFFICE OF PARKS,
RECREATION AND
HISTORIC PRESERVATION**

**COMPLIANCE WITH
EXECUTIVE ORDER 111
REQUIREMENTS TO
PURCHASE POWER FROM
RENEWABLE SOURCES**

Report 2008-S-73

AUDIT OBJECTIVE

The objective of this audit was to determine whether the Office of Parks, Recreation and Historic Preservation (Office) is meeting the current 10 percent target for purchasing power from renewable sources, increasing to a 20 percent target level by 2010, as specified in Executive Order 111 (Order).

AUDIT RESULTS - SUMMARY

The Order was issued in June 2001 and requires that by the 2005-06 fiscal year, all affected State agencies and certain public authorities, including the Office, shall seek to purchase sufficient quantities of electricity produced by certain specified renewable technologies so that 10 percent of the overall annual electric energy consumption of the buildings they own, operate, or lease would come from renewable sources. The target percentage increases to 20 percent by the 2010-11 fiscal year. The agencies can acquire qualifying electric energy by generating it themselves, or by purchasing it either through their electrical supplier or through a third-party provider.

We found that the Office has not met the Order's target of acquiring 10 percent of its total annual electricity from renewable sources. In 2006-07, the Office only obtained about one-tenth of one percent of its total annual electricity from renewable sources. This was primarily due to an error in calculating its requirements under a statewide contract through the Office of General Services (OGS). The error was subsequently corrected, and in 2007-08, the Office obtained about nine percent of its total reported annual electricity from renewable sources. However, our tests of the Office's system for tracking and reporting its electrical usage identified substantial reporting errors. These errors cast doubt on the reliability of the Office's usage

data. The Office needs to investigate obtaining summary reports of electricity consumption directly from the utilities, thereby increasing the reliability of the data and to help ensure that the Office complies with the targets of the Order.

The Office also has not submitted annual energy reports to the New York State Energy Research and Development Authority (NYSERDA), as required by the Order. The reports are supposed to be prepared on a fiscal year basis and submitted by each December 1st. The Office's last annual energy report covered the 2002-03 fiscal year and was not submitted until June 2004. Without an annual energy report, NYSERDA is limited in its ability to monitor the progress of the Office and the State in implementing the Order. Officials indicated they are currently preparing the 2007-08 report, which is due to NYSERDA by December 1, 2008. They plan to prepare and submit annual energy reports timely thereafter.

Lastly, we found that the Office's plan to meet the Order's increased target for 2010-11 may not be effective since it appears the Office has not accurately estimated its future needs. The Office intends to rely primarily on the statewide contract with OGS to meet the target level. Under the terms of that contract, the Office is slated to purchase 8,800 megawatt-hours (MWh) in renewable energy in 2010-11 (i.e., 20 percent of its total estimated usage of 44,000 MWh). However, based on current data compiled by Office staff, its consumption has already increased beyond that to 48,881 MWh in 2007-08. As a result, the amount the Office is scheduled to purchase under the OGS contract may not be sufficient to account for 20 percent of its annual electrical energy consumption.

Our report contains five recommendations directed toward improving the Office's efforts

to comply with the Order. Office officials generally agreed with our recommendations and indicated they have already implemented many changes and improvements to ensure compliance with the Order.

This report, dated November 7, 2008, is available on our website at <http://www.osc.state.ny.us>.

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BACKGROUND

Executive Order 111 (Order), issued by the Governor on June 10, 2001, sets out a broad initiative that directs State agencies and certain public authorities to be more energy efficient and environmentally proactive. The Order is divided into individual sections, each addressing a specific energy-related or environmental initiative ranging from establishing broad energy efficiency goals to instituting energy efficient and environmentally sensitive practices. We have previously audited various agencies' efforts to implement certain sections of the Order, including the procurement of clean fuel vehicles and the purchase of energy efficient products. This audit addresses implementation of the section of the Order that requires agencies to purchase power from renewable sources.

