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STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

October 15, 2020

Ms. RoAnn M. Destito  
Commissioner  
Office of General Services  
Corning Tower, 41st Floor  
Albany, NY 12242

Re: Compliance With Executive Order 88:  
Energy Efficiency of State Buildings  
Report 2020-F-18

Dear Commissioner Destito:

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, we have followed up on the actions taken by officials of the Office of General Services (OGS) to implement the recommendations contained in our audit report *Compliance With Executive Order 88: Energy Efficiency of State Buildings* (Report [2018-S-62](#)), issued September 9, 2019.

**Background, Scope, and Objectives**

Executive Order 88 (EO 88), issued on December 28, 2012, is the centerpiece of BuildSmart NY – the State's program for pursuing energy efficiency in certain New York State government buildings while advancing economic growth, environmental protection, and energy security in the State. EO 88 is intended to accomplish broader State policy goals, such as reducing State government utility expenses, fostering investment in smart buildings, protecting the environment and public health by reducing the emissions of greenhouse gases and other pollutants, and supporting economic growth by creating green jobs and stimulating the marketplace for clean energy and energy-efficient products and services.

EO 88 mandated a 20 percent collective improvement in the energy performance of all covered agencies and authorities (collectively referred to as Affected State Entities, or ASEs) by April 1, 2020. This reduction is calculated from a 2010-11 State fiscal year baseline. The New York Power Authority (NYPA), administrator of EO 88, coordinates and monitors ASEs' compliance and performance toward the collective 20 percent target. NYPA established a Central Management and Implementation Team (CMIT) whose responsibilities include: ensuring ASEs are complying with requirements, developing annual milestones, and providing strategic and technical assistance.

OGS' Division of Utilities Management (Division) provides support and assistance to the statewide regional buildings and is an advisor to NYPA. The Division maintains all heating, ventilation, and air conditioning systems and all auxiliary mechanical equipment associated with approximately 14.5 million square feet of OGS-owned office space in the Capital Region. OGS is responsible for 19 buildings and two campuses. Of the 19 buildings, 11 are exempt from

EO 88 because of their Energy Star designation. OGS currently has six employees whose job duties relate to EO 88. Employees are assigned to data management, reporting, and energy efficiency projects.

EO 88 set minimum requirements for annual reporting, benchmarking, energy audits, submetering, and capital projects. It also required that the CMIT create Guidelines detailing the requirements established in EO 88. According to the Guidelines, the lowest performing buildings were required to have an energy audit performed or scheduled by December 31, 2015. The energy audits identify cost-effective recommendations for energy conservation measures and opportunities for retrocommissioning – studies that review how and why a building’s systems are operated and maintained as they are, and then identify ways to improve overall building performance. OGS was required to have its remaining non-exempt buildings retrocommissioned by June 30, 2019.

The Guidelines require ASEs to implement a cost-effective portfolio of measures identified and recommended in the energy audits (e.g., no-cost and low-cost operational improvements, retrocommissioning, capital energy efficiency retrofits, on-site renewable energy generation, and high-efficiency combined heat and power technologies). These projects are considered “committed projects” after the final design has been completed and are included in EO 88’s energy reduction reported results.

Furthermore, the Guidelines require ASEs to report their energy usage to NYPA annually. The ASEs must also develop an operations and maintenance plan that addresses, at a minimum, energy management, training, organizational structure, and the development and updating of operating procedures and preventive maintenance schedules. The Guidelines also require ASEs to submeter buildings greater than 100,000 gross square feet and use a monitoring and control system capable of real-time monitoring of energy use for electricity and primary heating fuels and providing alerts to facility staff.

Our initial report, covering the period April 1, 2014 to May 13, 2019, examined whether OGS had developed targets and plans to effectively meet its contributions toward EO 88 and complied with EO 88 Guidelines. Our audit found OGS generally had developed targets and plans to contribute toward EO 88 and complied with the Guidelines. However, we found OGS had relied on one capital project, Sheridan Avenue Project (SAP), to provide the majority of its energy savings. The SAP was met with criticism from environmental and community advocates, and its implementation was in doubt. If this project failed to move forward, it was unlikely that OGS would meet its goal of reducing energy usage by 20 percent.

The objective of our follow-up was to assess the extent of implementation of the three recommendations included in our initial audit report.

### **Summary Conclusions and Status of Audit Recommendations**

OGS officials have made significant progress in addressing the problems we identified in the initial audit. All three recommendations have been implemented.

### **Follow-Up Observations**

#### **Recommendation 1**

*Develop a contingency plan to replace the SAP.*

Status – Implemented

Agency Action – The SAP was expected to account for approximately a 9.5 percent energy use intensity (EUI) reduction toward OGS’ portion of EO 88 goals. However, the project failed to move forward due to criticism from environmental and community advocates because of health concerns related to the burning of natural gas. As a contingency plan, OGS identified four projects to replace the SAP:

- Empire State Plaza (ESP) Chiller Project;
- ESP Emergency Generator Project;
- ESP Facade and Exterior LED Lighting; and
- Oriskany PV Solar Project.

These projects were under contract prior to April 1, 2020 and have a combined EUI reduction of 13.84 percent, bringing OGS’ EUI reduction to 29.4 percent.

### **Recommendation 2**

*Continue implementing capital projects that reduce energy usage.*

Status – Implemented

Agency Action – OGS has continued to work on designing and implementing energy-reducing projects. OGS identified additional projects at various locations to further reduce energy use, such as LED lighting at Hampton Plaza and the Alfred E. Smith Building, heat pump installation at Hampton Plaza, cooling towers at Harriman Campus, and OGS LED street lighting.

### **Recommendation 3**

*Continue developing energy-saving capital projects to contribute toward the collective 20 percent energy reduction of ASEs.*

Status – Implemented

Agency Action – OGS has continued to work on designing and implementing energy-reducing projects. As of April 1, 2020, OGS had 16 active energy-efficient capital projects in various stages and was in the process of conducting energy audits at two locations to help identify additional opportunities for energy reduction. According to NYPA’s 2020 EO 88 Final Report, OGS’ committed energy-saving projects reduce its EUI by 29.4 percent. These projects contributed toward meeting the 20 percent collective ASE improvement in energy performance by the April 1, 2020 deadline.

Major contributors to this report were Jessica Kirk, Melissa Davie, Molly Kramm, and Brendan Reilly.

We thank the management and staff of the Office of General Services for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Bob Mainello, CPA  
Audit Manager

cc: Theresa Bonneau, Director of Internal Audit  
David DeMott, Executive Director of Real Estate Center