Specifically, Section IV of the Order requires that by fiscal year 2005-06, each covered agency should have sought to purchase sufficient quantities of energy from certain specified renewable technologies so that 10 percent of the overall annual electric energy consumption of the buildings it owns operates, or leases would come from

renewable sources. The target percentage increases to 20 percent by fiscal year 2010-11. Guidelines issued by the New York State Energy Research and Development Authority (NYSERDA) in December 2004 generally require covered agencies to apply these percentages against all facilities where their power is separately metered and billed, regardless of whether they own or lease the property. Eligible renewable technologies specified in the Order include power generated from wind, solar thermal, photovoltaic cells, sustainably managed biomass, tidal flow, geothermal, methane waste, and fuel cells.

The Order designates NYSERDA as the lead agency responsible for coordinating implementation and assisting other agencies to fulfill their responsibilities. To assist NYSERDA in this role, the Order also created the State Energy Efficiency Advisory Council (Advisory Council), headed by the President of NYSERDA and composed of the heads of 13 other agencies and authorities. NYSERDA and the Advisory Council have developed guidelines that, among other things, interpret the requirements of the Order and specify criteria for periodic reporting and possible exemption of certain facilities or operations. In general, the guidelines allow agencies to acquire qualifying energy by generating it themselves or by purchasing it, either through their electrical supplier or through a third-party provider in the form of certificates referred to as Renewable Energy Credits (RECs). The guidelines also direct each affected agency to designate a staff member to submit the annual energy report to NYSERDA and to be a contact person regarding implementation of the Order. The guidelines also charge NYSERDA with the responsibility of developing an annual report summarizing statewide energy reduction efforts and achievements towards the Order's goals.

This audit focuses on the efforts of the Office of Parks, Recreation and Historic Preservation (Office) to comply with Section IV of the Order. The Office was created to provide “safe and enjoyable recreational and interpretive opportunities” at the State parks and historic sites that it operates. Its facilities include cabins and campsites; nature centers and hiking trails; golf courses, beaches and swimming pools; marinas and boat launches; and performing arts centers. During 2007-08, the Office operated and maintained 176 parks and 35 historic sites throughout the State, serving approximately 60 million visitors.

The Office is headed by a Commissioner, who is appointed by the Governor. There is a central office located in Albany and 11 regional offices: Allegany, Central, Finger Lakes, Genesee, Long Island, New York City, Niagara, Palisades, Saratoga/Capital District, Taconic, and Thousand Islands. During 2007-08, the Office had more than 2,200 staff, supplemented by about 5,000 temporary and seasonal employees during the peak summer season.

AUDIT FINDINGS AND RECOMMENDATIONS

Compliance with the Order

Procurement of Renewable Energy

The Order requires State agencies and other affected entities to seek to procure 10 percent of their total electrical energy requirements by fiscal year 2005-06 from renewable sources, and 20 percent from those renewable sources by fiscal year 2010-11.

The Order specifies wind, solar thermal, photovoltaics, sustainable managed biomass, tidal, geothermal, methane waste, and fuel cells to be qualifying renewable sources. State agencies and other affected entities can

purchase any combination of the qualifying renewable sources to meet the goals of the Order.

According to NYSERDA’s guidelines, State entities can fulfill their renewable-power procurement obligations in the following ways:

- On-site generation of all renewable power requirements,
- A mix of on-site generation and open-market electricity, and
- Purchasing all renewable-power requirements from the open market.

To determine how much electricity needs to come from renewable sources to meet the 10 percent goal, each covered agency needs to know how much total electricity it consumes each year. Covered agencies may exempt from this total any electricity used for process loads (i.e., electricity associated with the manufacturing of goods, products, or services) and electricity used by a building with less than 5,000 square feet. Some electricity used by a leased building, including utility charges that are not billed based on direct use, may also be excludable. According to Office officials, however, they have not made any attempts to identify electricity consumption that could be exempted. Instead, they calculate the agency’s 10 percent target based on its entire electrical energy consumption.

According to officials, the Office has limited opportunities for on-site power generation due to the nature of its facilities. Therefore, they have decided to obtain renewable energy solely through utility-supplied power. Rather than have each individual regional office negotiate with its local utility companies, officials have chosen to meet the Order’s

target by participating in a statewide contract through the Office of General Services (OGS). Under the terms of this contract, OGS pays a vendor for a certain number of RECs each month. The vendor supplies the State's power grid with power and also supplies OGS with a certificate showing that the power came from a renewable source, as defined by the Order. OGS then allocates the total RECs purchased under the contract to the participating State agencies.

We found that the Office actually only purchased less than one-tenth of one percent of its total annual electrical energy consumption through this contract during 2006-07. This occurred because the Office reported its megawatt-hour (MWh) needs to OGS, rather than kilowatt hours (kWh), resulting in its original allocation under the contract being 1/1000th of what it actually needed. This error was corrected in 2007-08, but it still only purchased enough RECs to cover about nine percent of its reported electrical consumption. However, we question the reliability of the Office's usage data.

To ascertain its overall current electrical usage and determine future needs, the Office has each region report its electrical energy consumption to the Energy and Fleet Manager in the central office, who then prepares an overall Office-wide report. To test the accuracy of the electrical consumption reported by the regions, we visited 6 of the 11 regions: Central, Finger Lakes, Genesee, Long Island, Palisades, and Taconic. For each region, we obtained the total annual electrical consumption reported for 2006-07 and 2007-08, as well as a list of the vouchers for utility bills that supported these calculations. We then selected a judgmental sample of vouchers to determine whether the total consumption reported matched the utility bills received.

Of the six regions selected, one (Genesee) was unable to provide us with the detailed support (i.e., vouchers) for the consumption reported. Our testing found two of the remaining five regions (Long Island and Taconic) had no reporting errors and one (Palisades) had only minor differences (although we found that Palisades reports its electricity usage based on when the electricity bills are paid, not when received, as the other regions report). The other two regions (Central and Finger Lakes), however, had substantial reporting errors that were due to data entry errors that occurred when recording the electricity usage from the utility bills into the system used by these regions for tracking electricity usage. For example, we found major data entry errors related to 3 of the 50 Central region vouchers we tested for the 2006-07 year, all resulting in over-reporting of electrical usage. One voucher for 14,344 kWh was reported by the region as 143,444 kWh, another for 6,036 kWh was reported as 60,136 kWh and the third for 4,138 kWh was reported as 41,138 kWh. These three errors alone resulted in the over-reporting of 220,000 kWh.

Each region operates numerous buildings located over a number of counties, resulting in each region having multiple accounts with two or more different utility providers. Data entry of such a huge volume of transactions can result in the kinds of errors we observed. However, the larger utility providers offer their customers - including the Office - the ability to view their account history on-line. Therefore, the regions may be able to obtain a summary for their accounts from each utility and eliminate the need for manual tracking. Alternatively, the Office may be able to obtain a summary for each region directly from the utilities, since for the purposes of reporting to NYSERDA, the Office does not need the detailed usage by account.

Beginning in fiscal year 2010-11, Section IV of the Order requires covered agencies to increase their target for renewable energy from 10 percent of the total annual electrical energy consumption to 20 percent. The Office has based its needs estimates on a total annual electricity consumption of 44,000 MWh. Any additional power consumption due to growth is expected to be offset either by conservation efforts (such as through building energy audits) or by limited on-site generation (such as through solar panels to power lights at boat launches). Therefore, officials expect the Office's annual electricity needs to remain constant over time and estimate that the Office needs to obtain 8,800 MWh of renewable power to meet the Order's 20 percent target, starting in 2010. The Office plans to rely primarily on its participation in the statewide contract through OGS. Under the terms of that contract, the Office is slated to receive 8,800 MWh in 2010-11 from sustainable biomass sources.

The Office's plan will be effective in meeting the Order's target levels if its net consumption remains constant at 44,000 MWh per year. However, based on current data compiled by Office staff, we found that consumption is not stable and has already increased by more than ten percent to 45,439 MWh in 2006-07 and 48,881 MWh in 2007-08; an increase of 3,442 MWh in the most recent year, which was largely due to three new facilities added in the Palisades region. As a result, the amount the Office is scheduled to purchase under the OGS contract may not be sufficient to account for 20 percent of its annual electrical energy consumption.

Reporting Requirements

The NYSERDA guidelines require all agencies covered by the Order to submit an annual energy report to NYSERDA by December 1st following the close of each

fiscal year. The annual energy reports serve two purposes: to allow each covered agency to demonstrate its progress under the Order and to assist NYSERDA in determining the progress of the State as a whole. The first annual energy report was due December 1, 2002 for the period April 1, 2001 through March 31, 2002.

The purpose of the annual energy report is for the agencies to demonstrate progress toward achieving the goals of the Order. State agencies and other affected entities are to report their total energy usage, electrical demand, and the amount of renewable power they purchase and generate on site. They are also required to report how much renewable energy they will need to purchase to meet the 20 percent renewable energy goal in 2010, as well as if they met the previous goal of 10 percent in 2005-06.

The Office has only submitted two annual energy reports to NYSERDA: one for 2001-02 and one for 2002-03. The 2002-03 report, which was due to NYSERDA by December 1, 2003, was not submitted until June 2004. Without an annual energy report, NYSERDA is limited in its ability to monitor the progress of both the Office and the State as whole.

According to Office officials, the Office did not compile an annual energy report for 2003-04 because of other priorities assigned to staff. Officials further told us that, because NYSERDA did not contact them about the missing annual energy report, they did not devote any staff resources to compiling and submitting the annual energy reports in subsequent years. Officials indicate that responsibility for preparing the annual energy report has been reassigned and the Office plans to prepare a timely report for 2007-08 and for future years.

Recommendations

1. Comply with the targets of Section IV of the Order.
2. Investigate obtaining summary reports of electrical energy consumption directly from the utilities.
3. Ensure that regions report electrical energy consumption consistently.
4. Comply with the annual energy reporting requirements.
5. Improve the process for tracking and forecasting annual electrical energy consumption to ensure adequate amounts of electricity from renewable sources are obtained.

AUDIT SCOPE AND METHODOLOGY

We conducted our audit in accordance with generally accepted government auditing standards. Our audit determined if the Office was in compliance with Section IV of Executive Order 111 by reporting their annual electrical energy consumption to NYSERDA, and procuring at least 10 percent of their power from renewable sources by 2005, and increasing to 20 percent in 2010. Our audit period was from January 1, 2005 through June 6, 2008.

To accomplish our objectives, we reviewed the provisions of Section IV of the Order, as well as the guidelines issued by NYSERDA regarding compliance with the Order. We interviewed Office officials and staff. We reviewed the provisions of the State contract for renewable energy that the Office participates in, as well as utility bills and other documentation maintained by the Office. We also judgmentally selected six regional offices, based on their total

electricity consumption, geographic location and recent changes in electrical consumption. We visited each of these regional offices (Central, Finger Lakes, Genesee, Long Island, Palisades, and Taconic), where we interviewed staff and reviewed utility bills and other documentation related to power consumption.

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

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

REPORTING REQUIREMENTS

A draft copy of this report was provided to Office officials for their review and comment. Their comments were considered in preparing this report, and are included as Appendix A.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Office of Parks, Recreation and Historic Preservation 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 reasons therefor.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include Frank Houston, John Buyce, Bob Mainello, Jennifer Paperman, Raymond Barnes and Richard Podagrosi.

APPENDIX A - AUDITEE RESPONSE



New York State Office of Parks, Recreation and Historic Preservation

The Governor Nelson A. Rockefeller Empire State Plaza • Agency Building 1, Albany, New York 12238
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David A. Paterson
Governor
Carol Ash
Commissioner

October 8, 2008

Mr. Frank J. Houston
Audit Director
Office of the State Comptroller
Division of State Government Accountability
123 William Street – 21st Floor
New York, NY 10038

Dear Mr. Houston:

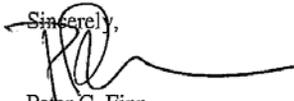
The New York State Office of Parks, Recreation & Historic Preservation has reviewed the Office of the State Comptroller's audit report 2008-S-73 entitled "*Compliance with Executive Order 111 – Requirements to Purchase Power from Renewable Sources.*" Enclosed please find the Agency's response to the draft audit report.

As summarized by the attached, we generally concur with the recommendations made in the draft audit report and have already implemented many changes and improvements that will ensure compliance with Executive Order 111. The audit is generally a positive one. We thank the OSC team for their professionalism and their efforts on our behalf in conducting this review.

Specifically, the report shows that the agency did not meet the 10% renewable energy target in 2006/07 due to an error in calculating needs and this was corrected in 2007/08. Further, the agency's approach to EO 111 compliance has been to look at the agency's entire energy use, even though the Executive Order allows for "offsets" for buildings less than 5,000 square feet (over 40% of total Parks' square footage is in buildings of less than 5,000 square feet). When these allowances are taken into consideration, the agency's use of energy from renewable sources well exceeds the 10% target. Moreover, since the start of the OSC audit, we have acted to purchase additional renewable power and have established a new internal reporting system in order to prepare to meet the 20% renewables target in 2010/11. We are confident we will meet these future goals and be able to fully document our performance.

Thank you for the opportunity to respond to the report. If you have any questions regarding the Agency's response, please contact Brian D. Jackson of OPRHP's Office of Internal Audit at (518) 473-3390.

Sincerely,



Peter C. Finn
Deputy Commissioner for
Finance and Administration

Enclosure

cc: Commissioner Ash
Andy Beers
Dan Kane
Tom Lukacs
Mick Wise
Rich Schiafo
Brian Jackson

**New York State Office of Parks, Recreation & Historic Preservation
Response to the Office of the State Comptroller's Audit Report
Compliance with Executive Order 111
Requirements to Purchase Power from Renewable Sources
2008-S-73**

The Office of Parks, Recreation & Historic Preservation's (OPRHP) response to the Office of the State Comptroller's (OSC) draft audit report number 2008-S-73, entitled "Compliance with Executive Order 111 – Requirements to Purchase Power from Renewable Sources" is presented below. OPRHP has reviewed the findings and recommendations presented in the draft audit report. In the following sections, we have noted the portions of the report where we differ in opinion to or feel the need to clarify the described conditions, findings and recommendations.

Comments on Major Findings of the Audit

The following section presents specific comments regarding selected wording contained in the draft audit report.

1. Audit Results – Summary

The draft audit found that the agency did not meet the 10% renewable energy target in 2006-07 due to a error in calculating need but that this was "substantially corrected" in 2007-08. The Executive Order allows agencies to exempt from the 10% requirement buildings under 5,000 square feet and energy use associated with "process loads." Against total agency square footage of 9,666,000, a total of 4,279,000 are in buildings under the 5,000 square foot threshold. If these are excluded from the calculation (see below), the agency's use of renewable sources for 2007-08 actually exceed the 10% target. the audit report also stated that the agency had reporting errors in the record of actual energy consumption, resulted in the under estimating of the total amount of energy needed to be purchase in order to be in full compliance with Executive Order 111, and annual reports had not been submitted on a timely basis.

During the audit process (and prior to the issuance of the draft report), as issues were identified, the agency took immediate action, as follows:

- OPRHP increased the purchase of energy produced by renewable sources by 600 MWh;
- OPRHP submitted the 2007/08 annual report prior to the December 1st deadline;
- OPRHP has begun the process of identifying buildings eligible for exemption;
- OPRHP is exploring energy saving projects; and
- OPRHP has begun the process of updating the procedures used to record and estimate energy consumption.

OPRHP believes increasing the amount of energy purchased from renewable sources, identifying exempt buildings, exploring new energy saving projects and the improvement of recording procedures will result in full compliance with Executive Order 111.

2. Compliance with the Order

The draft audit found OPRHP had not met the targeted 10% renewable energy requirement as set forth by Executive order 111 for reporting years 2006/07 and 2007/08. The audit also questioned whether OPRHP would be able to meet the target when it is increased to 20% for year 2010/11. OPRHP immediately resolved this issue by increasing the amount of energy purchased from renewable sources.

OPRHP increased the energy purchased through the OGS contract from 4,400 MWh to 5,000 MWh per year by purchasing 600 MWh on power from Sterling Planet. Sterling Planet, the state contract vendor, has also agreed to supply OPRHP with additional energy produced from renewable resources on an as need basis at the OGS contract price. The additional energy purchased allows OPRHP to meet the current requirement 10% as well as the 20% mandate beginning in year 2010/11.

In addition, OPRHP is currently working on multiple projects at different facilities that would significantly reduce energy consumption.

3. Procurement of Renewable Energy

As noted above, in addition to increasing the amount of energy purchased from renewable sources, OPRHP has also begun the process of identifying agency buildings that are less than 5,000 sq feet and are exempt from the strict requirements of the executive order. When the process is completed, it is estimated that approximately 80-90% of OPRHP buildings – and over 40% of the agency’s total building square footage -- will be eligible for exemption. As we currently are procuring renewable electricity in excess of the 10% of total use without considering exemptions, we estimate that with exemptions considered, the current use of energy from renewable sources is approximately 15% (and will be increasing to 30% by 2010/11).

4. Reporting Requirements for the Order

OPRHP is in full compliance with Executive Order 111 regarding reporting as the 2007/08 annual report was submitted on October 7, 2008.

5. Effective Plans to Meet 2010 Target

The draft audit questioned if the amount energy purchased from renewable would be sufficient to meet the 2010/11 20% mandate. OPRHP has addressed OSC’s concern by increasing the amount of energy purchased from renewable sources. In addition, OPRHP is beginning the process of identifying agency buildings which are exempt, exploring new energy saving projects and updating the procedures used to record the actual consumption of energy.

Response to Recommendations 1- (Pages 5 - 7)

The following section presents OPRHP's response to each recommendation contained in the draft report.

- o **Recommendation 1:** Comply with targets of Section IV of the Order.

Agency Response: Agree. OPRHP concurs with the recommendation and is currently in full compliance with the Order.

- o **Recommendation 2:** Investigate obtaining summary reports of electrical energy consumption directly from the utilities.

Agency Response: OPRHP will consider the recommendation. This might be better as an all-agency effort, coordinated by NYSERDA, the Department of Public Service, or the Office of General Services.

- o **Recommendation 3:** Ensure that regions report electrical energy consumption consistency.

Agency Response: Agree. OPRHP concurs with the recommendation and procedures to record the monthly energy consumption in the regions are in the process of being revised.

- o **Recommendation 4:** Comply with the annual energy reporting requirements.

Agency Response: Agree. OPRHP concurs with the recommendation and is currently in full compliance with the Order. The 2007/08 annual report was completed and submitted to NYSERDA on October 7, 2008.

- o **Recommendation 5:** Improve the process for tracking and forecasting annual energy consumption to ensure adequate amounts of electricity from renewable resources are obtained.

Agency Response: Agree. OPRHP concurs with the recommendation and procedures to record the annual energy consumption are in the process of being revised.